



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

INLAND REVENUE
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[Certified on 21st May, 1979]

L. D.—O. 80/78

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

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

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

CHAPTER I

IMPOSITION OF INCOME TAX

2. (1) Income tax shall, subject to the provisions of this Act, be charged at the appropriate rates specified in the First, Second and Third Schedules to this Act for every year of assessment commencing on or after April 1, 1979, in respect of the profits and income of every person for that year of assessment—

Imposition of
income tax.

(a) wherever arising, in the case of a person who was resident in Sri Lanka in that year of assessment; and

(b) arising in, or derived from, Sri Lanka in the case of every other person.

(2) For the purposes of this Act, "profits and income arising in or derived from Sri Lanka" includes all profits and income derived from services rendered in Sri Lanka, or from property in Sri Lanka, or from business transacted in Sri Lanka, whether directly or through an agent.

CHAPTER II

INCOME CHARGEABLE WITH TAX

3. For the purposes of this Act, "profits and income" or "profits" or "income" means—

Income
chargeable
with tax.

(a) the profits from any trade, business, profession or vocation for however short a period carried on or exercised;

(b) the profits from any employment;

(c) the net annual value of any land and improvements thereon occupied by or on behalf of the owner in so far as it is not so occupied for the purposes of a trade, business, profession or vocation;

- (d) the net annual value of any land and improvements thereon used rent-free by the occupier if such net annual value is not taken into account in ascertaining profits and income under paragraphs (a), (b) or (c) of this section, or where the rent paid for such land and improvements is less than the net annual value, the excess of such net annual value, over the rent, to be deemed in each case the income of the occupier;
- (e) dividends, interest or discounts;
- (f) charges or annuities;
- (g) rents, royalties or premiums;
- (h) capital gains; and
- (i) income from any other source whatsoever, not including profits of a casual and non-recurring nature.

**Profits from
employment.**

4. Profits from any employment include—

- (a) (i) any wages, salary, allowance, leave pay, fee, pension, commission, bonus, gratuity, perquisite or such other payment in money which an employee receives in the course of his employment;
- (ii) the value of any benefits to the employee or to his spouse, child or parent including the value of any holiday warrant or passage;
- (iii) any payment to any other person for the benefit of the employee or of his spouse, child or parent,

whether received or derived from the employer or others;

- (b) the value of any conveyance granted free of any charge by an employer to any employee, or any sum so granted for the purchase of any conveyance;

- (c) (i) any retiring gratuity or any sum received in commutation of pension;

- (ii) any sum paid from a provident fund approved by the Commissioner-General to any employee at the time of his retirement, other than such part of that sum as represents his contributions to that fund made after April 1, 1954;

- (iii) any sum paid from a regulated provident fund to an employee other than—
- (a) such part of that sum as represents his contributions to that fund; and
 - (b) such part of that sum as represents the contributions made by the employer to that fund prior to April 1, 1968, and the interest which accrued on such contributions, if tax at the rate of fifteen *per centum* has been paid by such employer in respect of such contributions and interest;
- (iv) any sum received as compensation for loss of any office or employment;
- (d) the rental value of any place of residence provided rent-free by the employer or where a place of residence is provided by an employer at a rent less than the rental value, the excess of the rental value over such rent.

For the purposes of this paragraph, the rental value of any place of residence shall be the net annual value as defined in section 5 with the addition of the rates paid by the owner and of thirty-three and one-third *per centum* of such net annual value on account of repairs and other expenses:

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

5. (1) The net annual value of land and improvements thereon or of any place of residence shall be determined on the basis of the rent which a tenant might reasonably be expected, taking one year with another, to pay for such land and improvements or for such place of residence (the tenant paying rates and the owner bearing the cost of repairs), subject to a deduction of twenty-five *per centum* on account of repairs and other expenses.

Net annual value of land and improvements thereon.

(2) Where the annual value of any land and improvements thereon or of any place of residence has been assessed for rating purposes by a local authority, such annual value, less a deduction of twenty-five *per centum* on account of repairs and other expenses, shall be the net annual value, unless in the opinion of the Commissioner-

General the assessment made by the local authority does not accurately represent the annual value of such land and improvements or place of residence in the year for which the net annual value is being determined.

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

6. The profits or income arising from rents of land and improvements thereon shall be the gross rent which is receivable and can be recovered after deducting therefrom rates borne by the owner and, where the owner undertakes to bear the cost of repairs, twenty-five *per centum* of the balance but shall, where the rent recoverable in respect of such land and improvements is not restricted by any law for the time being in force, be not less than the net annual value after deducting therefrom any part thereof which is the income of the occupier within the meaning of paragraph (d) of section 3 due provision being made for any period in respect of which no rent is receivable or can be recovered.

Capital gains.

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

- (a) the change of ownership of any property occurring in any manner whatsoever ;
- (b) the surrender or relinquishment of any right in any property ;
- (c) the transfer of some of the rights in any property ;
- (d) the redemption of any shares, debentures or other obligations ;
- (e) the formation of a company ;
- (f) the dissolution of a business or the liquidation of a company ;
- (g) the amalgamation or merger of two or more businesses or companies ; or
- (h) any transaction in connection with the promotion of which any person who is not a party to such transaction receives a commission or reward.

(2) For the purposes of subsection (1) and in relation to the capital gain of any person, the profits and income arising from—

- (a) a change of ownership of property, means, subject to the provisions of subsection (4), the amount by which the value of the property at the time when such change of ownership occurs exceeds its value at the time when it was acquired by that person ;

- (b) the surrender or relinquishment of any right or the transfer of some of the rights in any property, means, subject to the provisions of subsection (4), the value of the consideration for such surrender, relinquishment or transfer ;
- (c) the redemption of any shares, debentures or other obligations, means, subject to the provisions of subsection (4), the value of all property received by him in consequence of such redemption less the value of that which is redeemed at the time when it was acquired by him or where that which is redeemed is any property referred to in paragraph (e) or paragraph (f) or paragraph (g) or paragraph (h) of subsection (3), less such value of that property as is specified in that paragraph ;
- (d) the formation of a company, means, subject to the provisions of subsection (4), the value of the consideration received by him for any transaction in connection with the formation of such company ;
- (e) the dissolution of a business or the liquidation of a company, means, subject to the provisions of subsection (4), the amount by which the value of all property received by him in consequence of such dissolution or liquidation exceeds the value of his share of the capital of such business or company at the time when such share was acquired by him ;
- (f) the amalgamation or merger of two or more companies, means, where such person was a shareholder of any of those companies, any money received by such shareholder in consequence of such amalgamation or merger, and where such person was not a shareholder of any of those companies, the value of the consideration received by him for any transaction in connection with such amalgamation or merger ; and
- (g) the promotion of a transaction to which such person was not a party, means the commission or reward received by him in connection with such promotion.

(3) "Value", with reference to any property or consideration in the context of the definition of "capital gain" and in relation to any person to whom the capital gain arises, shall be as follows :—

- (a) where the property was acquired before April 1, 1957, by the person to whom such gain arises then, subject to the provisions of paragraph (c), paragraph

- (d), paragraph (e), paragraph (f), paragraph (g) and paragraph (h), the value of the property at the time when it was acquired by such person shall be an amount equal to the market value of the property on April 1, 1957 ;
- (b) where the property was acquired on or after April 1, 1957, by the person to whom such gain arises then, subject to the provisions of paragraph (c), paragraph (d), paragraph (e), paragraph (f), paragraph (g) and paragraph (h), the value of the property at the time it was acquired by such person shall—
- (i) if such acquisition was by purchase, be an amount equal to the cost of such purchase ;
and
- (ii) if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition ;
- (c) where the property was acquired by the person to whom such gain arises in his capacity as a beneficiary under a trust or the testate or intestate heir of the deceased, in consequence of a transfer by the trustee of such trust or by the executor appointed to administer the estate of such deceased, the value of the property at the time of such acquisition shall—
- (i) if the date of the acquisition of such property by such trustee or executor is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957 ; and
- (ii) if the date of the acquisition of such property by such trustee or executor is on or after April 1, 1957, be an amount equal to the market value of the property at the time when such trustee or executor came into possession of the property ;
- (d) where the person to whom the gain arises had come into possession of the property immediately after the cessation of a life interest of any other person in the property or after the cessation of the rights

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

- (i) if the date of the cessation of such life interest or such rights of a fiduciary is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957; and
 - (ii) if the date of the cessation of such life interest or such rights of a fiduciary is on or after April 1, 1957, be an amount equal to the market value of the property on such date;
- (e) where the property is a bonus share issued on or after April 1, 1957, to the person to whom such gain arises, the value of the property at the time when it was acquired by such person shall be deemed to be nil;
- (f) where the property is a share issued on or after April 1, 1957, to the person to whom such gain arises at a price less than the market value of such share, the value of the property at the time when it was acquired by such person shall be an amount equal to the cost of acquisition of such property;
- (g) where the property consists of any shares received by the person to whom such gain arises in lieu of shares held by him in any of two or more companies which have amalgamated or merged on or after April 1, 1957, the value of the property at the time when it was so received shall—
- (i) if the last-mentioned shares were acquired by him before April 1, 1957, be an amount equal to the market value of the last mentioned shares on April 1, 1957; or
 - (ii) if the last-mentioned shares were acquired by him on or after April 1, 1957, be an amount equal to the cost of purchase of such shares as were acquired by purchase and the market value on the date of acquisition of such shares as were acquired by him otherwise than by purchase;
- (h) where the property consists of shares in respect of which there has been a return or distribution of capital, the value of the property at the time when such shares were acquired shall—

- (i) if such shares were acquired by the person to whom such gain arises before April 1, 1957, be an amount equal to the market value of the shares on April 1, 1957, less the amount of the capital returned or distributed, on or after that date, if the amount of the capital returned or distributed is not a dividend within the meaning of this Act ; and
 - (ii) if such shares were acquired by the person to whom such gain arises on or after April 1, 1957, be an amount equal to the cost of purchase of such shares as were acquired by purchase and the market value on the date of acquisition of such shares as were acquired by him otherwise than by purchase, less the amount of the capital returned or distributed if the amount of the capital returned or distributed is not a dividend within the meaning of this Act ;
- (i) the value of the property at the time of the occurrence of the transaction which resulted in such gain shall—
- (i) if such transaction is a sale of the property, be an amount equal to the sale price of such property ;
 - (ii) if such transaction is other than a sale, be an amount equal to the market value of such property at the time of the occurrence of the transaction ;
- (j) the value of any consideration received by the person to whom such gain arises shall—
- (i) Where the consideration is partly cash and partly property other than cash be an amount equal to the aggregate of such cash and the market value of such property on the date on which the consideration was received ; and
 - (ii) where the consideration is wholly property other than cash be an amount equal to the market value of such property on the date on which the consideration was received ; and
- (k) where, in the case of a change of ownership of the property of any person occurring by sale, the Assessor is of the opinion that the sale price is less than the market value of that property at the time

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

(4) For the purposes of subsection (2), the amount of a capital gain shall be computed after making the following deductions:—

(a) any expenditure (other than the purchase price if any) incurred on or after April 1, 1957, solely in connection with the acquisition of the property by the person who is the owner of that property immediately before the occurrence of the transaction which resulted in such gain;

(b) any expenditure incurred on or after April 1, 1957, by such owner in making any improvements, additions or alterations to that property if no deduction in respect of such expenditure is or has been allowed under section 23 of this Act, or under section 10 or section 53 or section 53A or section 53B of the Inland Revenue Act, No. 4 of 1963, or under section 11 or section 32 of the Income Tax Ordinance;

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

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

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

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

of the difference between—

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

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

CHAPTER III

EXEMPTION FROM INCOME TAX

Exemption from income tax of certain persons (other than individuals) on the whole or any part of their profits and income.

8. There shall be exempt from income tax—

(a) the profits and income of—

- (i) the Incorporated Council of Legal Education ;
- (ii) the Institute of Chartered Accountants of Sri Lanka ;
- (iii) the Sri Lanka Tea Board established by the Sri Lanka Tea Board Act, No. 14 of 1975 ;
- (iv) the Ceylon National Library Services Board established by the Ceylon National Library Services Board Act, No. 17 of 1970 ;
- (v) any University which is established or deemed to be established under the Universities Act, No. 16 of 1978 ;
- (vi) the Coconut Development Authority, the Coconut Research Board, and the Coconut Cultivation Board, established by or under the Coconut Development Act, No. 46 of 1971 ;
- (vii) the Widows' and Orphans' Pension Fund of Public Officers of Sri Lanka ;
- (viii) any Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;
- (ix) the World Tourism Organization ;
- (x) any institution or trust of a public character established by any written law solely for the purposes of scientific research ;
- (xi) the United Nations Organization including the net annual value of any land and improvements thereon in Sri Lanka owned by and occupied by or on behalf of the Organization ;

- (xii) the S. W. R. D. Bandaranaike National Memorial Foundation established by the S. W. R. D. Bandaranaike National Memorial Foundation Law, No. 2 of 1975 ;
- (xiii) the National Science Council of Sri Lanka established by the National Science Council of Sri Lanka Law, No. 36 of 1975 ;
- (xiv) the Ceylon Institute of Scientific and Industrial Research established by the Ceylon Institute of Scientific and Industrial Research Act ;
- (xv) the International Development Association ;
- (xvi) the Bureau of Ceylon Standards established by the Bureau of Ceylon Standards Act, No. 38 of 1964 ;
- (xvii) the Asian Development Bank ;
- (xviii) the Sri Lanka Broadcasting Corporation established by the Sri Lanka Broadcasting Corporation Act, No. 37 of 1966 ;
- (xix) any Resort Authority constituted under section 57 (1) of the Tourist Development Act, No. 14 of 1968 ;
- (xx) the Ceylon Tourist Board established by the Ceylon Tourist Board Act, No. 10 of 1966 ;
- (xxi) the International Finance Corporation ;
- (xxii) the International Bank for Reconstruction and Development or any other international or foreign organization approved by the Minister, being profits and income attributable to the interest and other charges on any loan granted to the Development Corporation ;
- (xxiii) the Employees' Provident Fund, being profits and income from the investment of any moneys of such Fund ;
- (xxiv) the Monetary Board, being the profits and income of the Central Bank of Ceylon ;
- (xxv) the National Lotteries Board, being profits from any national lottery ;

- (xxvi) any registered society within the meaning of the Co-operative Societies Law, No. 5 of 1972, the majority of the members of which are resident in Sri Lanka, being profits and income of that society arising out of any business specified by the Minister by notice published in the *Gazette* having regard to Government policy in relation to the Co-operative movement.

For the purpose of ascertaining the membership of a registered society of which another registered society is a member, each of the members of the second-mentioned society shall be deemed to be a member of the first-mentioned society.

- (b) the income of any local authority or Government institution, exclusive of—

(i) the income of any trust or other matter vested in or administered by such authority or institution, being income to which such authority or institution is not beneficially entitled; and

(ii) the profits and income for any period commencing on the date of acquisition or vesting, as the case may be, of any business undertaking acquired by or vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971;

- (c) the profits and income of—

(i) the Government of any foreign country, being profits and income derived by that Government either directly or through any agency of that Government, from aid granted in money, goods, services or in any other form by that Government to the Government of Sri Lanka;

(ii) the Government of the People's Republic of China, or of any agency of that Government, being profits and income derived from the business of shipowner or charterer, and referred to in any agreement entered into between that Government and the Government of Sri Lanka;

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

(d) the profits and income of a charitable institution, being—

(i) the profits of a business carried on by that institution if such profits are applied solely to a charitable purpose of that institution and—

(a) the work in connection with the business is mainly performed by beneficiaries of that institution; or

(b) such institution receives grants from the Government of Sri Lanka and is approved by the Minister for the purposes of this paragraph and the business is of a casual nature;

(ii) the net annual value of—

(a) any place of public worship and its premises administered by such institution;

(b) any place or premises owned and occupied by such institution solely for any of the purposes of that institution;

(iii) the profits and income from any property donated by royal or other grant before March 2, 1815, to any place of public worship administered by such institution, in so far as such profits and income are applied to the purposes for which such grant was made.

9. There shall be exempt from income tax—

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

(b) the official emoluments of—

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

Exemption from income tax of certain profits and income of certain officers and employees.

- (ii) a judicial officer within the meaning of Article 170 of the Constitution ;
- (iii) an employee of a local authority ;
- (iv) an employee of a public Corporation within the meaning of Article 170 of the Constitution ;
- (v) an employee of any University which is established or deemed to be established by the Universities Act, No. 16 of 1978 ;
- (vi) an employee of any business undertaking acquired by or vested in the Government under the Business Undertakings (Acquisition) Act, No. 35 of 1971 ;
- (vii) a member or employee of any board or commission of inquiry established by or under any law, being a board or commission all the members of which are appointed by the President or by a Minister ;

and any such pension, or any such profits from employment referred to in paragraph (c) of section 4, as are received by any person in respect of past services performed by such person or by any other person, whether before or after the commencement of this Act, as an officer or employee referred to in items (i), (ii), (iii), (iv), (v) or (vi) ;

(c) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka of any individual who is a scientist, technician, expert or adviser, who is not a citizen of Sri Lanka and who is—

- (i) employed in Sri Lanka on a contract of employment entered into between him and the Government of Sri Lanka or between him and any such public corporation or institution as may be approved by the Minister for that purpose ; or
- (ii) engaged in performing any services in any project carried on by—
 - (a) the Government of Sri Lanka ; or
 - (b) such public corporation ; or

- (c) any other body corporate approved by the Minister to the capital of which the Government of Sri Lanka or such public corporation has made a contribution ;
- (iii) brought to and employed in Sri Lanka by the proprietor of an undertaking to which section 16 applies or by any undertaking, being an enterprise with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, for the purposes of that undertaking ; or
- (iv) brought to and employed in Sri Lanka by the proprietor of any such undertaking as is approved by the Minister by notice published in the *Gazette*, such approval being for such period as may be specified in the notice :

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

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

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

- (d) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka, for three years reckoned from the date of employment in Sri Lanka of any individual who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka by the proprietor of any such undertaking as is referred to in section 16 or in section 23 (1) (b) (ii) in such capacity as may be approved by the Minister on the recommendation of the Ceylon Tourist Board ;
- (e) the emoluments arising in Sri Lanka and any income not arising in Sri Lanka of any individual who is not a citizen of Sri Lanka and who is brought to and employed in Sri Lanka, in the performance of a contract the profits from which are exempt from income tax under section 22 ;
- (f) the official emoluments, arising in Sri Lanka, and any income not arising in or derived from Sri Lanka of—
- (i) the Diplomatic Representative in Sri Lanka (by whatever name or title designated) of the Government of any other country ;
 - (ii) any such member of the staff of any Diplomatic Representative referred to in sub-paragraph (i), any such Consul or Trade Commissioner, and any such member of the staff of such Consul or Trade Commissioner as is a citizen or subject of the country represented by that Diplomatic Representative, Consul or Trade Commissioner, if the Minister, on being satisfied that a corresponding official of the Government of Sri Lanka resident in the country represented by that person is or would be granted similar exemption from income tax by that country, declares that the exemption shall apply in that case :

Provided that the exemption shall not apply in the case of any person if such person carries on or exercises in Sri Lanka any other employment or any trade, business, profession or vocation ;

- (iii) any expert, adviser, technician or official whose salary or principal emolument is not payable by the Government of Sri Lanka who is brought to Sri Lanka by the Government of Sri Lanka through any Specialized Agency of the United Nations Organization, or under the Point Four Assistance Programme of the Government of the United States of America, or through the Colombo Plan Organization (including its Technical Assistance Bureau) or any other organization approved by the Minister as being of a similar character ;
- (iv) any trainee from abroad who is sent to Sri Lanka under any of the Technical Co-operation Programmes of the United Nations Organization and its Specialised Agencies, or of the Colombo Plan Organization, or of any other organization approved by the Minister as being of a similar character ;
- (v) any official of the United Nations Organization who is resident in Sri Lanka and who is not a citizen of Sri Lanka ;
- (vi) members of any naval, military or air forces of any country other than Sri Lanka who are in Sri Lanka at the request, or with the concurrence, of the Government of Sri Lanka ; and
- (vii) persons employed in any civil capacity by the Government of any country other than Sri Lanka who, not being persons resident in Sri Lanka for a period exceeding three months immediately prior to the date of commencement of such employment, are so employed in or visit Sri Lanka for any purpose connected with the presence in Sri Lanka, of such members of any naval, military or air forces as are referred to in sub-paragraph (vi) :

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

- (g) the official emoluments of any citizen of Sri Lanka who is employed as an expert, adviser, technician or official by the United Nations Organization or by any Specialised Agency of that Organization;
- (h) the official emoluments of any individual who is employed by the World Tourism Organization;
- (i) the value of any travel warrant or passage granted to a person who is not a citizen of Sri Lanka to enable him to come to Sri Lanka to assume duties, or to return from Sri Lanka on the termination of his services, whether on retirement or otherwise, or of any travel warrant or passage granted to the wife or any son or daughter of such person to come to Sri Lanka or to visit his or her home abroad or to return from Sri Lanka on the termination of the services of such person;
- (j) any allowance granted by an employer to his employee for travelling, subsistence and lodging, in respect of travel by such employee outside Sri Lanka in connection with his employment;
- (k) the emoluments earned, in any year of assessment in foreign currency by any individual resident in Sri Lanka, in respect of services rendered by him in that year of assessment outside Sri Lanka in the course of any employment carried on or exercised by him, if such emoluments (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner-General to be reasonable personal expenses) are remitted by him to Sri Lanka; and
- (l) profits and income not exceeding in the aggregate one thousand two hundred rupees for any year of assessment from all sources other than employment, received by an individual or any child whose total statutory income is aggregated with the income of that individual, if the total statutory income of that individual consists only of—
 - (i) profits and income from employment, not exceeding thirty thousand rupees; and
 - (ii) profits and income not exceeding one thousand two hundred rupees from all sources of profits and income other than employment.

10. There shall be exempt from income tax—

Exemption
from income
tax of cer-
tain interest
received.

- (a) the accumulated interest payable to an individual in respect of any Ceylon Savings Certificate issued under the Savings Certificates Ordinance or any National Savings Certificate issued under the National Savings Bank Act, No. 30 of 1971, and purchased by that individual on or before November 15, 1978 ;
- (b) such part of the interest receivable for any year of assessment by an individual in respect of—
- (i) any National Savings Certificate issued, or deemed to have been issued, to him under the National Savings Bank Act, No. 30 of 1971, after November 15, 1978 ; and
- (ii) moneys lying in the National Savings Bank to the credit of such individual,
- as does not exceed two thousand rupees or one-third of the total interest whichever is higher ;
- (c) interest accruing to any company, partnership or other body of persons outside Sri Lanka from any loan granted by that company, partnership or body of persons to the Government of Sri Lanka or to any public corporation or to any Government institution or to any commercial bank for the time being operating in Sri Lanka or to any other undertaking if such loan is approved by the Minister as being essential for the economic progress of Sri Lanka ;
- (d) the interest accruing to any person from moneys lying to his credit in a special account opened by him or on his behalf in a commercial bank with the approval of the Central Bank of Ceylon for the deposit in accordance with the conditions imposed by the Central Bank of Ceylon, of sums obtained by him by the exchange of foreign currency held by him outside Sri Lanka ;
- (e) the interest accruing to any person during the period in which he is not resident in Sri Lanka, on moneys lying to his credit in foreign currency in any account opened by him or on his behalf in any commercial bank with the approval of the Central Bank of Ceylon ;
- (f) any interest forming part of the surrender value of any Tax Reserve Certificate.

Exemption
from income
tax of
certain
dividends.

11. There shall be exempt from income tax—

- (a) any dividend paid by a company with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978—
- (i) to any person, during the period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter, out of the profits and income of the company which are exempt from income tax ;
- (ii) to any person, who is not resident in Sri Lanka ;
- (b) any dividend paid to shareholders of a company out of such profits and income of that company arising on or after April 1, 1977, which are exempt from income tax under sections 16, 17, 18, 19, 20, or 21 of this Act or under the Inland Revenue Act, No. 4 of 1963, if such dividend is paid during the period for which such profits and income of that company are exempt from income tax under any of those provisions or within one year thereafter.

Exemption
from income
tax of cer-
tain profits
and income
from lands
and improve-
ments
thereon.

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

- (a) the net annual value of not more than one place of residence owned by, and occupied by or on behalf of, an individual ;
- (b) the income accruing to the owner of a house for the year of assessment in which the construction of that house was completed and for the six years of assessment immediately succeeding that year of assessment if such house is used solely for residential purposes and—
- (i) is a house to which the Rent Act, No. 7 of 1972, applies ; or
- (ii) is occupied by the owner thereof ; or
- (iii) has a floor area (inclusive of the thickness of the walls) not exceeding two thousand square feet :

Provided that where the floor area of the house is one thousand square feet or less, the income accruing to the owner shall be exempt from income tax for the year of assessment in which the construction of that house was completed and for the nine years of assessment immediately succeeding that year of assessment ;

- (c) the income accruing to the owner of a house, the income from which was or is not exempt from income tax under paragraph (b) of this subsection and which house is converted into two or more places of residence, each such place of residence being separately assessed for the purpose of rates, such income accruing being the income from each such place of residence for—
- (i) the year of assessment in which such conversion was effected and for the five years of assessment immediately succeeding that year of assessment, if the floor area of such place of residence does not exceed one thousand square feet ; or
 - (ii) the year of assessment in which such conversion was effected and the three years of assessment immediately succeeding that year of assessment, if the floor area of such place of residence exceeds one thousand square feet but does not exceed two thousand square feet ;
- (d) the net annual value of any land and improvements thereon owned by a body of persons the primary object of which is the promotion of any sport which is recognized as a sport for the purposes of the Sports Law, No. 25 of 1973, and used for that object by that body.
- (2) For the purposes of this section—
- (a) a certificate issued by the Commissioner for National Housing upon an application made by the owner of any house and specifying, as the case may be—
 - (i) the date of completion of the construction of that house or the date of conversion of that house into more than one place of residence, and

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

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

- (b) "owner" includes a co-owner ; and
- (c) "income", in relation to any house which is let means the authorized rent within the meaning of the Rent Act, No. 7 of 1972.

Exemption
from income
tax of cer-
tain
subsidies.

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

- (a) out of the Capital Fund established under the Sri Lanka Tea Board Law, No. 14 of 1975 ;
- (b) out of the Rubber Replanting Subsidy Fund established under the Rubber Replanting Subsidy Act ;
- (c) by the Coconut Cultivation Board established under the Coconut Development Act, No. 46 of 1971 ;
- (d) under the Cocoa Planting Subsidy Scheme ;
- (e) by the Ministry of Fisheries for the purchase by such person of fishing boats, marine engines, fishing gear and other fishing equipment.

Exemption
from income
tax of
certain
capital
gains.

14. There shall be exempt from income tax—

- (a) any capital gain arising on—
- (i) the sale by any individual of any house constructed by him and used solely for residential purposes, such sale being the first sale of that house ;
- (ii) the sale of any house owned by any individual and used solely for residential purposes, if such individual has not sold on or after April 1, 1978, any house other than a house referred to in sub-paragraph (i) ;
- (iii) the sale to a customer, of any property held by the vendor primarily for sale to customers in the ordinary course of his trade or business ;
- (iv) the sale of any property which was used by any person for producing income in any trade, business, profession, vocation or employment carried on or exercised by him, in respect of

- which a deduction for depreciation has been allowed under section 23 of this Act or under section 10 of the Inland Revenue Act, No. 4 of 1963, or under section 11 of the Income Tax Ordinance ;
- (v) the passing of any property subject to a trust from the trustee to any beneficiary under the trust ;
 - (vi) the passing of any property belonging to the estate of a deceased person from his executor to any testate or intestate heir of the deceased ;
 - (vii) the passing of any property to any person, on the death of the owner of that property ;
 - (viii) the passing of any property occurring on the gift of that property by its owner to any other person ;
 - (ix) the passing of any property, being shares in any company incorporated in Sri Lanka with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, from the owner of that property to any other person by way of sale, gift or otherwise ;
 - (x) change of ownership of any motor vehicle in respect of which a deduction for depreciation has not been allowed under subsection (1) of section 23 of this Act or under section 10 of the Inland Revenue Act, No. 4 of 1963, or under section 11 of the Income Tax Ordinance or of any household effect or other article of personal use (excluding jewellery) ;
 - (xi) change of ownership of a right to exploit a property occurring by a transfer of that right; and
 - (xii) the surrender of a life insurance policy and the surrender, transfer or extinction of a life interest.
- (b) the aggregate amount of the capital gain of any person for any year of assessment which arises in respect of movable property other than stocks, shares, debentures or debenture stocks, if such aggregate amount does not exceed two thousand rupees ;

- (c) the first five thousand rupees of the capital gain of any person for an year of assessment, if such person has a total assessable income for the three years of assessment immediately preceding that year of assessment which is less than the total of the allowances which under subsection (1) of section 30 of this Act, or under section 21 of the Inland Revenue Act, No. 4 of 1963, are required to be deducted from his assessable income in arriving at his taxable income for those three years of assessment.

Miscellaneous exemptions from income tax.

15. There shall be exempt from income tax—

- (a) the profits and income arising to any person from the sale of gems to the State Gem Corporation ;
- (b) the income accruing to any person from any investment made by him, with the approval of the Central Bank of Ceylon and in accordance with the conditions imposed by such Bank, with moneys lying to his credit in such special account as is referred to in paragraph (d) of section 10 ;
- (c) the emoluments earned in any year of assessment in foreign currency by any individual resident in Sri Lanka, in respect of services rendered by him in that year of assessment outside Sri Lanka in the course of any profession or vocation carried on or exercised by him, if such emoluments (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner-General to be reasonable personal expenses) are remitted by him to Sri Lanka ;
- (d) the income accruing to a person receiving instruction at any university, college, school, or other educational establishment from a scholarship, exhibition, bursary, or similar educational endowment ;
- (e) any capital sum received by way of death gratuity or as compensation for death or injuries ;
- (f) any sum received by an informer as a reward under any scheme for the payment of rewards by a Government institution ;
- (g) wound and disability pensions granted to members or ex-members of the Forces of Her Majesty the Queen of the United Kingdom ;
- (h) United States Government disability pensions ;

- (i) any prize received, at a lottery conducted by the National Savings Bank, by the holder of any bond issued by that Bank on which interest is not payable by that Bank;
- (j) any royalty received by a non-resident person from a company with which an agreement has been entered into by the Greater Colombo Economic Commission under section 17 of the Greater Colombo Economic Commission Law, No. 4 of 1978, in respect of any period during which the profits and income of that company are exempt from income tax under the terms of that agreement.

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

- (a) to any undertaking of operating hotels for tourists commenced on or after April 1, 1966, which is on the recommendation of the Ceylon Tourist Board approved by the Minister, by Order published in the *Gazette*, such period of five years being calculated from the date on which such undertaking commenced to carry on business; and
- (b) from any building provided for the use of an undertaking referred to in paragraph (a) by any undertaking of providing buildings for such use, which is on the recommendation of the Ceylon Tourist Board approved by the Minister by Order published in the *Gazette*, such period of five years being calculated from the date on which such building was provided for such use.

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

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

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

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

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

- (b) an undertaking for cultivating land with any plants of whatever description other than tea, rubber, coconut or paddy ;
- (c) an undertaking for animal husbandry ;
- (d) an undertaking for sericulture ;
- (e) an undertaking for carrying on any activity referred to in any of the foregoing paragraphs and processing the product of such activity ;
- (f) an undertaking for building fishing boats or for manufacture of fishing gear or for manufacture or assembly of marine engines ;
- (g) an undertaking for manufacture of ice or for provision of cold storage rooms :

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

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

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

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

- (a) which is not an undertaking for the milling of paddy ;
- (b) which was not formed by the splitting up, reconstruction, or acquisition of any business which was previously in existence ; and
- (c) which carries on its production or manufacture outside the administrative limits of a Municipality within the meaning of the Municipal Councils Ordinance.

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

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

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

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

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

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

19. The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any undertaking for the milling of paddy commenced on or after November 15, 1977, and approved by the Minister, shall be exempt from income tax for the period commencing from the date of commencement of the undertaking and ending on March 31, 1983, if it was not an undertaking formed by the splitting up, reconstruction or acquisition of any business which was previously in existence.

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

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

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

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

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

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

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

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

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

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

(2) For the purposes of this section—

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

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

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

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

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

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

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

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

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

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

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

21. Where any person who carries on an undertaking for the construction and sale of houses, being an undertaking approved by the Commissioner for National Housing having regard to the housing policy of the Government, sells any house or flat, the construction of which was commenced by such person on or after January 1, 1977, such sale being the first sale of that house or flat—

Exemption from income tax for profits from the construction and first sale of certain houses.

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

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

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

shall be exempt from income tax.

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

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

- (a) with the Government of Sri Lanka ; or
- (b) with the proprietor of any undertaking referred to in section 16 in respect of the construction of any building for the purposes of such undertaking ; or
- (c) with any such public corporation or institution as may be approved by the Minister,

shall be exempt from income tax if such person—

- (i) at the time he entered into such contract, was a non-resident person and did not have a place of business in Sri Lanka ;
- (ii) satisfies the Commissioner-General that he entered into such contract for the sum stipulated therein on the basis that such sum would not be liable to income tax ; and
- (iii) is specified by the Minister by Order published in the *Gazette* as being a person whose services are required for the economic development of Sri Lanka and to whom this section applies.

CHAPTER IV

ASCERTAINMENT OF PROFITS OR INCOME

Ascertainment of profits or income.

23. (1) Subject to the provisions of subsections (2) and (4), there shall be deducted for the purpose of ascertaining the profits or income of any person from any source, all outgoings and expenses incurred by such person in the production thereof, including—

- (a) an allowance in respect of any plant, machinery or fixtures acquired by him during the period of which the profits and income are being ascertained, and used by him in any trade, business, profession or vocation carried on or exercised by him, such allowance being an amount equal to the cost of acquisition of such plant, machinery or fixtures :

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

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

- (i) in the construction, for the purposes of any undertaking carried on by him, of a building for occupation as a dwelling house by any member of the staff employed by him in such undertaking, other than an executive officer ;
or
- (ii) in the renovation of, or in the making of any additions or improvements to, any existing building or in the erection of any building, by such person for any such undertaking of operating hotels for tourists as is not referred to in paragraph (a) of section 16 and as is on the recommendation of the Ceylon Tourist Board approved by the Minister by Order published in the *Gazette* for the purposes of this paragraph ;

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

- (c) an allowance equal to fifty *per centum* of any sum expended by such person during the period of which the profits and income are being ascertained but prior to April 1, 1980, in the construction of any building for the purposes of any trade or business carried on by him, other than for use as a dwelling house ;
- (d) an allowance equal to the sum expended by such person in the purchase of—
 - (i) any furniture, utensils or articles for any undertaking—
 - (a) as is referred to in section 16 carried on by such person ; or
 - (b) of operating hotels as is referred to in sub-paragraph (ii) of paragraph (b) ;
 - (ii) any implement or equipment for any undertaking of deep-sea or off-shore fishing carried on by such person ;
- (e) such allowance as the Commissioner-General considers reasonable for such depreciation by wear and tear of plant, machinery, and fixtures acquired by such person or of qualified buildings constructed by such person, as arises out of their use on or after April 1, 1980, by him in a trade, business,

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

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

- (i) any such plant, machinery or fixtures if they were acquired by such person prior to April 1, 1980, or in respect of any building if such building was constructed by him prior to April 1, 1980 ;
- (ii) any such plant, machinery, fixtures or buildings in respect of which the total of the allowances granted for depreciation in the preceding years of assessment are equal to the cost of acquisition of such plant, machinery or fixtures or, as the case may be, to the cost of construction of such building ;
- (f) any sum expended by such person for the renewal of any capital asset employed by such person for producing such profits or income, if no allowance for the depreciation thereof is deductible in respect of that asset ;
- (g) any sum expended by such person for the repair (not renewal) of any plant, machinery, fixtures, building, implement, utensils or articles employed for producing such profits and income :

Provided that the sum deductible under this paragraph shall, in the case of a company carrying on the business of letting premises for commercial purposes, not exceed ten *per centum* of the gross rent receivable by such company for such premises ;

- (h) a sum equal to the bad debts incurred by such person in any trade, business, profession, vocation or employment which have become bad debts during the period for which the profits are being ascertained, and such sum as the Commissioner-General considers reasonable for doubtful debts to the extent that they are estimated to have become

bad during that period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of that period :

Provided that all sums recovered during that period on account of the amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Act be treated as receipts of that period of that trade, business, profession, vocation or employment ;

- (i) interest paid or payable by such person ;
- (j) any contribution by an employer, to a pension, provident or savings fund, or to a provident or savings society, which is approved by the Commissioner-General subject to such conditions as he may prescribe ;
- (k) business turnover tax which such person is liable to pay for the period for which the profits and income are being ascertained in respect of any trade, business, profession or vocation carried on or exercised by him ;
- (l) the expenditure incurred by such person in carrying on any scientific, industrial or agricultural research for the development of the trade or business carried on by such person ;
- (m) any expenses incurred by such person in—
 - (i) opening up any land for cultivation or for animal husbandry ; or
 - (ii) cultivating that land with plants of whatever description ; or
 - (iii) the purchase of livestock or poultry to be reared on that land ; or
 - (iv) the construction of tanks or ponds or the clearing and preparation of any inland waters for the rearing of fish and the purchase of fish to be reared in such tank, pond or inland waters, as the case may be ;

- (n) the actual expenses incurred by such person or any other person in his employ in travelling within Sri Lanka in connection with the trade, business, profession or vocation of the first-mentioned person :

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

- (i) in respect of expenses incurred in relation to a vehicle belonging to and maintained by him and used partly for the purposes of his trade, business, profession or vocation and partly for the domestic or private purposes of an executive officer in his employ unless such executive officer has reimbursed such person the expenses actually incurred by him in the use of such vehicle for the private or domestic purposes of such executive officer or where such expenses actually incurred cannot be ascertained, such sum as the Assessor considers to be the amount so incurred ; or
- (ii) in respect of any expenses incurred by such person by reason of any travelling done by any other person in his employ between the residence of such other person and his place of employment or *vice versa* ; and
- (o) in the case of a company, expenditure incurred in the formation of that company.

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

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

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

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

(c) Where a person carrying on any undertaking the profits and income of which are wholly or partly exempt from income tax under this Act disposes of any capital asset used for the purposes of that undertaking, such person shall be liable to income tax on an amount equal to the amount ascertained under paragraph (a) or paragraph (b).

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

(4) Subject as hereinafter provided, income arising from interest shall be the full amount of interest falling due whether received or not, without any deduction for outgoings or expenses:

Provided that—

(a) where it appears to an Assessor that any interest is unpaid and cannot be recovered, any assessment which includes such interest shall, notwithstanding the provisions of section 123, be reduced by the amount of the interest included which has been shown to be unpaid and irrecoverable or, if income tax has been

paid in respect of such interest, such tax may be refunded on a claim in writing made within three years of the end of the year of assessment in respect of which such tax was paid ;

(b) where any interest falling due in any year of assessment in respect of a loan has not been received and is likely to be irrecoverable, the person to whom such interest is due may exclude such interest from the profits and income chargeable with income tax for that year of assessment ;

(c) where it appears to an Assessor that any interest which has been excluded from an assessment under paragraph (b) has subsequently been received and that income tax has not been paid in respect of such interest, he shall notwithstanding anything in section 115 (5), limiting the period within which an assessment or additional assessment may be made, make an assessment or additional assessment including such interest.

(5) No deduction under subsection (1) (a), (1) (b), (1) (c), (1) (d), (1) (e), or (1) (f) in respect of any capital asset shall be allowed to any person if—

(a) such person has let on hire—

(i) such capital asset to any undertaking the whole or any part of the profits and income within the meaning of paragraph (a) of section 3 of which are exempt from income tax ; or

(ii) such capital asset for use in any undertaking carried on by the person from whom it was acquired or by any member of the family of that person or any member of his family in partnership with any other person or persons ; or

(b) such person uses such capital asset in any undertaking carried on by him in partnership with the person from whom it was acquired or with any member of the family of the person from whom it was acquired :

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

(6) Profits and income received by one spouse for services rendered in any trade, business, profession or vocation carried on or exercised—

(a) by the other spouse; or

(b) by a partnership of which that other spouse is a partner,

shall be deemed to be the profits and income of that other spouse.

(7) For the purposes of this section—

(a) "allowance for depreciation", in relation to any capital asset, means any allowance which shall be deducted in respect of that asset under—

(i) paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) of subsection (1) of this section, or subsection (1) of section 162,

(ii) paragraph (a) or paragraph (h) or paragraph (i) or paragraph (l) or paragraph (m) or paragraph (n) or paragraph (o) or paragraph (p) of subsection (1) of section 10 of the Inland Revenue Act, No. 4 of 1963, or

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

(b) "capital asset" in relation to a trade, business, profession or vocation means plant, machinery, fixture, fittings, utensils, articles or equipment used for the purpose of producing the income in such trade, business, profession or vocation or building constructed for the purposes of such trade, business, profession or vocation;

(c) "proceeds" in relation to the disposal of any capital asset means—

(i) the sale price of such asset, where the disposal is by sale, or

(ii) the market value of such asset at the time of disposal, where the disposal is otherwise than by sale;

- (d) "disposal", in relation to the disposal of any capital asset by any person includes—
- (i) sale, exchange, or other transfer in any manner whatsoever of such asset by such person;
 - (ii) discard of such asset by such person;
 - (iii) the cessation of the use of such asset by such person in an undertaking carried on by him in ascertaining the profits and income of which, an allowance for depreciation could be deducted; and
- (e) "qualified building" means a building constructed for use for the purposes of a trade, business, profession or vocation other than for use as a dwelling house by an executive officer employed in that trade, business, profession or vocation.

Deductions
not allowed
in ascertain-
ing profits
and
income.

24. (1) For the purpose of ascertaining the profits or income of any person from any source, no deduction shall be allowed in respect of—

- (a) domestic or private expenses, including the cost of travelling between the residence of such person and his place of business or employment;
- (b) expenses incurred in connection with his employment other than the expenses referred to in paragraphs (h) and (j) of subsection (1) of section 23;
- (c) any expenditure incurred in travelling outside Sri Lanka in connection with any trade, business, profession or vocation carried on or exercised in Sri Lanka by such person, other than the expenses incurred in travelling outside Sri Lanka solely in connection with—
 - (i) the promotion of the export trade of any article or goods; or
 - (ii) the provision of any services for payment in foreign currency;
- (d) entertainment expenses incurred by such person or his employee or on his behalf in connection with any trade, business, profession or vocation carried on or exercised by him;
- (e) entertainment allowances paid by such person to his executive officer;

- (f) one-quarter of such person's cost of advertisement in connection with any trade, business, profession or vocation carried on or exercised by him other than the cost of advertising outside Sri Lanka incurred solely in connection with the export trade of any articles or goods or the provision of any services for payment in foreign currency ;
- (g) any disbursements or expenses of such person, not being money expended for the purpose of producing such profits and income ;
- (h) any expenditure of a capital nature or any loss of capital incurred by such person ;
- (i) the cost of any improvements effected by such person ;
- (j) any sum recoverable under a contract of insurance or indemnity, if the amount received under such contract is not treated as income under section 89 ;
- (k) rent of, or expenses in connection with, any premises or part of premises not occupied or used for the purposes of producing such profits and income ;
- (l) any amounts paid or payable by such person by way of—
 - (i) income tax, or super tax or surtax or any other tax of a similar character in any country with which an agreement made by the Government of Sri Lanka for the avoidance of double taxation is in force (other than the excess of any such income tax, or super tax or surtax or any other tax of a similar character over such maximum amount of the credit in respect of Sri Lanka income tax as is allowed by paragraph (c) of subsection (1) of section 82) ; or
 - (ii) Sri Lanka income tax or Commonwealth tax as defined in section 83 ; or
 - (iii) any prescribed tax or levy.

Any regulation prescribing a tax or levy for the purposes of this paragraph may be declared to take effect from a date earlier than the date on which such regulation is made ;

- (m) any annuity, ground rent, or royalty paid by such person ; or

(n) any payment by such person to any pension, provident, savings, widows' and orphans' pension, or other society or fund, except such payments as are allowed under paragraph (j) of subsection (1) of section 23.

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

(3) In ascertaining the profits or income arising from annual value or rent of land and improvements thereon no deduction shall be made for outgoings and expenses except those authorized in section 5 or section 6, as the case may be, except in the case of a company carrying on the business of letting commercial buildings.

CHAPTER V

ASCERTAINMENT OF TOTAL STATUTORY INCOME

Basis for
computing
statutory
income.

25. (1) The statutory income of every person for each year of assessment from every source of his profits and income in respect of which tax is chargeable shall be the full amount of the profits or income which was derived by him or arose or accrued to his benefit from such source during that year of assessment notwithstanding that he may have ceased to possess such source or that such source may have ceased to produce income.

(2) Every person who carries on or exercises any trade, business, profession or vocation shall, subject to the provisions of subsection (3), make up the accounts of that trade, business, profession or vocation for each successive period of twelve months ending on the thirty-first day of March each year:

Provided that—

(a) where a person commences to carry on or exercise a trade, business, profession or vocation in any year of assessment, such person shall make up the accounts of such trade, business, profession or vocation for the period beginning from the date of

commencement of such trade, business, profession or vocation and ending on the thirty-first of March of that year of assessment; and

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

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

Provided that the Commissioner-General may at any time vary or revoke any direction given by him under the preceding provisions of this subsection.

26. Where in order to ascertain the profits or losses of any trade, business, profession, vocation or employment for any year of assessment or other period, it is necessary to divide and apportion in relation to specific periods the profits or losses for any period for which accounts have been made up, or to aggregate any such profits or losses or any apportioned parts thereof, it shall be lawful to make such division and apportionment or aggregation, as the case may be.

Apportionment of profits.

Any apportionment of the profits or losses for any period for which accounts have been made up shall be on the basis that such profits or losses accrued evenly over that period.

27. The total statutory income of a person for any year of assessment shall be the aggregate of his statutory incomes for that year of assessment from every source of his profits and income in respect of which tax is charged.

Total statutory income.

Aggregation of the total statutory income of a child with that of his parent.

28. The total statutory income for an year of assessment of a child of a resident individual shall be aggregated with, and deemed to form part of, the total statutory income of—

- (a) his father, if the marriage of his parents subsists in that year of assessment, or
- (b) the parent who maintains him and with whom he lives in that year of assessment, if the marriage of his parents does not subsist in that year of assessment.

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

CHAPTER VI

ASCERTAINMENT OF ASSESSABLE INCOME

Deductions from total statutory income in arriving at assessable income.

29. (1) The assessable income of a person for any year of assessment shall be his total statutory income for that year subject to the deductions specified in this section.

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

- (a) sums payable by him for that year of assessment by way of annuity, ground rent, royalty or interest not deductible under section 23:

Provided that—

- (i) no deduction shall be allowed in respect of any sum payable by way of interest, annuity, ground rent, or royalty by a person out of Sri Lanka to another person out of Sri Lanka;
- (ii) where for any year of assessment any sums so payable exceed the total statutory income for that year, the excess shall be treated for the purposes of this section in the same manner as a loss incurred in a trade during that year;
- (iii) where, at the time of making any assessment, it appears to an Assessor that any sum so payable has not been paid, he may refuse to allow any deduction in respect of that sum; and

(iv) where it appears to an Assessor that any sum in respect of which a deduction has been refused under paragraph (iii) has subsequently been paid, he shall, on application made in writing within twelve months of making such payment and supported by such proof as he may require, make an amended assessment allowing such deduction notwithstanding the provisions of section 123; and any tax found to have been paid in excess as a result of such amended assessment shall be refunded notwithstanding the provisions of section 149;

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

Provided that—

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

(ii) a deduction under this paragraph shall be made as far as possible from the statutory income of the year of assessment in which the loss was incurred and as far as it cannot be so made, then from the statutory income of the next year of assessment and so on.

(3) (a) Where the profits and income of an undertaking were exempt from income tax under section 16 of this Act or under section 6 of the Inland Revenue Act, No. 4 of 1963, for any period (such period being referred to in this paragraph as the exempt period), there shall be deducted from the total statutory income of the person who carries on that undertaking in the first year of assessment in which such exemption ceases to apply, the excess, if any, of—

(i) the total of any losses incurred by such person in such

undertaking in any year of assessment during the exempt period,

over

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

(b) Where the entirety or any portion of the balance of such losses referred to in paragraph (a) cannot be deducted from the total statutory income of such person for such first year of assessment, such entirety or portion shall be deducted from his total statutory income for the next succeeding year of assessment and so on.

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

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

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

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

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

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

(5) Where at any time within the three years of assessment immediately succeeding any year of assessment any person ceases to carry on any trade, business, profession or vocation, he shall on his making an application in that behalf to the Commissioner-General, be entitled to a deduction from the statutory income for that year of assessment of the amount of a loss other than a capital loss or a loss referred to in subsection (7), incurred by him in that trade, business, profession or vocation in any of those three years which, if it had been a profit, would have been assessable under this Act, and which has not been allowed against his statutory income of any year of assessment. For the purpose of allowing that deduction, the assessable income of that person for that year of assessment shall, notwithstanding anything in section 123 be revised:

Provided that—

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

(ii) a deduction under this subsection shall be made as far as possible from the statutory income of the first year of assessment preceding that in which the loss was incurred, and so far as it cannot be so made, from the statutory income of the next preceding year of assessment, and so on.

(6) (a) There shall be deducted from the total statutory income of a person for any year of assessment if such income includes capital gains, the amount of any capital loss of that person for that year of assessment, which if it had been a profit would have been assessable under this Act.

Provided that—

- (i) such deduction shall in no case exceed the amount of the capital gain included in such total statutory income, and
- (ii) where the capital loss of any person for any year of assessment exceeds the capital gain of such person for that year of assessment such excess shall be a capital loss of that person for the next succeeding year of assessment.

(b) "Capital loss"—

- (i) with reference to the capital loss of a person arising from a change of ownership of any property, means, subject to the provisions of subsection (4) of section 7, the amount by which the value of that property at the time when such change of ownership occurs is less than its value at the time when it was acquired by that person ;
- (ii) with reference to the capital loss of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of subsection (4) of section 7, the amount by which the value of all property received by him in consequence of such redemption is less than the value of that which is redeemed at the time of its acquisition or where that which is redeemed is any property referred to in paragraph (e) or paragraph (f) or paragraph (g) or paragraph (h) of subsection (3) of section 7, is less than such value of that property as is specified in that paragraph ;
- (iii) with reference to the capital loss of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of subsection (4) of section 7, the amount by which the value of all property received by him in consequence of such dissolution or liquidation is less than the value of his share of the capital of such business or company at the time when such share was acquired by him,

and includes the amount of any debt (other than a trade debt) which is proved to be due by documentary evidence and which is proved to be irrecoverable.

(c) In computing the amount of a capital loss any expenditure of the description referred to in paragraphs (a), (b) or (c) of subsection (4) of section 7 shall be taken into account.

(d) (i) Where a person dies and he has any capital loss for the last year of assessment for which he was liable to be assessed for income tax, the amount of such capital loss shall, as far as is practicable, be deducted from his statutory income from all sources for such last year of assessment, and, if it cannot be so deducted, from his statutory income from all sources for any of the three years of assessment in order of recession immediately preceding such last year of assessment.

(ii) Where a deduction is made from the statutory income of any person for any year of assessment under subparagraph (i), the tax for that year of assessment in respect of him shall, notwithstanding anything in section 123, be revised taking into consideration such deduction and the amount of the difference between the amount of the tax paid by him in respect of that year of assessment and the amount of the revised tax for that year of assessment shall, if there is an executor of the deceased, be refunded to such executor, and, if there is no such executor, be refunded to such person or persons as is or are in the opinion of the Commissioner-General, entitled to such refund.

(e) In computing the capital loss of a person under this subsection, the provisions of subsection (3) of section 7 shall apply as though for the expressions "capital gain" or "gain" occurring in that subsection, there were substituted the expressions "capital loss" or "loss".

(7) There shall be deducted from the total statutory income of a person for any year of assessment, where such income includes profits and income from the business of racing horses, any loss for any year of assessment from the business of racing of horses owned by such person, which if it had been a profit would have been assessable under this Act and which has not been so deducted from his total statutory income of a previous year:

Provided that such deduction shall in no case exceed the amount of the profits and income of such business included in such total statutory income and shall be made as far as possible from the statutory income of such person for the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from such income of the next year of assessment and so on.

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

(9) The amount of a loss from any trade, business, profession or vocation shall be ascertained in the manner provided in this Act for ascertainment of profits from a trade, business, profession or vocation.

(10) Where the total statutory income of any child for any year of assessment is aggregated with, and deemed to be a part of, the total statutory income of his parent for that year of assessment, any sum which could be deducted from the total statutory income of such child under the provisions of this section shall be deducted from the total statutory income of such parent.

CHAPTER VII

ASCERTAINMENT OF TAXABLE INCOME

Taxable
income.

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

- (a) an allowance of twelve thousand rupees, and
- (b) any allowance to which he is entitled under section 31:

Provided that an individual who is a trustee, receiver, executor or liquidator shall not be entitled to deduct the allowance referred to in paragraph (a) in ascertaining his taxable income as such trustee, receiver, executor or liquidator.

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

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

An allowance
in respect of
qualifying
payments.

31. (1) Subject to the provisions of sub-section (5), there shall be deducted, for the purposes of section 30, from the assessable income of a person for any year of assessment in

respect of every qualifying payment made by him in that year of assessment, an allowance equal to the amount of such qualifying payment.

(2) In this section, "qualifying payment" means—

- (a) a donation made by any person in money to an approved charity,
- (b) a donation made in money or otherwise to the Government of Sri Lanka, to a local authority, to a fund established by the Government of Sri Lanka, or to a fund established by a local authority and approved by the Minister,
- (c) expenditure incurred by any person on any project included in a development plan of the Government of Sri Lanka if such expenditure was incurred—
 - (i) with the prior written approval of the Minister, and
 - (ii) in accordance with such terms and conditions as may have been specified by the Minister at the time of granting such approval, such approval being granted, and such terms and conditions being specified, by the Minister, having regard to the development priorities of the Government,
- (d) any sum invested by any person in the purchase of ordinary shares, other than existing shares, in an approved undertaking,
- (e) any amount paid by an individual to the Government of Sri Lanka or to any banking institution within the meaning of the Monetary Law Act or to any local authority or to any other institution approved by the Minister in charge of the subject of Housing having regard to the housing policy of the Government—
 - (i) in the repayment of capital of any loan granted on or after April 1, 1973, for the construction of a house or for the purchase either of the first house or of the first site for the construction of a house purchased on or after that date, such repayment being made by that individual while he is the owner of that house or site ;
 - (ii) as monthly payments in respect of any house let on or after April 1, 1973, on rent-purchase terms ;

- (f) any amount certified by the Commissioner for National Housing as having been spent by an individual on the construction of a house, such amount not being an amount obtained on any loan from the Government of Sri Lanka or any institution or authority referred to in paragraph (e) ;
- (g) any amount spent by an individual for the purchase on or after April 1, 1978, of either the first house or the first site for the construction of a house purchased by him on or after that date, such amount not being an amount obtained on a loan from the Government of Sri Lanka or any institution or authority referred to in paragraph (e) ;
- (h) any premia paid by an individual on a life insurance policy or a policy of medical insurance or for the purchase of an annuity, not being premia paid outside Sri Lanka—
 - (i) in respect of any policy issued outside Sri Lanka after July 4, 1957 ; or
 - (ii) for the purchase of an annuity outside Sri Lanka after July 4, 1957 ;
- (i) any contributions made by an individual to such provident fund or pension fund as is approved by the Commissioner-General or to a regulated provident fund if the emoluments from which such contributions are made are not exempt from income tax under section 9 (b) ;
- (j) any sum expended by an individual who is professionally qualified—
 - (i) in the payment of subscription to any professional association of which he is a member or in the purchase of professional books, journals and reports ; and
 - (ii) on travel abroad for the purpose of participating in any seminar or conference relating to the profession carried on or exercised by that individual if such purpose is approved by the Minister as being of benefit or general advantage to such profession,

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

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

Provided that—

- (a) the total amount spent by that individual on the purchase or construction of any house or on the purchase of any site for the construction of a house shall not be apportioned between such number of years of assessment as exceed five; and
- (b) no deduction under subsection (1) shall be made for an year of assessment in respect of such qualifying payment unless such individual was the owner of such house or site in that year of assessment.

(4) Where the total statutory income of any child for any year of assessment is aggregated with, and deemed to be a part of, the total statutory income of his parent for that year of assessment, any qualifying payment made by that child in that year of assessment shall be deemed to be a qualifying payment made by such parent.

(5) The deduction from the assessable income of any person for any year of assessment in respect of the total of all qualifying payments, other than those referred to in paragraphs (b) and (c) of subsection (2) made by him, or deemed to have been made by him, in that year of assessment shall not exceed one-third of such assessable income.

(6) The amount of any qualifying payment referred to in paragraphs (b) and (c) of subsection (2) made or deemed to have been made by any person in any year of assessment which cannot be deducted from his assessable income for that year of assessment shall be deducted from his assessable income for the next succeeding year of assessment, and so on.

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

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

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

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

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

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

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

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

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

(9) For the purposes of this section—

(a) an "approved charity" means an approved charity within the meaning of section 16A of the Inland Revenue Act, No. 4 of 1963, or any such public charitable trust or institution as is declared by the Minister by notice published in the *Gazette*, to be an approved charity for the purposes of this section ;

(b) an "approved undertaking" means a company—

(i) which is engaged solely in—

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

(b) the construction and sale of houses, or

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

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

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

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

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

(c) the amount of a donation made to the Government otherwise than in money shall be the value of such donation and such value shall—

(i) be the cost during that year of assessment to the donor of the property donated, or

(ii) where the cost during that year of assessment cannot be ascertained or where no cost was incurred in that year of assessment, be the market value of the property donated at the time of such donation.

CHAPTER VIII

RATES OF INCOME TAX ON PERSONS OTHER THAN COMPANIES

Rates of
income tax
on persons
other than
companies.

32. (1) Subject as hereinafter provided, income tax shall be charged, for each year of assessment commencing on or after April 1, 1979, on the taxable income for that year of assessment of any person—

(a) if he is an individual other than a receiver, trustee, executor or liquidator acting in such capacity, at the appropriate rates specified in the First Schedule to this Act, or

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

(2) Where in consequence of the inclusion in the statutory income of an individual for any year of assessment of—

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

(b) a sum received as a retiring gratuity, or

(c) any sum received as compensation for loss of office or employment, or

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

(e) any sum paid from a regulated provident fund to an employee (other than such part of that sum as represents the contributions made by the employer to that fund prior to April 1, 1968, and the interest which accrued on such contributions made by the employer if, in respect of such contributions made

by the employer and the interest which accrued on such contributions made by the employer, tax at the rate of fifteen *per centum* has been paid by the employer),

his taxable income for any year of assessment exceeds that which would be his taxable income if no such aforementioned sum were included in his statutory income, the excess, notwithstanding anything contained in any other provision of this Act, shall be chargeable with tax at a rate equivalent to the total of the effective rates of tax at which he was liable to tax in the three years of assessment immediately preceding that year of assessment divided by three:

Provided that—

- (i) for any year of assessment the rate of tax chargeable on such excess shall not exceed fifteen *per centum*;
- (ii) where the excess referred to in the preceding provisions of this subsection is in consequence of the inclusion in the statutory income of such sum as is referred to in paragraph (d) of those provisions and tax has already been paid in respect of that sum or any part thereof, the amount of the tax chargeable under these provisions on such excess shall be reduced by the amount of the tax already paid in respect of that sum and if the amount of tax already paid in respect of that sum is more than the tax so chargeable on such excess, no tax shall be chargeable on such excess;
- (iii) where the excess referred to is in consequence of the inclusion in the statutory income of such sum as is referred to in paragraph (e) of these provisions, the amount of the tax chargeable under these provisions on such excess shall be reduced by—
 - (a) the amount of any tax already paid in respect of that sum or any part thereof, and
 - (b) an amount equal to the tax calculated at the effective rate at which he was liable to tax for the year of assessment commencing on April 1, 1967, or at fifteen *per centum*, whichever is less, on the contributions made by him to the regulated provident fund prior to April 1, 1966;

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

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

(3) Where the taxable income of a person includes any capital gain, and the rate of the income tax payable on a part of such income (hereinafter in this subsection referred to as the "relevant part of the income") exceeds twenty-five *per centum*, then, in regard to the relevant part of the income, the tax shall be computed as follows:—

(a) if the relevant part of the income exceeds the amount of such capital gains—

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

(ii) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of the tax above twenty-five *per centum* as are applicable thereto under this Act; and

(b) if the relevant part of the income does not exceed the amount of the net capital gain, the tax payable on the entirety of the relevant part of the income shall be twenty-five *per centum* notwithstanding anything to the contrary in this Act.

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

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

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

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

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

CHAPTER IX

COMPANIES

33. (1) The income tax to which any company resident in Sri Lanka in any year of assessment shall be liable for that year of assessment shall consist of—

Income tax to which resident companies are liable.

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

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

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

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

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

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

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

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

- (ii) the number of shareholders of the company exceeds one hundred and the nominal value of each share does not exceed ten rupees ;
 - (iii) any person may invest in one or more shares of the company at any allotment of shares by the company or in the open market ;
 - (iv) no person either individually or together with his wife or minor children holds, either directly or through nominees, more than five *per centum* of the issued share capital ;
 - (v) there are three or more directors each owning one or more shares ;
 - (vi) none of the directors of the company holds office as director of any other people's company ; and
 - (vii) no other company holds any share either directly or through nominees ;
- (b) "small company" means a company—
- (i) which is resident in Sri Lanka,
 - (ii) the issued capital of which does not exceed five hundred thousand rupees,
 - (iii) which has not reduced its issued capital on or after November 15, 1978, and
 - (iv) which is not formed on or after November 15, 1978, by the reconstruction of an existing company or by the acquisition of any plant, machinery, fixtures or building of an existing company ;
- (c) "amount of the gross dividends" of a company means where a deduction under section 38 is made by the company in respect of the dividends, the amount of the dividends before such deduction is made, and where no such deduction is made the amount of the dividends increased by fifty *per centum* thereof.

Income tax to which non-resident companies are liable.

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

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

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

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

(ii) a sum equal to eleven and one-ninth *per centum* of such taxable income, if the aggregate amount of such remittances is not less than one-third of such taxable income.

(2) In subsection (1), "remittances" with reference to a non-resident company mean—

(a) sums remitted abroad out of the profits of that company, such sums not including any dividends paid by a resident company to such non-resident company if such resident company made a deduction under section 38 in respect of such dividends, or if such dividends are exempt from income tax under section 11 ;

(b) such part of the proceeds of the sale abroad of products exported by that company as is retained abroad ; and

(c) in respect of any products exported by that company and not sold in a wholesale market or not sold at all such part of the profits deemed under section 71 to be derived from Sri Lanka as is retained abroad.

35. Where a dividend is paid by any resident company to any resident or non-resident company and either—

(a) a deduction has been made under section 38 in respect of that dividend by the first-mentioned resident company ; or

(b) that dividend is exempt from income tax under section 11 ; or

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

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

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

Profits of a company from transactions with its share-holders.

36. The profits of a company from transactions with its shareholders which would be assessable if such transactions were with persons other than its shareholders, shall be profits within the meaning of this Act.

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

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

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

and the amount of the income tax which a resident company is, under this section, required to deduct shall be a debt due from such resident company to the Republic and shall be recoverable forthwith as such or may be assessed and charged upon such company in addition to any income tax otherwise payable by it.

38. (1) Every resident company shall be entitled to deduct from the amount of any dividends payable to any shareholder in the form of money, or an order to pay money out of the profits on which the taxable income of that company is computed for any year of assessment, income tax equal to thirty-three and one-third *per centum* of such amount.

Resident company entitled to deduct tax of 33 $\frac{1}{3}$ *per centum* from any dividend.

In computing for the purposes of this section the amount of a dividend payable to any shareholder by a company, such part of that dividend as consists of any part of the amount of a dividend received by that company from another resident company shall not be taken into account.

(2) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend which becomes payable by a resident company during any year of assessment shall annex thereto a statement in such form as may be specified by the Commissioner-General setting out—

- (a) the gross amount which after deduction of income tax thereon corresponds to the net amount actually paid;
- (b) the sum deducted as income tax;
- (c) the net amount actually paid;
- (d) where any such dividend includes the amount of a dividend received by that company from any other resident company, that part of the amount of the dividend so received, and whether the whole or any part of the amount of the dividend so received is exempt from income tax under this Act.

(3) Where the statement referred to in subsection (2) discloses that a shareholder of a resident company received a dividend which included the amount of any dividend received from any other resident company, then, that amount shall, for the purposes of determining the statutory income of such shareholder, be increased by fifty per centum and he shall be entitled to deduct from the tax payable by him an amount equal to the said fifty *per centum*:

Provided, however, that the preceding provisions of this subsection shall not apply to, or in respect of,—

- (a) a shareholder if such shareholder is a company; or
- (b) the amount of any dividend received from any other company if such dividend is exempt from income tax under this Act.

(4) Where the assessable income of a person other than a company includes a dividend from a resident company in the form of money or of an order to pay money, he shall be entitled, on production of a statement relating to such dividend made in accordance with subsection (2), to deduct from the tax payable by him, the amount of tax shown on such statement.

(5) Where for any year of assessment the assessable income of a person other than a company includes a dividend from a resident company in the form of shares or debentures, he shall be entitled to deduct from the tax payable by him, an amount equal to an amount which the company would have been entitled under subsection (1) to deduct as tax on such dividend had such dividend been paid in the form of money.

Certain undistributed profits to be treated as distributed.

39. (1) Where, in the case of a company controlled by not more than five persons, the Assessor is satisfied that the company has not distributed to its shareholders a reasonable part of its profits for any year of assessment, the Assessor may, subject to the provisions of subsections (2), (3) and (4), treat the whole or a part of the profits of the company, after deducting therefrom any expenditure incurred for the development of the business of the company, (other than the price paid for the purchase of an existing business or an agricultural undertaking), as distributed in the form of dividends to the shareholders of the company on a date specified by the Assessor.

(2) In determining under subsection (1) whether a company has not distributed to its shareholders a reasonable part of its profits, the Assessor shall have regard—

- (a) to the total amount of its profits;
- (b) to the additional assessments, if any, made on the company;
- (c) to the current requirements of the company's business; and
- (d) to such other requirements as may be necessary or advisable for the maintenance and development of the company's business.

(3) For the purposes of subsection (1) any of the following sums shall be regarded as profits available for distribution among the shareholders of the company and not as having been applied or being applicable to the requirements

of the company's business or to such other requirements as may be necessary or advisable for the maintenance and development of that business:—

- (a) any sum expended or applied, or intended to be expended or applied, out of the profits of the company, in the redemption or repayment of any share or loan capital or debt (including any premium on such share or loan capital or debt) issued or incurred otherwise than for adequate consideration;
- (b) any sum lent to a director or shareholder of the company; and
- (c) any sum expended or applied, or intended to be expended or applied, in pursuance or in consequence of any fictitious or artificial transactions;

(4) For the purposes of subsection (3), share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if—

- (a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt (including any premium thereon); or
- (b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) of this subsection or which represents directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration,

and references in this subsection and in subsection (3) to money applied or to be applied for any purposes shall be deemed to include references to money applied or to be applied in or towards the replacement of that money.

(5) Where the Assessor under subsection (1) treats the whole or a part of the profits of the company for any year of assessment as distributed in the form of dividends to shareholders of the company such company shall be liable to pay income tax for that year of assessment on the profits treated as so distributed at the highest rate at which income tax is chargeable for that year upon the taxable income of an individual and such tax shall—

- (a) be in addition to and not in lieu of any income tax payable by that company under any other provision of this Act, and
- (b) be assessed and charged upon such company by an Assessor, and the provisions relating to payment and recovery shall apply accordingly.

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

(7) In this section, "company controlled by not more than five persons" means a company in which more than half the total shares issued is held by not more than five persons, their wives or minor children, either directly or through nominees.

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

40. Where the profits and income of a company for any year of assessment or any part of such profits and income are appropriated by any director, manager, shareholder or executive officer of that company, such profits and income or such part of such profits and income shall form part of the profits and income for that year of assessment of the person by whom such profits or income or part thereof are appropriated and shall be assessable accordingly and, the Commissioner-General may, taking into account all the circumstances of the case, deduct such profits and income or part thereof under section 23. (1) for the purposes of ascertaining the profits and income of that company for that year of assessment.

CHAPTER X

IMPOSITION OF WEALTH TAX

Charge to wealth tax.

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

42. Nothing in this Chapter shall apply to—
- (a) any public corporation ;
 - (b) any local authority ;
 - (c) any company, other than any non-resident company having immovable property in Sri Lanka ;
 - (d) any individual referred to in paragraphs (c), (d), (e) or (f) of section 9, as long as such individual is exempt from income tax under that section ;
 - (e) any body of persons to which section 90 applies ;
 - (f) any institution or trust of a public character established by or under any written law solely for the purposes of scientific research ;
 - (g) any co-operative society registered or deemed to be registered under any law for the time being in force relating to the registration of co-operative societies ;
 - (h) any institution whose primary business is the business of a bank ;
 - (i) the Incorporated Council of Legal Education ;
 - (j) the Widows' and Orphans' Pension Fund of public officers of Sri Lanka established by the Widows' and Orphans' Pension Fund Ordinance ;
 - (k) the Widows' and Orphans' Pension Fund or Scheme established for the Local Government Service ;
 - (l) the Employees' Provident Fund established by the Employees' Provident Fund Act, No. 15 of 1958 ;
 - (m) the Lady Lochore Loan Fund constituted under the Lady Lochore Loan Fund (Board of Trustees) Act ;
 - (n) the Public Service Mutual Provident Association established by the Public Service Mutual Provident Association Ordinance ;
 - (o) the Ceylon Railway Benefit Association established under the Ceylon Railway Benefit Association Ordinance ;
 - (p) the Government Officers' Benefit Association ;
 - (q) the United Nations Organization ;
 - (r) the World Tourism Organization ;

Persons to whom this Chapter shall not apply.

- (s) the Government Surveyors' Association incorporated by the Government Surveyors' Association Ordinance;
- (t) any person who was exempt from wealth tax by Order made under paragraph (av) of section 28 of the Inland Revenue Act, No. 4 of 1963; and
- (u) any other prescribed person, being a person similar in character to any person referred to in the preceding paragraphs of this section.

Definition
of wealth.

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

Wealth to
include
certain
property.

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

- (a) any property, not being property owned by the State, in which he has only a life interest;
- (b) any motor vehicle of which he is the possessor;
In this paragraph, "possessor" means a person who is in possession of a motor vehicle in pursuance of any agreement (other than a hire purchase agreement) entered into by him in respect of that vehicle;
- (c) being the only beneficiary under a trust, the property subject to the trust;
- (d) being one of several beneficiaries under a trust the benefits from which to the beneficiaries can be ascertained from year to year, such part of the property subject to the trust as is proportionate to his share of the benefits from the trust;
- (e) being the trustee of a trust the benefits from which to all or any of the beneficiaries under the trust cannot be ascertained from year to year, the property subject to the trust;
- (f) being the trustee of a trust of a public character the property subject to the trust;
- (g) being a partner in a firm, the value of his interest in the firm determined in the prescribed manner:

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

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

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

Certain
property to
be excluded
from wealth.

- (a) his immovable property which is outside Sri Lanka,
- (b) being a person not resident in Sri Lanka, or a person ceasing to be resident in Sri Lanka in that year of assessment, his movable property which is outside Sri Lanka ;
- (c) being a member of a Hindu undivided family, his interest in the coparcenery property of such family ;
- (d) one motor car kept for his private use of which he is the owner or the possessor within the meaning of section 44 (1) (b) so however that, where the wealth if any, of a child is required under section 46 to be aggregated with the wealth of such person such exclusion shall apply only in respect of one such motor car owned either by the parent or by any such child ;
- (e) any household effects or other articles of personal use (not including jewellery) of which he is the owner ;
- (f) one house used as a residence by such person so however that, where the wealth, if any, or a child is required under section 46 to be aggregated with the wealth of such person, such exclusion shall apply only in respect of one such house owned either by the parent or by any such child ;
- (g) any such interest in any property as is available to him for a period not exceeding six years commencing from the date of acquisition of such interest ;
- (h) the moneys lying to his credit in any such special account as is referred to in paragraph (d) of section 10 and the value of any such investments made by him as are referred to in paragraph (b) of section 15 ;
- (i) the rights under any patent, copyright, trade mark, or design registered as belonging to him, unless those rights are held by him as assets of a business, profession or vocation ;

- (j) his right or interest in any life insurance policy before the moneys payable under that policy become due and payable to him ;
- (k) his right to receive a pension or other life annuity ;
- (l) any tools and instruments necessary for him to carry on or exercise his profession or vocation subject to a maximum of fifty thousand rupees in value ;
- (m) any instruments and other apparatus used by him for purposes of scientific research ;
- (n) any work of art, archaeological, scientific or art collections, books or manuscripts belonging to him and not intended for sale ;
- (o) any drawings, paintings, photographs, and prints belonging to him and not intended for sale ;
- (p) any heirlooms (other than jewellery) belonging to him and not intended for sale ;
- (q) any jewellery belonging to such person subject to a maximum of fifty thousand rupees in value so however, that where the wealth, if any, of a child is required under section 46 to be aggregated with the wealth of such person, the total exclusion under this paragraph shall be limited to a sum of fifty thousand rupees ;
- (r) the amount to his credit in any provident fund approved by the Commissioner-General ;
- (s) any property of which he is the owner but the life interest in which subsists in any other person ;
- (t) any house which is certified by the Commissioner for National Housing under section 12 of this Act or under section 90A of the National Housing Act as having been completed on or after October 1, 1966 and as having a floor area not exceeding five hundred square feet, such year of assessment being the year of assessment in which the house was completed or any of the six immediately succeeding years of assessment ;
- (u) being a charitable institution, any such property thereof as is property the income from which, or the annual value of which, is exempt from income tax ;

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

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

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

- (a) his father, if the marriage of his parent subsists in that year of assessment, or
- (b) the parent who maintains him and with whom he lives in that year of assessment, if the marriage of his parent does not subsist in that year of assessment.

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

Net wealth.

- (a) any debt incurred without consideration, or without full consideration in money or money's worth ;
- (b) any debt incurred which is not wholly for his own benefit ;
- (c) any debt in respect of which there is a right to reimbursement from any other person, unless such reimbursement cannot be obtained ;
- (d) any debt charged or secured on, or incurred in relation to, any property of his which is excluded from his wealth under this Chapter, unless the amount obtained by incurring such debt has been utilized by him in the purchase, improvement or maintenance of any property which is included in his wealth ; and
- (e) any debt incurred by him outside Sri Lanka other than any such debt which is contracted to be paid in Sri Lanka or which is charged or secured on property in Sri Lanka,

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

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

Taxable
wealth.

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

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

Value of
property
which
constitutes
wealth.

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

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

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

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

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

- (i) the par or redemption value, whichever is the greater, of any debentures, debenture stock and preference shares of the company ;
- (ii) all debts of the company incurred or created bona fide for consideration in money or money's worth ;
- (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount ; and
- (iv) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pensions to employees or otherwise used for the benefit of them or their dependants or relatives, and in no other manner.

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

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

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

Wealth tax payable not to exceed a certain amount.

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

CHAPTER XI

IMPOSITION OF THE GIFTS TAX

Charge of the gifts tax.

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

Meaning of gift.

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

Gifts to include certain transfers.

53. For the purposes of this Chapter—

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

- (b) where any property is transferred and an Assessor, having regard to the circumstances of the case, is of the opinion that the consideration for the transfer has not passed or is not intended to pass either in full or in part from the transferee to the transferor and the parties to the transfer upon being requested in writing by the Assessor to show cause against such opinion within the time specified in the request, do not show cause within that time or do not show such cause as is considered by the Assessor to be sufficient, the amount of the consideration which, in the opinion of the Assessor, has not passed or is not intended to pass shall be deemed to be a gift made by the transferor ;
- (c) where a person absolutely entitled to any property causes or has caused that property to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation, from or out of that property, the amount of the appropriation used for the benefit of any person other than the vestor shall be deemed to be a gift made to the person making the appropriation by the vestor ;
- (d) where there is a release, discharge, surrender or abandonment of any debt (other than a debt which is treated as a bad debt and is allowed as a deduction for the purposes of ascertaining profits or income under this Act) or contract or any interest in any property by any person, the value of the release, discharge, surrender or abandonment shall be deemed to be a gift made by him ;
- (e) the gift of any property subject to a reservation in favour of the donor or any other person shall be deemed to take effect when it is made and not when the interest created by the reservation is extinguished.

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

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

Gifts not to include certain transfers.

- (c) to any child, whether such child is over or under eighteen years of age, of such individual in consideration of the marriage of such child subject to a maximum of twenty-five thousand rupees in value ;
- (d) to a charity which is an approved charity within the meaning of section 31(9) of this Act or section 16A of the Inland Revenue Act, No. 4 of 1963, each such gift being over one thousand rupees in value, subject to a maximum of three hundred thousand rupees in value for the lifetime of such individual in respect of gifts made on or after July 18, 1958 ;
- (e) to the Government or to any local authority ;
- (f) in a year of assessment the value of which, or if more than one gift is made in that year, the aggregate value of such gifts, does not exceed two thousand rupees in value ;
- (g) by a will ; or
- (h) in contemplation of death.

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

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

Taxable gifts
and the
computation
of the gifts
tax payable.

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

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

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

over

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

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

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

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

Determination
of value
of gifts.

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

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