

CHAPTER 242

INCOME TAX (AMENDMENT)

Acts

Nos. 38 of 1957,
56 of 1957,
33 of 1958,
34 of 1958,
36 of 1958,
44 of 1958,
13 of 1959,
5 of 1961,
65 of 1961,
2 of 1962,
10 of 1962,
4 of 1963.

AN ACT TO AMEND THE INCOME TAX ORDINANCE.

[Act No. 38 of 1957—6th September, 1957.]

[Act No. 56 of 1957—21st December, 1957.]

[Act No. 33 of 1958—3rd November, 1958.]

[Act No. 34 of 1958—3rd November, 1958.]

[Act No. 36 of 1958—3rd November, 1958.]

[Act No. 44 of 1958—1st April, 1959.]

[Act No. 13 of 1959—15th May, 1959.]

[Act No. 5 of 1961—20th February, 1961.]

[Act No. 65 of 1961—12th October, 1961.]

[Act No. 2 of 1962—28th March, 1962.]

[Act No. 10 of 1962—26th May, 1962.]

[Act No. 4 of 1963*—

§§ 130 (4) (b) and 130 (4) (f)—
1st April, 1962.

§ 130 (4) (c)—1st April, 1957.

§ 130 (4) (e) (1)—15th May, 1959.

§ 130 (4) (e) (2), 130 (4) (g) and
130 (4) (h)—1st April, 1958.

§ 130 (4) (i) (iv)—1st April, 1959.

§ 130 (4) (j)—2nd February, 1956.

§§ 130 (4) (a), 130 (4) (d),
130 (4) (i) (i), 130 (4) (i) (ii),
130 (4) (i) (iii), 130 (4) (k)
and 130 (4) (l)—30th March,
1963.]

* Vide Sections 130 (4) and 130 (5) of Act No. 4 of 1963.,
as amended by Act No. 18 of 1965.

1. This Act may be cited as the Income Tax (Amendment) Act. Short title.
2. Section 2 of the Income Tax Ordinance, hereinafter referred to as the "principal enactment", is hereby amended as follows:— Amendment of section 2 of Chapter 242.
- (a) in the definition of "Assistant Commissioner", by the substitution, for the words "Income Tax", of the words "Inland Revenue"; [§ 2, 13 of 1959.]
- (b) in the definition of "authorized representative", in paragraph (a) of that definition, in sub-paragraph (ii) of that paragraph, by the substitution, for the word "proctor,", of the words "proctor or a member of the Institute of Chartered Accountants of Ceylon,"; [§ 130 (4) (a), 4 of 1963.]
- (c) by the insertion, immediately after the definition of "business", of the following definition:— [§ 2, 44 of 1958.]
- "charitable institution" means the trustee or trustees of a trust, or a corporation or an unincorporate body of persons, established for a charitable purpose only or engaged solely in carrying out a charitable purpose;'
- (d) by the substitution, for the definition of "charitable purpose", of the following definition:— [§ 2, 44 of 1958.]
- "charitable purpose" means a purpose for the benefit of the public or any section of the public in or outside Ceylon of any of the following categories:—
- (i) the relief of poverty;
- (ii) the advancement of education or knowledge;
- (iii) the advancement of religion or the maintenance of religious rites and practices or the administration of a place of public worship;
- (iv) any other purpose, beneficial or of interest to mankind not falling within any of the preceding categories;'

- (e) in the definition of "Commissioner"—
- [§ 2, 38 of 1957.] (i) by the substitution, for the words "and the Deputy", of the words "a Deputy";
- [§ 2, 13 of 1959.] (ii) by the substitution for the words "Income Tax", of the words "Inland Revenue";
- (f) in the definition of "Deputy Commissioner"—
- [§ 2, 38 of 1957.] (i) by the substitution, for the words "the Deputy", of the words "a Deputy";
- [§ 2, 13 of 1959.] (ii) by the substitution, for the words "Income Tax", of the words "Inland Revenue";
- [§ 2, 13 of 1959.] (g) by the insertion, immediately after the definition of "executor", of the following definition:—
- "executive officer" means a director of a company or corporation, or an employee in any trade, business, profession or vocation whose monthly emoluments (including all allowances) are not less than one thousand rupees; and
- [§ 2, 13 of 1959.] (h) in the definition of "written-down value", by the substitution, for the words "means the residue of the cost to the owner thereof of any plant, machinery or fixtures", of the following:—
- "with reference to any plant, machinery or fixtures purchased before April 1, 1957, or, where statutory income is directed by the Commissioner under section 13 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, before such specified day in the year preceding the year of assessment commencing on April 1, 1957, means the residue of the cost thereof to the owner thereof".

Replacement of section 3 of the principal enactment.
[§ 3, 13 of 1959.]

3. Section 3 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Officers.

3. (1) For the purposes of this Ordinance, there shall be appointed a Commissioner of Inland Revenue and such

number of Deputy Commissioners of Inland Revenue, Assistant Commissioners of Inland Revenue and Assessors as may be necessary.

(2) An Assistant Commissioner, exercising or performing any power, duty or function of the Commissioner under this Ordinance shall be deemed for all purposes to be authorized to exercise or perform that power, duty or function until the contrary is proved.

(3) An Assistant Commissioner may exercise any power conferred on an Assessor by this Ordinance.”

4. Section 4 of the principal enactment is hereby amended as follows :—

Amendment
of section 4
of the
principal
enactment.
[§ 2, 10 of 1962.]

(1) in subsection (1) of that section, by the substitution, for the words “authorized representative,”, of the words “authorized representative or the Minister of Finance or the Permanent Secretary to the Ministry of Finance, who shall take and subscribe the oath of secrecy before a Justice of the Peace in the prescribed form,” ;

[§ 4, 13 of 1959.]

(2) in subsection (3) of that section, by the substitution, for the words “effect the provisions of this Ordinance.”, of the words “effect the provisions of this Ordinance or of any other written law administered by the Commissioner.” ;

(3) by the substitution, for subsection (4) of that section, of the following subsection :—

[§ 4, 13 of 1959.]

“ (4) Notwithstanding anything contained in this section, any officer of the Department of Inland Revenue may communicate any matter which comes to his knowledge in the performance of his duties under this Ordinance or under any other written law administered by the Commissioner—

(a) to any other officer of that department if the communication is necessary for the performance of any duty under this Ordinance, and

(b) to the income tax authority of any part of Her Majesty's dominions or of any place under Her Majesty's protection or suzerainty to such an extent as the Commissioner may deem necessary to enable the correct relief to be given from income tax in that part or place in respect of the payment of income tax in Ceylon,

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and the Commissioner may, notwithstanding anything in the Evidence Ordinance relating to the proof of documents, produce or cause to be produced in any court, in any proceedings under this Ordinance, a copy of any particulars contained in any return or document received by him or in his possession under this Ordinance or under any other written law administered by him, certified by him or on his behalf to be a correct copy of such particulars :

Provided that the Commissioner may produce or cause to be produced the original of any such return or document in any case where it is necessary to prove the handwriting or the signature of the person who wrote, made, signed or furnished such return or document, but only for the purpose of such proof :

Provided, further, that the Commissioner shall not in any case be compelled to produce in any court either the original of such document or return or a copy of any particulars contained in such document or return." ; and

[§ 2, 56 of 1957.]

(4) by the addition, at the end of that section, of the following new subsection :—

" (6) Notwithstanding anything in the preceding provisions of this section, the Commissioner or any person authorized in that

behalf by the Commissioner may, from time to time, cause to be published, in such manner as the Commissioner may consider expedient, a list containing the names and addresses of the taxpayers in respect of each year of assessment.”.

5. Section 5 of the principal enactment is hereby amended in subsection (1) of that section by the substitution, in paragraph (a) of that subsection, for the words “resident in Ceylon, and”, of the words and figures “who, if the year of assessment commences before April 1, 1959, is resident in Ceylon in the year of assessment, or, if the year of assessment commences on or after April 1, 1959, was resident in Ceylon in the year preceding the year of assessment, and ”.

Amendment
of section 5
of the
principal
enactment.
[§ 5, 13 of 1959.]

6. Section 6 of the principal enactment is hereby amended as follows:—

Amendment
of section 6
of the
principal
enactment.
[§ 6, 13 of 1959.]

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

- (i) by the omission of the word “and” occurring in paragraph (g) of that subsection;
- (ii) by the relettering of paragraph (h) of that subsection as paragraph (j); and
- (iii) by the insertion, immediately after paragraph (g) of that subsection, of the following paragraphs:—

“ (h) net capital gains arising from—

- (i) the change of ownership of any property occurring by sale, disposal, transfer, realization, exchange, or in any other manner whatsoever, other than any such change of ownership of a fiduciary’s rights in a property subject to a fideicommissum as occurs by a transfer or extinction of those rights, and other than a change of ownership of a right to

exploit a property occurring by a transfer of that right and the change of ownership of a property the expenditure for the acquisition of which is assessable expenditure within the meaning of the Personal Tax Act, No. 14 of 1959, or would be such assessable expenditure if such acquisition were after the coming into operation of that Act,

- (ii) the surrender or relinquishment of any right in any property other than the surrender of a life insurance policy,
- (iii) the transfer of some of the rights in any property other than the transfer of the rights of a fiduciary in any property subject to a fideicommissum,
- (iv) the loss of any office or employment,
- (v) the redemption of any shares, debentures or other obligations,
- (vi) the formation of a company,
- (vii) the dissolution of a business, or the liquidation of a company,
- (viii) the amalgamation or merger of two or more businesses or companies, or
- (ix) any transaction in connexion with which a person who promotes that transaction without being a party to it receives any commission or reward,

on or after April 1, 1957, other than any such gains which are treated as profits or income under any other provisions of this section ;

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

(2) by the insertion, immediately after subsection (1) of that section, of the following new subsections :—

“ (1A) Any offertory, subscription or other donation to a charitable institution shall be deemed to be such income as is referred to in paragraph (j) of subsection (1).

[§ 3, 44 of 1958.]

(1B) Where no period of exemption from the tax is allowed to the charitable institution referred to in subsection (2) of section 9A by the Commissioner to follow immediately the period of exemption from the tax consisting of the three years of assessment specified in paragraph (a) of that subsection, any such part of the donated sum or sums mentioned in that subsection as remains, at the expiry of those three years of assessment, unspent on the charitable purpose referred to in that subsection shall be deemed, for the purposes of this Ordinance, to be income of that institution for the third of those three years of assessment.

[§ 6, 13 of 1959.]
[§ 3, 44 of 1958.]

(1c) Where no period of exemption from the tax is allowed to the charitable institution referred to in subsection (2) of section 9A by the Commissioner to follow immediately a period of exemption from the tax already allowed by the Commissioner to that institution, any such part of the donated sum or sums mentioned in that subsection as remains, at the expiry of the period of exemption already allowed, unspent on the charitable purpose referred to in that subsection shall be deemed, for the purposes of this Ordinance, to be income of that institution for the year of assessment constituting the period of exemption already allowed or the last of the years of assessment included in the period of exemption already allowed.

[§ 3, 44 of 1958.]

[§ 6, 13 of 1959.]

(1D) The racing of horses owned by any person shall, for the purposes of paragraph (a) of subsection (1), be deemed to be a business carried on by that person.

[§ 6, 13 of 1959.]

(1E) Any loss arising from a business referred to in subsection (1D) shall not be deducted from the profits or income from any other source but shall be deducted from the profits or income from that business for the next succeeding year of assessment, and if such deduction cannot be made from the profits or income from that business for such next succeeding year, it shall be made as early as possible from the profits or income from that business for any subsequent year of assessment.”;

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

(A) in paragraph (a) of that subsection—

(a) in sub-paragraph (i) of that paragraph—

[§ 6, 13 of 1959.]

(i) by the substitution, for the words “conveyance, the value”, of the words and figures “conveyance, and, in respect of any year of assessment commencing before April 1, 1958, the value”; and

[§ 4, 38 of 1957.]
[§ 6, 13 of 1959.]
[§ 3, 10 of 1962.]

(ii) by the substitution, for all the words from “triennially granted to any such” to the end of that sub-paragraph, of the words “granted to any such director who is not a citizen of Ceylon or to his wife, son or daughter in order to enable him or her to visit his or her home abroad, and the value of any holiday warrant or passage not specified in this sub-paragraph, and in respect of any year of assessment commencing on or after April 1, 1958, the value of any holiday warrant or passage, except the value of any

holiday warrant or passage granted to a person who is not a citizen of Ceylon to enable him to come to Ceylon to assume duties or to visit his home abroad or to return from Ceylon on the termination of his services, whether on retirement or otherwise, or of any holiday warrant or passage granted to the wife, or any son or daughter, of such person to come to Ceylon or to visit his or her home abroad or to return from Ceylon on the termination of the services of such person ;” ;

(b) in sub-paragraph (v) of that paragraph, by the substitution, for all the words from “ and such part ” to the end of that sub-paragraph, of the following :—

“ other than an allowance for entertainment or travelling ;” ;

(B) in paragraph (d) of that subsection by the substitution, for the full stop at the end of that paragraph, of a semi-colon ; and

(C) by the addition, at the end of that subsection, of the following new paragraphs :—

(e) “ capital gain ”,—

(i) with reference to capital gain of any person arising from a change of ownership of property, means, subject to the provisions of subsection (3) of section 6A, the amount by which the value of that property at the time when such change of ownership occurs exceeds its value at the time when it was acquired by that person by purchase, gift, inheritance, or exchange, or in any other manner whatsoever ;

[§ 6, 13 of 1959.]

(ii) with reference to capital gain of any person arising from the surrender or relinquishment of any right or the transfer of some of the rights in any property or the loss of any office or employment, means, subject to the provisions of subsection (3) of section 6A, the value of the consideration for such surrender, relinquishment, or transfer or the amount of compensation for such loss ;

[§ 6, 13 of 1959.]

(iii) with reference to capital gain of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of subsection (3) of section 6A, the value of all property received by him in consequence of such redemption less the value of that which is redeemed at the time of its acquisition by him by purchase, gift, inheritance or exchange, or in any other manner whatsoever, or where that which is redeemed is any property referred to in sub-paragraph (viii) or sub-paragraph (ix) of paragraph (k) of this subsection, less such value of that property as is specified in that sub-paragraph ;

[§ 3, 10 of 1962.]

[§ 6, 13 of 1959.]

(iv) with reference to capital gain of any person arising from the formation of a company, means, subject to the provisions of subsection (3) of section 6A, the value of the consideration received by him for any transaction in connexion with the formation of such company ;

- (v) with reference to capital gain of any person arising from the dissolution of a business or the liquidation of a company, means, subject to the provisions of subsection (3) of section 6A, 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 by purchase, gift, inheritance, or exchange, or in any other manner whatsoever ;
- [§ 6, 13 of 1959.]
- [§ 3, 10 of 1962.]
- (vi) with reference to capital gain arising from the amalgamation or merger of two or more companies, means, in the case of a shareholder of any of those companies, any money received by such shareholder in consequence of such amalgamation or merger, and, in the case of any other person, the value of the consideration received by such other person for any transaction in connexion with such amalgamation or merger ; and
- [§ 6, 13 of 1959.]
- (vii) with reference to capital gain of any person arising from a transaction promoted by him without being a party to it, means the sum received by him as commission or reward ;
- [§ 6, 13 of 1959.]
- (f) "capital loss",—
- (i) with reference to capital loss of any person arising from a change of ownership of any property, means,
- [§ 6, 13 of 1959.]

subject to the provisions of subsection (3) of section 6A, 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 by purchase, gift, inheritance, or exchange, or in any other manner whatsoever ;

[§ 6, 13 of 1959.]

(ii) with reference to capital loss of any person arising from the redemption of any shares, debentures or other obligations, means, subject to the provisions of subsection (3) of section 6A, 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 by him by purchase, gift, inheritance or exchange, or in any other manner whatsoever, or, where that which is redeemed is any property referred to in sub-paragraph (viii) or sub-paragraph (ix) of paragraph (k) of this subsection, is less than such value of that property as is specified in that sub-paragraph ;

[§ 3, 10 of 1962.]

[§ 6, 13 of 1959.]

(iii) with reference to capital loss of any person arising from the dissolution of a business or the liquidation of a company, means 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

[§ 3, 10 of 1962.]

the time when such share was acquired by him by purchase, gift, inheritance or exchange, or in any other manner whatsoever ; and

- (iv) includes the amount of any irrecoverable debt which is secured by a mortgage or a promissory note ; [§ 6, 13 of 1959.]
- (g) “change of ownership”, in the context of the definition of “capital gain” or “capital loss”, does not include— [§ 6, 13 of 1959.]
- (i) the sale to a customer of any property held by the vendor primarily for sale to customers in the ordinary course of his trade or business ;
- (ii) the sale of any property which was used by any person in producing income from any trade, business, profession, vocation, or employment carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 11, such sale being effected by him without his ceasing to carry on or exercise that trade, business, profession, vocation, or employment ;
- (iii) the passing of any property subject to a trust from the trustee to any beneficiary under the trust ; and
- (iv) the passing of any property belonging to the estate of a deceased person from his executor to any testate or intestate heir of the deceased ;
- (h) “market value”, with reference to any property and any date and in the context of the definition of “value of [§ 6, 13 of 1959.]

any property", means the price which, in the opinion of an Assessor, that property would have fetched on that date in an open market ;

[§ 6, 13 of 1959.]

(j) "net capital gains", in respect of any year of assessment, means the excess of the capital gains for that year over the capital losses for that year ;

[§ 6, 13 of 1959.]

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

[§ 6, 13 of 1959.]

(i) where the property is movable property acquired by purchase, gift, inheritance, or exchange, or in any other manner whatsoever before April 1, 1957, by the person who is the owner of the property immediately before the occurrence of the change of ownership, then, subject to the provisions of paragraph (vi), paragraph (viii), paragraph (ix) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall be an amount equal to the market value of the property on April 1, 1957 ;

[§ 6, 13 of 1959.]

(ii) where the property is movable property acquired as aforesaid by such person on or after April 1, 1957, then, subject to the provisions of paragraph (vi), paragraph

(viii), paragraph (ix) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition ;

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

[§ 6, 13 of 1959.]

[§ 6, 13 of 1959.]

1957, then, subject to the provisions of paragraph (vi), paragraph (vii) and paragraph (x), the value of the property at the time of the change of ownership shall, if such change occurs by a sale of the property, be an amount equal to the sale price, and, if such change occurs in any other manner, be an amount equal to the market value of the property at that time, and the value of the property at the time when it was acquired as aforesaid by such person shall, if such acquisition was by purchase, be an amount equal to the cost of such purchase, and, if such acquisition was otherwise than by purchase, be an amount equal to the market value of the property at the time of such acquisition ;

[§ 6, 13 of 1959.]

(v) the value of any consideration received by any person shall, where the consideration is partly cash and partly property, other than cash, be an amount equal to the aggregate of such cash and the market value of such property on the date on which the consideration was received, and, where the consideration is wholly property other than cash, be an amount equal to the market value of such property on the date on which the consideration was received ;

[§ 6, 13 of 1959.]

(vi) where the acquisition as aforesaid of the property by such person is by the transfer of the property by a trustee under a trust to such person in his capacity as a beneficiary under the trust or is by

the transfer of the property by an executor to such person in his capacity as a testate or an intestate heir of the deceased whose estate is administered by such executor, the value of the property at the time of such acquisition shall, if the date of such acquisition is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957, and, if the date of such acquisition is on or after April 1, 1957, be an amount equal to the market value of the property at the time when such trustee or executor came into possession of the property ;

- (vii) where the person who is the owner of the property immediately before the occurrence of the change of ownership, had come into possession of the property immediately after the cessation of a life interest of any other person in the property, the value of the property at the time when the first-mentioned person acquired title to the property shall, if the date of acquisition of such title is before April 1, 1957, be an amount equal to the market value of the property on April 1, 1957, and, if the date of acquisition of such title is on or after April 1, 1957, be an amount equal to the market value of the property on the date of acquisition of such title ; [§ 6, 13 of 1959.]
- (viii) where the property consists of any shares forming part of a holding of such person which includes bonus shares issued on or after [§ 6, 13 of 1959.]

April 1, 1957, or shares issued on or before April 1, 1957, at a price less than their market value, the value of the property at the time when it was acquired as aforesaid by such person shall be an amount which bears to the cost of acquisition by him of such holding the same proportion as the property bears to such holding ;

[§ 6, 13 of 1959.]

(ix) where the property consists of any shares received by a person in place of any shares of his in any of two or more companies which have amalgamated or merged on or after April 1, 1957, the value of the property at the time when it was so received shall—

[§ 3, 10 of 1962.]

(A) if the last-mentioned shares were acquired by him by purchase, gift, inheritance, exchange or in any other manner whatsoever, before April 1, 1957, be an amount equal to the market value of the last-mentioned shares on April 1, 1957, or

[§ 3, 10 of 1962.]

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

[§ 6, 13 of 1959.]

(x) where the property is property which was acquired by purchase, gift, inheritance, or exchange, or in any other manner whatsoever by the person who is the owner of the property immediately before the occurrence of the change of ownership, and which was used

by him in producing income from any trade, business, profession, vocation or employment carried on or exercised by him, and in respect of which a deduction for depreciation has been allowed under section 11, the value of the property at the time of such acquisition shall—

- (a) if the property was acquired as aforesaid before April 1, 1957, be the written-down value of the property at the time of the acquisition, and
 - (b) if the property was acquired as aforesaid on or after April 1, 1957, be an amount equal to the difference between the cost of the acquisition and such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the period during which the property was used as aforesaid ;
- (xi) 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. ' [16, 13 of 1959.]

Insertion of new sections 6A and 6B in the principal enactment.

[§ 7, 13 of 1959.]

7. The following sections are hereby inserted immediately after section 6, and shall have effect as section 6A and section 6B, of the principal enactment:—

'Special provisions regarding capital gains and capital losses.

6A. (1) Where a capital gain or a capital loss arises from the change of ownership of any property occurring on a donation of that property by its owner to any other person, such capital gain or such capital loss shall be deemed to be a capital gain or a capital loss, as the case may be, of the donor.

(2) Where a capital gain or a capital loss arises from the change of ownership of any property occurring on the death of the owner of that property, such capital gain or such capital loss shall be deemed to be his capital gain or capital loss, as the case may be, arising immediately before his death.

(2A) Where a capital gain or a capital loss arises, in the year of assessment commencing on April 1, 1962, from the change of ownership of any property, occurring either on the death of the owner or on his ceasing to be resident in Ceylon, such capital gain or capital loss shall, notwithstanding anything to the contrary in the preceding provisions of this section, be deemed to be his capital gain or capital loss, as the case may be, arising in the year preceding that year of assessment.

(3) The amount of a capital gain or a capital loss arising from the change of ownership of any property shall be computed after making the following deductions:—

(a) the expenditure (other than the purchase price, if any) incurred solely in connexion with the

[§ 130 (4) (b),
4 of 1963.]

acquisition of that property by the person who is the owner of that property immediately before the occurrence of such change of ownership ;

(b) the expenditure incurred by the aforesaid owner in making any improvements, additions or alterations to that property ;
and

(c) the expenditure incurred by the aforesaid owner solely in connexion with the transaction which results in such change of ownership.

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

(5) Where the aggregate amount of the capital gains of any person for any year of assessment which arise in respect of movable property other than stocks, shares, debentures or debenture stocks does not exceed two thousand rupees, such amount shall be deemed not to be that person's capital gain for that year of assessment.

(6) Where any person—

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

- (b) has a total assessable income for those three years of assessment which is less than the total of the allowances which under section 23E are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

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

(7) Where the taxable income of a person includes any net capital gain, and the rate of the tax payable on a part of such income (hereafter in this subsection referred to as the "relevant part of the income") exceeds 45 *per centum*, then, in regard to the relevant part of the income, the tax shall be computed as follows:—

- (a) if the relevant part of the income exceeds the amount of the net capital gain—
- (i) the tax payable on such portion of the relevant part of the income as is equal to the amount of the net capital gain shall be at the rate of 45 *per centum*, and
 - (ii) the tax payable on the balance of the relevant part of the income shall be computed according to such of the rates of the tax above 45 *per centum* as are applicable thereto under this Ordinance; and

(b) if the relevant part of the income is less than the amount of the net capital gain, the tax payable on the entirety of the relevant part of the income shall be 45 per centum notwithstanding anything to the contrary in this Ordinance.

(8) Where a person dies and he has any net capital loss for the last year of assessment for which he was liable to be assessed for the tax, the amount of such net capital loss shall, as far as is practicable, be deducted from his statutory income from all sources for such last year of assessment, and, if it cannot be so deducted, from his statutory income from all sources for any (in order of recession) of the three years of assessment preceding such last year of assessment; and where such deduction is made from his statutory income for any such preceding year of assessment, the tax for that year of assessment in respect of him shall, notwithstanding the provisions of section 79, be revised taking into consideration such deduction, and the amount of the difference in the tax originally imposed on him in respect of that year of assessment and the amount of the revised tax for that year of assessment shall, if there is an executor of the deceased, be refunded to such executor, and, if there is no such executor, be refunded to such person or persons as is or are in the opinion of the Commissioner entitled to such refund.

(9) In this section—

(a) the expressions "capital gain", "capital loss" and "net capital gain" shall have the same

meanings as are assigned to them in subsection (2) of section 6; and

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

Provisions in regard to the tax on taxable income which includes the value of a prize won at a sweep or lottery.

6B. (1) Where any person—

- (a) who has no taxable income for the three years of assessment preceding any year of assessment, or
- (b) the total of whose assessable income for those three years of assessment is less than the total of the allowances which under section 23E are required to be deducted from that assessable income in arriving at his taxable income for those three years of assessment,

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

(2) The provisions of subsection (7) of section 6A shall apply in regard to the computation of the tax on any taxable income which includes the value of a prize won at a sweep or lottery as if the reference therein to "any net capital gain" were a reference to "the value of a prize won at a sweep or lottery" and the reference therein to "amount of the net capital gain" were a reference to "value of such prize".

8. Section 7 of the principal enactment is hereby amended, in subsection (1) of that section, as follows :—

Amendment
of section 7
of the
principal
enactment.
[§ 4, 44 of 1958.]

(A) by the omission of paragraphs (d), (e) and (f) of that subsection ;

(B) by the insertion, immediately after paragraph (c) of that subsection, of the following paragraphs :—

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

[§ 8, 13 of 1959.]

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

[§ 8, 13 of 1959.]

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

[§ 8, 13 of 1959.]
[§ 4, 10 of 1962.]

(ff) the emoluments, and any income not arising in Ceylon, for three years reckoned from the date of employment in Ceylon, of any scientist, technician, expert or adviser who is not a citizen of Ceylon and who is brought to and employed in Ceylon on or after April 1, 1958, by a corporation to which section 8 applies or by the proprietor of an undertaking, to which section 9 applies, for the purposes of that undertaking ;”

[§ 8, 13 of 1959.]

[§ 4, 10 of 1962.]

(C) by the insertion, immediately after paragraph (h) of that subsection, of the following paragraphs :—

“ (hh) the profits and income of the United Nations Organization including the net annual value of any land owned in

[§ 5, 38 of 1957.]

Ceylon by and occupied by or on behalf of that organization and any improvements on that land ;

[§ 2, 34 of 1958.]

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

[§ 2, 2 of 1962.]

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

[§ 8, 13 of 1959.]

(D) in paragraph (i) of that subsection—

(a) by the omission of sub-paragraphs (i), (ii) and (iii) of that paragraph and the substitution therefor of the following sub-paragraphs :—

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

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

- (b) by the substitution, in sub-paragraph (iv) of that paragraph, for the word "Minister", of the words "Minister ; and" ; and [§ 5, 38 of 1957.]
- (c) by the insertion, immediately after sub-paragraph (iv) of that paragraph, of the following new sub-paragraph :— [§ 5, 38 of 1957.]
- " (v) any official of the United Nations Organization who is resident in Ceylon and who is not a citizen of Ceylon ;" ;
- (E) by the insertion, immediately after paragraph (j) of that subsection, of the following new paragraph :— [§ 5, 38 of 1957.]
- " (jj) the official emoluments of any citizen of Ceylon who is employed as an expert, adviser or official or a technician by the United Nations Organization or by any Specialized Agency of that Organization ;" , and
- (F) in paragraph (s) of that subsection— [§ 2, 33 of 1958.]
- (a) by the substitution, for the words " that estate ; and" , of the words " that estate ;" ; and
- (b) by the insertion, immediately after that paragraph, of the following new paragraph :—
- " (ss) any sum paid to any person under any regulations made under the Tea Subsidy Act, No. 12 of 1958, as a subsidy out of the Tea Subsidy Fund established under that Act ; and" .
9. Section 8 of the principal enactment is hereby amended as follows :—
- (a) in subsection (1) of that section by the substitution, for all the words and figures from " Where at any time" to " capital," , of the words and figures " Where the Government of Ceylon makes a contribution to the capital of

Amendment of section 8 of the principal enactment.
[§ 6, 38 of 1957.]
[§ 3, 56 of 1957.]
[§ 9, 13 of 1959.]
[§ 5, 10 of 1962.]

any corporation established on or after April 1, 1951,";

(b) In subsection (2) of that section, by the substitution, for the words "in which the corporation commences business", of the words "in which the Government of Ceylon makes a contribution to the capital of that corporation";

(c) In subsection (3) of that section, by the substitution, for all the words and figures from "and accordingly" to the end of that subsection, of the following:—

"and accordingly where that year commences before April 1, 1953, the provisions of section 44 shall not apply to such dividends, and where that year commences on or after April 1, 1953, the provisions of section 57D shall not apply to such dividends."; and

(d) in the marginal note to that section, by the substitution, for the words "Government-sponsored corporations", of the words "certain corporations."

10. Section 9 of the principal enactment is hereby amended as follows:—

(a) in subsection (1) of that section, by the substitution, for sub-paragraph (a) of paragraph (i) of that subsection, of the following sub-paragraph:—

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

(b) by the insertion, immediately after subsection (3) of that section, of the following subsection:—

"(3A) The foregoing provisions of this Act shall apply for any year of assessment commencing on or after April 1, 1952.

The profits and losses of—

(1) an undertaking referred to in paragraph (1) of sub-paragraph (a), being the profits and losses of that undertaking for

the year of assessment in which production or manufacture in Ceylon of goods or commodities commences, and for each of the next five subsequent years of assessment, and

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

shall be exempt from the tax.”; and

- (c) by the insertion, immediately after subsection (3) of that section, of the following subsection:—

[§ 6, 10 of 1962.]

“ (3A) In respect of any year of assessment commencing on or after April 1, 1962, where the profits and income for that year of assessment of an undertaking to which this section applies are exempt from tax by virtue of subsection (2A), all dividends which are in that year paid to the shareholders of that undertaking shall be exempt from the tax; and accordingly the provisions of section 57D shall not apply to such dividends.”.

11. The following new section is hereby inserted immediately after section 9, and shall have effect as section 9A, of the principal enactment:—

Insertion of new section 9A in the principal enactment.

‘Exemptions from the tax in respect of charitable institutions.

9A. (1) Any sum of money which consists of—

[§ 5, 44 of 1958.]

- (i) any offertory, subscription or other donation to a charitable institution, or
- (ii) the proceeds of the sale of any movable property donated to a charitable institution for conversion into money by the sale thereof,

shall, if such sum is spent on a charitable purpose of that institution, be exempt from the tax.

[§ 5, 44 of 1958.]

(2) Where in any year any sum of not less than one thousand rupees is donated, or any sums the aggregate of which is not less than ten thousand rupees are donated, to a charitable institution in order that such sum or sums may be spent on such charitable purpose of that institution as is within the meaning of this Ordinance and is specified by the donor or donors, then—

(a) the donated sum or sums shall be exempt from the tax in the year of assessment in which the donation or donations is or are made and in the next two succeeding years of assessment ;

(b) if the whole or a part of the donated sum or sums is invested in any securities of the Government of Ceylon within the three aforesaid years of assessment (the amount so invested being hereafter in this subsection referred to as the “originally invested amount”) and if, before the expiry of those three years of assessment, the aforesaid charitable institution applies in writing to the Commissioner for a period of exemption from the tax in respect of a sum which represents the whole or a part of the originally invested amount on the ground that due to circumstances beyond the control of that institution such sum will not be spent on the aforesaid charitable purpose before the expiry of those three years of assessment and if the Commissioner allows in respect

of such sum a period of exemption from the tax, such sum shall be exempt from the tax in such period ;

- (c) if thereafter from time to time, before the expiry of any period of exemption from the tax already allowed by the Commissioner to the aforesaid charitable institution, that institution applies in writing to the Commissioner for a period of exemption from the tax in respect of a sum which represents the whole or a part of the originally invested amount on the ground that due to circumstances beyond the control of that institution such sum will not be spent on the aforesaid charitable purpose before the end of the period of exemption from the tax already allowed by the Commissioner and if the Commissioner allows in respect of such sum a period of exemption from the tax, such sum shall be exempt from the tax in the period allowed by the Commissioner in respect of such sum.

(3) If the profits of a business carried on by a charitable institution are applied solely to a charitable purpose of that institution and either the business is carried on in the course of the actual carrying out of a primary purpose of that institution or the work in connexion with the business is mainly performed by beneficiaries of that institution, such profits shall be exempt from the tax.

[§ 5, 44 of 1958.]

[§ 5, 44 of 1958.]

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

[§ 5, 44 of 1958.]

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

[§ 5, 44 of 1958.]

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

[§ 5, 44 of 1958.]

(7) Any sum of money spent on the repairs of a building used solely for a charitable purpose of a charitable institution shall be exempt from the tax.

[§ 5, 44 of 1958.]

(8) Where any such sum of money as is referred to in subsection (1) is applied by a charitable institution to the settlement of the whole or any part of a debt which has been or is incurred by that institution for carrying out a charitable purpose of that institution, the sum so applied shall be deemed to be spent on a charitable purpose of that institution.

[§ 7, 10 of 1962.]

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

Amendment
of section 11
of the
principal
enactment.
[§ 11, 13 of 1959.]

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

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

(a) in paragraph (e) of that subsection—

(i) by the substitution, in the first proviso to that paragraph, for the words "five years", of the words "four years"; and

- (ii) by the substitution, in the second proviso to that paragraph, for the words "three years", of the words "two years"; [§ 11, 13 of 1959.]
- (b) in paragraph (h) of that subsection, by the substitution, for the words "service; and", of the word "service;". [§ 4, 56 of 1957.]
- (c) in paragraph (i) of that subsection— [§ 8, 38 of 1957.]
- (i) by the substitution, for all the words from "any contribution to a pension fund" to "society or fund,", of the following:—
- "any contribution to a pension fund made in any year preceding the year of assessment commencing on the 1st day of April, 1957, any contribution by any employer to a pensions, provident or savings fund, or to a provident or savings society,"; and
- (ii) by the substitution for the word "prescribe," of the words "prescribe; and"; and [§ 4, 56 of 1957.]
- (d) by the addition, at the end of that subsection, of the following new paragraph:— [§ 4, 56 of 1957.]
- "(j) such sum not exceeding three hundred rupees in any year as may be expended by a professionally or technically qualified employee in the payment of subscription to a professional or technical society of which he is a member or in the purchase of professional or technical books, journals and reports. ; and
- (2) by the insertion, immediately after subsection (5) of that section, of the following new subsections:— [§ 11, 13 of 1959.]
- (5A) The provisions of paragraphs (a), (b), (c) and (e) of subsection (1) shall not apply to any plant, machinery or fixtures

[§ 130 (4) (c)
(1), 4 of 1963.]

purchased after March 31, 1957, or where statutory income is directed by the Commissioner under section 13 (2) to be computed up to any such day other than the thirty-first day of March as is specified in the direction, after such specified day in the year preceding the year of assessment commencing on April 1, 1957, and to any expenditure incurred after March 31, 1957, or after such specified day for the repair or renewal of any plant, machinery or fixtures, or any premises, implements, utensils or articles.

(5B) There shall be deducted in respect of any year of assessment commencing on or after April 1, 1958, for the purpose specified in subsection (1), a prescribed lump sum for the depreciation by wear and tear of any plant, machinery or fixtures acquired by any person in the year preceding that year of assessment by purchase, gift, inheritance, or exchange, or in any other manner whatsoever and used by him in any trade, business, profession, vocation, or employment carried on or exercised by him, such lump sum being variable according to the kind of plant, machinery or fixtures concerned.

(5c) There shall be deducted in respect of any year of assessment commencing on or after April 1, 1958, for the purpose specified in subsection (1), a prescribed lump sum for the depreciation by wear and tear of any such building constructed in the year preceding that year of assessment as is referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (e) of subsection (1), such lump sum being variable according to the kind of building concerned.

(5E)* There shall be deducted, for the purpose specified in subsection (1), any sum expended for the repair (not renewal) of

* The new subsection (5D) inserted by section 11 of Act No. 13 of 1959 has been repealed by section 8 of Act No. 10 of 1962

plant, machinery or fixtures employed for producing the income, or for the renewal or repair of any premises, implement, utensil, or articles so employed, or the cost of renewal of any plant, machinery or fixtures if no deduction for depreciation thereof has been allowed under paragraph (a) of subsection (1) :

Provided that the preceding provisions of this subsection shall not apply to any sum expended for the renewal of plant, machinery, fixtures or premises in respect of which any deduction under subsection (5B) or subsection (5c) has been allowed.

(5F) Where any person sells or discards any plant, machinery or fixtures purchased by him after March 31, 1957, or such specified day as is referred to in subsection (5A), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in subsection (5A), which is a staff welfare building or a building for use as a dwelling house by any member of the subordinate staff employed by him in, or for the purposes of, or in connexion with, any such undertaking as is referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (e) of subsection (1), or which is a building occupied, for the purposes of that undertaking, otherwise than as a dwelling house, and the sale or discard occurs when or after he ceases to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under subsection (5B) or subsection (5c) in respect of the things sold or discarded, then, if the sale or discard is before the expiry of the period of likely use by reference to which the deduction for depreciation was

determined, such part of the amount deducted for depreciation as is in the opinion of the Commissioner attributable to the unexpired part of such period shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment or undertaking.

(5G) Where any person sells or discards any plant, machinery or fixtures purchased after March 31, 1957, or such specified day as is referred to in subsection (5A), and used in producing the income from any trade, business, profession, vocation, or employment carried on or exercised by him, or any building constructed after March 31, 1957, or such specified day as is referred to in subsection (5A), which is a staff welfare building or a building for use as a dwelling house by any member of the subordinate staff employed by him in, or for the purposes of, or in connexion with, any such undertaking as is referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (e) of subsection (1), or which is a building occupied, for the purposes of that undertaking, otherwise than as a dwelling house, and the sale or discard occurs without his ceasing to carry on or exercise such trade, business, profession, vocation, employment or undertaking, and a deduction for depreciation has been made under subsection (5B) or subsection (5c) in respect of the thing sold or discarded, then—

(a) if the sale or discard is before the expiry of the period of likely use by reference to which the deduction for depreciation was determined, the Commissioner shall take into account the unexpired part of such period and determine the amount of the loss, or the amount of the profit, arising in

the event of a sale from the sale or in the event of a discard from the likely sale of such plant, machinery, fixtures, or building, and where the amount of the loss is so determined, there shall be deducted that amount for the purpose specified in subsection (1), and where the amount of the profit is so determined, that amount shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where such plant, machinery, or fixtures was or were only partly used or employed for such trade, business, profession, vocation, or employment, or such building was only partly used for the purposes of, or in connexion with, such undertaking, the deduction or addition under this subsection shall be proportionately reduced ; and

- (b) if the sale or discard is after the expiry of the aforesaid period of likely use, the full amount of the sale proceeds in the event of a sale, or the full amount likely to be realized by the sale of such plant, machinery, fixtures or building in the event of a discard, shall be added to the profits or income of such person as a receipt of such trade, business, profession, vocation, employment, or undertaking, and where in the case of a discard such plant, machinery, or fixtures was or were only partly used or employed for such trade, business, profession, vocation or employment, or such building was only partly used for the purposes of, or in connexion with, such undertaking, the addition under this subsection shall be proportionately reduced.

(5H) There shall be deducted for the purpose specified in subsection (1)—

- (a) a sum equal to twenty *per centum* of the expenditure actually incurred in the purchase and installation, after March 31, 1957, or such specified day as is referred to in subsection (5A), of any new plant, machinery, or fixtures to be used by the owner thereof in the commencement or expansion by him of a trade or business which is not an approved project, or of any profession, vocation or employment;
- (b) a sum equal to forty *per centum* of the expenditure actually incurred in the purchase and installation, after March 31, 1957, or such specified day as is referred to in subsection (5A), of any new plant, machinery, or fixtures to be used by the owner thereof for the purposes of an approved project;
- (c) a sum equal to twenty *per centum* of the expenditure actually incurred, after March 31, 1957, or such specified day as is referred to in subsection (5A), in constructing or renewing any such building referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (e) of subsection (1) as is not to be used for the purposes of an approved project; and
- (d) a sum equal to forty *per centum* of the expenditure actually incurred, after March 31, 1957, or such specified day as is referred to in subsection (5A), in constructing or renewing any such building referred to in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (e) of subsection (1) as is to be used for the purposes of an approved project:

Provided that no person shall be entitled to any deduction under

[§ 130 (4) (c)
(2) (i), 4 of
1963.]

[§ 130 (4) (c)
(2) (ii), 4 of
1963.]

paragraph (c) or paragraph (d) of this subsection for the renewal of any building if such person has been allowed to deduct the expenditure incurred in such renewal under subsection (5E).

The definition of "approved project" contained in subsection (1) of section 47A shall apply as if it were part of the provisions of this subsection also and as if the reference in that definition to "this section" were a reference to "this subsection". Every project hitherto declared by the Minister of Finance to be an approved project for the purposes of section 47A shall be an approved project for the purposes of this subsection also.

(5J) Where in respect of a year preceding a year of assessment commencing on or after April 1, 1958, any person who is not a citizen of Ceylon and who is carrying on or exercising any trade, business, profession or vocation in Ceylon incurs any cost of passage from Ceylon to his home abroad and from such home to Ceylon of himself or of his wife, son or daughter, the amount of such cost shall be deducted for the purpose specified in subsection (1).'

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

(1) by the renumbering of that section as subsection (1) of section 12;

(2) in the renumbered subsection (1)—

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

"(ab) the following for any year of assessment, commencing on April 1, 1958:—

(i) expenses incurred in connexion with employment

Amendment
of section 12
of the
principal
enactment.

[§ 9, 10 of 1962.]

[§ 12, 13 of 1959.]

[§ 9, 10 of 1962.]

other than the expenses referred to in paragraph (g) or paragraph (h) or paragraph (j) of subsection (1) of section 11 ;

- (ii) any travelling expenditure in excess of two thousand rupees a year incurred in connexion with any trade, business, profession or vocation carried on or exercised by such person other than any such expenditure so incurred by an employee of such person who is not an executive officer ;
- (iii) entertainment expenses incurred by such person in connexion with any trade, business, profession or vocation carried on or exercised by him ;
- (iv) entertainment expenses incurred by an executive officer of such person in connexion with a trade, business, profession or vocation carried on or exercised by such person ;
- (v) entertainment or travelling allowance paid by such person to his executive officer ;
- (vi) one quarter of such person's cost of advertisement in connexion with any trade, business, profession or vocation carried on or exercised by him ;” ;

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

[§ 9, 10 of 1962.]

“(ac) for any year of assessment commencing on or after April 1, 1962, any travelling expenditure incurred in connexion with any trade, business, profession or vocation carried on or exercised by such person other than—

- (i) if he is carrying on any trade or business, the expenditure, determined in accordance with the provisions of subsection (2) and not exceeding two thousand rupees a year, incurred by him in connexion with his trade or business in travelling within Ceylon to any place outside the city, town or village within which he mainly carries on his trade or business,
- (ii) if he is exercising any profession or vocation, the expenditure, determined in accordance with the provisions of subsection (2), incurred by him in connexion with his profession or vocation in travelling within Ceylon to any place outside the city, town or village within which his residence or office is situated,
- (iii) the amount actually expended by an employee of such person, who is not an executive officer, in travelling within Ceylon in connexion with the trade,

business, profession or vocation carried on or exercised by such person or the amount for such travelling determined in accordance with the provisions of subsection (2), whichever amount is less,

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

[§ 5, 56 of 1957.]

(c) by the omission of paragraph (e) of that subsection;

(d) in paragraph (h) of that subsection—

[§ 130 (4) (d)
4 of 1963.]

(i) by the substitution for the words “by way of United Kingdom income tax, or super tax or surtax (other than the excess of any such United Kingdom income tax, or super tax or surtax over such maximum amount”, of the words “by way of income tax or super tax or surtax or any other tax of a similar character

in any country with which arrangements for the avoidance of double taxation have been made by the Government of Ceylon (other than the excess of any such income tax, or super tax or surtax or other tax of a similar character, over such maximum amount”, and

- (ii) by the substitution, for the words and figures “in section 49”, of the following :—

[§ 9, 10 of 1962.]

“in section 49 or such other tax or levy charged or imposed by the law for the time being in force as the Minister may, with the approval of the House of Representatives, declare by Order published in the Gazette ;” ; and

- (3) by the addition, at the end of the renumbered subsection (1), of the following new subsections :—

[§ 9, 10 of 1962.]

“ (2) For the purpose of determining the expenditure incurred in connexion with travelling which is referred to in paragraph (ac) of subsection (1) and in respect of which deduction is allowed under this section, such expenditure shall—

- (a) in relation to any person carrying on any trade or business or exercising any profession or vocation, or in relation to any executive officer in the employment of such person,
- (i) be deemed to include the expenditure for subsistence incurred in the course of travelling by such person or officer, and
- (ii) be computed in accordance with the rates prescribed from time to time in the Financial Regulations of the Government of Ceylon for

ascertaining the cost of travelling and subsistence in regard to public officers, and

(b) in relation to any officer other than an executive officer who is in the employment of such person be computed in accordance with the rates prescribed from time to time in the Financial Regulations of the Government of Ceylon for ascertaining the cost of travelling in regard to public officers.

(3) No person carrying on any trade or business or exercising any profession or vocation shall be entitled to any sum for depreciation by wear and tear of any vehicle used for travelling for the purpose of his trade, business, profession or vocation except in the case of a vehicle used for such purpose by an officer, who is not an executive officer, in the employment of such person, and in respect of the last-mentioned vehicle such person shall be entitled to such sum as the Commissioner may consider reasonable for such depreciation.

(4) An Order made by the Minister for the purpose of paragraph (h) of subsection (1) may be declared to take effect from a date earlier than the date on which that Order is made."

Amendment
of section 13
of the
principal
enactment.
[§ 13, 13 of 1959.]

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

- (1) in subsection (3) of that section by the substitution, for the words "a year of assessment", of the words and figures "a year of assessment commencing before April 1, 1958,";
- (2) in subsection (4) of that section by the substitution, for the words "a year of assessment", of the words and figures "a year of assessment commencing before April 1, 1958,";

- (3) in subsection (5) of that section by the substitution, for the words "any year of assessment", of the words and figures "any year of assessment commencing before April 1, 1958,";
- (4) in subsection (6) of that section by the substitution, for the word "ceases", of the words and figures "ceases in any year of assessment commencing before April 1, 1958,";
- (5) in subsection (9) of that section by the substitution, for the words "a year of assessment", wherever those words occur in that subsection, of the words and figures "a year of assessment commencing before April 1, 1958,";
- (6) in subsection (10) of that section by the substitution, for the word "ceasing", of the words and figures "ceasing in any year of assessment commencing before April 1, 1958,";
- (7) in subsection (11) of that section by the substitution, for the words "year of assessment,", of the words and figures "year of assessment commencing before April 1, 1958,"; and
- (8) in subsection (12) of that section—
 - (a) by the substitution, in paragraph (ii) of the proviso to that subsection, for the words "completed; and", of the word "completed";
 - (b) by the substitution, in paragraph (iii) of such proviso, for the word "estate", of the words "estate; and"; and
 - (c) by the addition of the following paragraph to such proviso:—
 - "(iv) the provisions of paragraphs (a) and (b) of this subsection and the provisions of paragraph (ii) of this proviso shall apply only to a year of assessment commencing before April 1, 1958."

Insertion of
new section
13A in the
principal
enactment.

[§ 14, 13 of 1959.]

15. The following section is hereby inserted immediately after section 13, and shall have effect as section 13A, of the principal enactment:—

'Relief from
tax in
connexion
with com-
mencement
and
cessation of
profession,
vocation or
employment.

13A. (1) Where a person has commenced to carry on or exercise a profession, vocation or employment in Ceylon on or after April 1, 1951, and before April 1, 1958, then,—

(a) if he has not ceased to carry on or exercise that profession, vocation or employment on or before April 1, 1958, he shall be entitled to claim on or before April 1, 1960, by way of a refund or a set-off against the tax a sum equal to the excess, if any, of the tax assessed in respect of him for the year of assessment in which he commenced to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment over the tax that would have been assessed in respect of him for those three years if the assessment were on the basis that subsection (1) or subsection (2) of section 13 applied, and that subsections (3), (4) and (5) of that section did not apply, to him in respect of that profession, vocation or employment; and

(b) if he does not make such claim within the time allowed therefor,—

(i) he shall, if he ceases to carry on or exercise that profession, vocation or employment in the year

of assessment commencing on April 1, 1958, be entitled to have the provisions of subsection (6) of section 13 applied to him in respect of that profession, vocation or employment as if the expression "in any year of assessment commencing before April 1, 1958" occurring in those provisions were omitted, and

- (ii) he shall, if he ceases to carry on or exercise that profession, vocation or employment in the year of assessment commencing on April 1, 1959, be entitled to a refund or set-off against the tax of 95 *per centum* of the excess, if any, of the tax assessed in respect of him for the year preceding the year of assessment in which he ceases to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment over the tax that would have been assessed in respect of him for those three years if subsection (1) or subsection (2) of section 13 did not apply, and subsection (6) of that section applied in the manner specified in sub-paragraph (i) of

paragraph (b) of this subsection to him in respect of those three years ; and

- (c) if he ceases to carry on or exercise that profession, vocation or employment in any year of assessment commencing on or after April 1, 1960, he shall be entitled to a refund or set-off against the tax of a portion, computed in accordance with the provisions of subsection (2), of such excess of the tax, if any, as shall be determined in the same manner as the excess of the tax referred to in sub-paragraph (ii) of paragraph (b) of this subsection for the year preceding the year of assessment in which he ceases to carry on or exercise that profession, vocation or employment and the two next succeeding years of assessment.

(2) For the year of assessment commencing on April 1, 1960, the portion of the excess referred to in paragraph (c) of subsection (1) shall be 90 *per centum* of that excess, and for each of the next succeeding years of assessment such portion shall be 5 *per centum* less than that of the immediately preceding year of assessment.

(3) Where a person commences to carry on or exercise a profession, vocation or employment in Ceylon before April 1, 1951, then, if he ceases to carry on or exercise that profession, vocation or employment on or after April 1,

1958, the provisions of sub-paragraphs (i) and (ii) of paragraph (b) of subsection (1), the provisions of paragraph (c) of subsection (1) and the provisions of subsection (2) shall apply to him in respect of that profession, vocation or employment as if those provisions were provisions of this subsection.’

16. Section 15 of the principal enactment is hereby amended as follows:—

Amendment
of section 15
of the
principal
enactment.
[§ 15, 13 of 1959.]

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

(a) in paragraph (c) of that subsection, by the substitution, for the full stop at the end of that paragraph, of a semi-colon ; and

(b) by the addition, at the end of that subsection, of the following new paragraph:—

“ (d) the amount of any loss which has been incurred in any year preceding the year of assessment by any corporation referred to in section 8 or any undertaking referred to in section 9.

For the purposes of the computation of the loss for the first year of assessment in respect of which any corporation referred to in section 8 or any undertaking referred to in section 9 becomes liable to income tax, such loss shall be the amount outstanding at the end of the period of six years during which its profits and income are not liable to tax under section 8 or section 9, as the case may be, after deduction from the profits and income of any succeeding year of assessment during such period of

[§ 130 (4) (e)
(1), 4 of 1963.]

any loss incurred in the immediately preceding year of assessment or the aggregate of the losses incurred in more than one year of assessment during such period. Where the entirety or any portion of the amount of the losses of such corporation or undertaking cannot be deducted from the statutory income of the first year of assessment in respect of which such corporation or undertaking becomes liable to income tax, such entirety or portion shall be deducted from the statutory income of the next succeeding year of assessment, and so far as it cannot be so deducted, then from the statutory income of the next year of assessment, and so on.”;

[§ 130 (4) (e)
(2), 4 of 1963.]

(2) in subsection (3) of that section, in the proviso to that subsection—

(i) in paragraph (i) of that proviso, for the words “amount of such loss;”, of the words “amount of such loss; and”,

(ii) in paragraph (ii) of that proviso, for the words “and so on; and”, of the words “and so on.”; and

(iii) by the omission of paragraph (iii) of that proviso;

[§ 10, 10 of 1962.]

(3) by the renumbering of subsection (9) of that section as subsection (10); and

[§ 10, 10 of 1962.]

(4) by the insertion, immediately after subsection (8) of that section, of the following subsection:—

“ (9) The whole or any part of that amount which in accordance with the provisions of subsection (5B) or subsection (5C) of section 11

cannot be deducted from the statutory income of any person for any year of assessment commencing on or after April 1, 1958, shall, together with a sum equal to four *per centum* of that amount, be deducted as far as possible from the statutory income of the subsequent year of assessment, and, so far as it cannot be so deducted, it shall be deducted from the statutory income of the next succeeding year of assessment, and so on. Where under the preceding provisions of this subsection a deduction is made from the statutory income of any of the succeeding years of assessment of such person, such deduction shall consist of the amount or part thereof which could not be deducted from the statutory income of the immediately preceding year of assessment and a sum equal to four *per centum per annum* of such amount or part thereof.”

17. Section 21 of the principal enactment is hereby amended by the substitution, for the expression “this Chapter”, of the expression “this Chapter or Chapter VIIA”

Amendment
of section 21
of the
principal
enactment.
[§ 11, 10 of 1962.]

18. (1) Section 22 of the principal enactment is hereby amended, in subsection (15) of that section, as follows:—

Amendment
of section 22
of the
principal
enactment.
[§ 9, 38 of 1957.]

(a) by the substitution, for the words “in that year:”, of the following:—

“in that year:

Provided that for any year of assessment commencing on or after the 1st day of April, 1956, the rate of tax chargeable on such excess shall not exceed fifteen *per centum*:”; and

(b) by the substitution, for the words “Provided that, where he was”, of the words “Provided further that, where he was”.

Refund of certain part of tax paid under subsection (15) of section 22 of the principal enactment.
[§ 10, 38 of 1957.]

(2) Where under the provisions of subsection (15) of section 22 of the principal enactment any individual was charged for the year of assessment commencing on the first day of April, 1956, with tax on that part of his taxable income to which that subsection applies at such effective rate referred to in that subsection as exceeds fifteen *per centum* and the amount of tax so charged has already been paid, he shall, notwithstanding anything in section 79 of the principal enactment, be entitled to a refund of such portion of that amount as exceeds the amount which he would have been liable to pay if that effective rate was not more than fifteen *per centum*.

Insertion of new section 23A in the principal enactment.
[§ 12, 10 of 1962.]

19. The following new section is hereby inserted in Chapter VII of the principal enactment, immediately after section 23, and shall have effect as section 23A, of the principal enactment:—

“Tax payable in respect of a charitable institution shall not exceed the assessable income of that charitable institution reduced by four thousand rupees.

23A. The amount of the tax payable for any year of assessment by any person in the capacity of a trustee of a trust or by a corporation or an unincorporated body of persons, who or which is a charitable institution, shall not exceed the amount of the assessable income of such person, corporation or unincorporate body for that year of assessment reduced by four thousand rupees.”

Insertion of new Chapter VIIA in the principal enactment.
[§ 16, 13 of 1959.]

20. (1) The following new Chapter is hereby inserted immediately after Chapter VII, and shall have effect as Chapter VIIA, of the principal enactment:—

‘CHAPTER VIIA

ASCERTAINMENT OF THE TAXABLE INCOME OF RESIDENT INDIVIDUALS FOR ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER APRIL 1, 1958, AND THE RATES OF TAX ON SUCH INCOME

Persons to whom this Chapter applies.

23B. This Chapter shall apply to every individual resident in Ceylon in the year preceding any year of assessment commencing on or after April 1,

1958, but shall not apply to any receiver, trustee, executor or liquidator :

Provided that the preceding provisions of this section shall not be deemed to affect the application of section 26 or section 28 to any receiver, trustee or executor.

Non-application, or application with modifications, of certain provisions of this Ordinance to persons to whom this Chapter applies.

23c. (1) In respect of any year of assessment commencing on or after April 1, 1958,—

- (a) the rate or rates of the tax referred to in section 5, and
- (b) the provisions of section 15 (5), section 17, section 18 and Chapter VII other than the provisions of subsection (14) and subsection (15) of section 22,

shall not apply to a person to whom this Chapter applies.

(2) Subsection (15) of section 22 shall, in its application to an individual to whom this Chapter applies, have effect as if, for the words and figures "sections 44, 45, 46, 47, 48 (1) and 49," occurring in that subsection, there were substituted the words and figures "sections 45, 46, 47, 48 (1), 49 and 57D."

(3) Subsection (3) of section 24 shall, in its application to spouses to whom this Chapter applies, have effect as if, for the words and figures "the allowance under paragraph (d) of subsection (1) of section 18", there were substituted the words and figures "the allowance under section 23F".

(4) Section 25 shall, in its application to a person to whom this Chapter applies, have effect—

(a) as if, for subsection (2) of that section, there were substituted the following subsection:—

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

(b) as if in subsection (3) of that section, for the words and figures “and no allowance which may be claimed under section 18 (1) (c) and (d) shall be granted.”, there were substituted the following:—

“and no allowance under section 23F shall be allowed in respect of one of those spouses

and no allowance under that section shall be allowed in respect of any child or dependent relative of either or both of those spouses.”

(5) Subsection (1) of section 58 shall, in its application to a person to whom this Chapter applies, have effect as if, for the words “his income”, there were substituted the words “his income and, if he has a wife, child or dependent relative within the meaning of Chapter VIIA, the income of such wife, child or dependent relative,”.

Individuals
who are
deemed to be
a family.

23d. (1) Where, according to a return of income furnished under this Ordinance by a resident individual in respect of the year preceding any year of assessment, he had a wife and no child or dependent relative in such preceding year, then, for the purpose of the computation of the tax in respect of them for such year of assessment, they shall be deemed to be a family, and such individual shall be deemed to be the head of such family.

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

(3) Where, according to a return of income furnished under this Ordinance by a resident individual who is a widower, widow, bachelor or spinster in

respect of the year preceding any year of assessment, such widower, widow, bachelor or spinster had any child or dependent relative in such preceding year, then, for the purpose of the computation of the tax in respect of them for such year of assessment, they shall be deemed to be a family, and such widower, widow, bachelor or spinster, as the case may be, shall be deemed to be the head of such family.

Taxable
income and
the indivi-
dual liable to
pay the tax
on such
income.

23E. (1) The assessable incomes of the members of a family other than the head of such family for any year of assessment shall be aggregated, and such aggregated assessable income shall be deemed to form part of the assessable income of the head of such family for such year of assessment. From such assessable income of the head of such family there shall be deducted the allowances to which he is entitled under section 23F, and the balance left after such deduction shall be his taxable income for such year of assessment and he shall be liable to pay the tax on such taxable income :

Provided that where the tax cannot be collected from the head of such family, then, if his wife or a child is included in such family, such portion of the tax as appears to the Commissioner to be attributable to the income of such wife or child may be collected

from such wife or child notwithstanding that no assessment has been made upon such wife or child, and the provisions of this Ordinance as to collection and recovery of tax shall apply accordingly.

(2) Where in respect of any year of assessment an individual is not included in a family, his assessable income for such year less the allowance to which he is entitled under section 23F shall be his taxable income for such year and he shall be liable to pay the tax on such taxable income.

Allowances
to be
deducted
from assess-
able income
in arriving
at taxable
income.

23F. (1) Where for any year of assessment a family consists of a husband and wife and no child or dependent relative, an allowance of two thousand rupees in respect of each of them shall be deducted from the assessable income of the head of such family for that year in arriving at his taxable income for that year.

* (2) Where for any year of assessment a family consists of a husband and wife and one or more children or dependent relatives or one or more children and dependent relatives, an allowance of two thousand rupees in respect of each of such spouses and—

(a) if there is one child or dependent relative, an allowance of one thousand rupees in respect of such child or dependent relative,

* Vide Section 14 of Act No. 65 of 1961.

-
- (b) if there are one child and one dependent relative, an allowance of one thousand rupees in respect of each of them,
 - (c) if there are children or dependent relatives, an allowance of one thousand rupees in respect of each of not more than four of them, and
 - (d) if there are children and dependent relatives, an allowance of one thousand rupees in respect of each of not more than four out of the total number of such children and dependent relatives,

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

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

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

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

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

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

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

(a) a sum of three thousand rupees, and

(b) an additional sum which—

(i) if such assessable income does not exceed forty thousand rupees, shall be equal to $7\frac{1}{2}$ per centum of such assessable income, and

(ii) if such assessable income exceeds forty thousand rupees and does not

* Vide Section 14 of Act No. 65 of 1961.

exceed one hundred thousand rupees, shall be equal to 5 per centum of the difference between one hundred thousand rupees and such assessable income.

Units and fractions of units.

23G. For the purposes of section 23H,—

- (a) the head of a family shall be deemed to be one and a half units ;
- (b) the wife of the head of a family shall be deemed to be one-half of a unit ;
- (c) a child, or a dependent relative, who is included in a family shall be deemed to be one-half of a unit ; and
- (d) an individual who is not included in a family shall be deemed to be one and a half units.

Rates of the tax.

23H. (1) The rates of the tax in respect of one unit shall be as follows :—

On the first Rs. 1,500 of taxable income	5%
On the next Rs. 1,500 of taxable income	10%
On the next Rs. 1,500 of taxable income	15%
On the next Rs. 1,500 of taxable income	20%
On the next Rs. 1,500 of taxable income	25%
On the next Rs. 1,500 of taxable income	30%
On the next Rs. 1,500 of taxable income	35%
On the next Rs. 1,500 of taxable income	40%
On the next Rs. 3,000 of taxable income	45%

On the next Rs. 3,000 of taxable income	50%
On the next Rs. 3,000 of taxable income	55%
On the balance of taxable income	60%

(2) The tax on the taxable income of the head of a family shall be computed in accordance with the provisions of subsection (1) subject to the modification that, for each sum specified in that subsection, there shall be substituted the product of the multiplication of that sum by the aggregate of such units and fractions of units contained in that family in accordance with the provisions of section 23G as represent the members of that family who are entitled to allowances under section 23F.

(3) The tax on the taxable income of an individual who is not included in a family in respect of any year of assessment shall be computed in accordance with the provisions of subsection (1) subject to the modification that, for each sum specified in that subsection, there shall be substituted the product of the multiplication of that sum by one and a half.

(4) The provisions of subsection (1) may be amended by resolution of the House of Representatives.

Proportionate
allowances
and
proportionate
charge of tax.

23J. Where an individual is chargeable to tax for any year of assessment as a resident in Ceylon for a part only of the year preceding that year of assessment,—

(a) he shall be entitled for that year of assessment to the same proportion only of the

allowances under section 23f as the number of days during which he is resident bears to the number of days in such preceding year, and

- (b) the provisions of subsection (1) of section 23h shall, in their application, as modified in accordance with subsection (2) and subsection (3) of that section to that individual, have effect as if each of the sums mentioned in those provisions were reduced in the proportion which the number of days during which he is resident bears to the number of days in such preceding year.

Interpretation of certain expressions in relation to an individual to whom this Chapter applies.

23k. In this Ordinance—

- (a) “child”, in relation to an individual to whom this Chapter applies, means a child under twenty-five years of age other than—

- (a) a married child, and

- (b) a child over twenty-one years of age who is living apart from, and is not maintained by, the parents, and includes—

- (i) a step-child of that individual,

- (ii) a child authorized by any adoption order made under the Adoption of Children Ordinance to be adopted by that individual, and

Cap. 61.

(iii) where that individual is not a citizen of Ceylon and he satisfies the Commissioner that he has a child whom he has adopted in accordance with the law of the country of which he is subject or citizen, such child,

but does not include any other adopted child or any illegitimate child; and

(b) "dependent relative", in relation to an individual to whom this Chapter applies, means a relative in respect of whom an allowance under section 18 would be made if that section were applicable to such individual.'

(2) In respect of each year of assessment commencing on or after April 1, 1961, section 23F of the principal enactment shall have effect as if, for the expression "one thousand rupees" occurring in each of the subsections (2) and (4) of that section, there were substituted the expression "five hundred rupees" and for the expression "two thousand rupees" occurring in subsection (4) of that section, there were substituted the expression "three thousand rupees".

Amendment
of section 23F
of the
principal
enactment.
[§ 14, 65 of 1961.]

21. Section 24 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection:—

"(4) Any reference in this section to a period of subsistence of a marriage in any year of assessment commencing on or after April 1, 1958, shall be construed to mean a reference to such period in the year preceding that year of assessment."

Amendment
of section 24
of the
principal
enactment.
[§ 17, 13 of 1959.]

Amendment of section 27 of the principal enactment. [§ 18, 13 of 1959.]

22. Section 27 of the principal enactment is hereby amended by the substitution, for the words "that year." occurring in paragraph (b) of that section, of the words "the year preceding that year of assessment."

Insertion of new section 43A in the principal enactment. [§ 130 (4) (f), 4 of 1963.]

23. The following new section is hereby inserted immediately after section 43, and shall have effect as section 43A, of the principal enactment :—

'Ascertainment of profits of the Insurance Corporation of Ceylon from the business of life insurance.

43A. (1) The profits of the Insurance Corporation of Ceylon from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (including commission) attributable to that business.

(2) For the purposes of this section, "investment income of the Life Insurance Fund" means such part of the income of the Insurance Corporation of Ceylon from investments as appears fairly attributable to the life insurance business of such Corporation.'

Amendment of section 45 of the principal enactment. [§ 19, 13 of 1959.]

24. Section 45 of the principal enactment is hereby amended, in subsection (2) of that section, by the substitution, for all the words from "deduct tax" to "resident company ;", of the following :—

'deduct tax on such sum at a rate (hereafter in this section referred to as the "appropriate rate") which shall, in respect of any year of assessment commencing before April 1, 1959, be equal to the rate at which tax was in the preceding year of assessment chargeable upon the taxable income of a resident company, and, in respect of any year of assessment commencing on or after April 1, 1959, be equal to the percentage specified in subsection (1) of section 57D for the preceding year of assessment ;'.

25. Section 46 of the principal enactment is hereby amended as follows:—

Amendment
of section 46
of the
principal
enactment.
[§ 20, 13 of 1959.]

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

- (a) in paragraph (ii) of that subsection, by the substitution, for the words “income ; or”, of the word “income,” ;
- (b) by the omission of paragraph (iii) of that subsection ; and
- (c) by the substitution, for the words “ is the least”, of the words “ is less” ; and

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

[§ 6, 56 of 1957.]

- (a) by the substitution, for the words “ shall be entitled”, of the words “ shall, subject to the provisions of section 47B, be entitled” ; and
- (b) by the substitution, for all the words from “ statutory income : ” to the end of that subsection, of the words “ statutory income.”.

26. (1) The heading “ (L) ” immediately preceding section 47 of the principal enactment is hereby amended by the substitution, for the words “ LIFE INSURANCE POLICIES, AND PROVIDENT FUND CONTRIBUTIONS ” occurring in that heading, of the words “ LIFE INSURANCE POLICIES AND ANNUITIES, AND PROVIDENT OF PENSIONS FUND CONTRIBUTIONS ”.

Amendment
of heading
“(L)” and
section 47 of
the principal
enactment.
[§ 11, 38 of 1957.]

(2) Section 47 of the principal enactment is hereby amended as follows:—

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

- (i) by the relettering of paragraph (b) of that subsection as paragraph (c),
- (ii) by the insertion, immediately after paragraph (a) of that subsection, of the following new paragraph:—

“ (b) during the year preceding any year of assessment commencing on or after the 1st day of April, 1956, pays any premiums for the purchase of an annuity, or”,

- (iii) by the substitution, in relettered paragraph (c) of that subsection, for the word "Commissioner," of the words "Commissioner, or",
- (iv) by the insertion, immediately after the relettered paragraph (c) of that subsection, of the following new paragraph:—
- " (d) during any period of employment, the profits from which are included in the total statutory income in any year of assessment commencing on or after the 1st day of April, 1958, makes any contribution to a pensions fund approved by the Commissioner,"
- (v) by the addition, at the end of that subsection, of the following:—
- " Provided further that the preceding provisions of this subsection shall not apply to—
- (a) any life insurance policy issued outside Ceylon after the 4th day of July, 1957,
- (b) any premiums paid outside Ceylon on such life insurance policy,
- (c) any annuity purchased outside Ceylon after the 4th day of July, 1957, and
- (d) any premiums paid outside Ceylon after the 4th day of July, 1957, for the purchase of an annuity. ";
- (b) in subsection (2) of that section by the substitution, for the word "policy", of the words "policy or annuity "; and
- (c) in the marginal note to that section by the substitution, for the words "policies and provident fund", of the words "policies and annuities and provident or pensions fund".

27. The following new heading and new section are hereby inserted immediately after section 47, and the new section shall have effect as section 47A, of the principal enactment:—

Insertion of new heading and new section 47A in the principal enactment.

[§ 7, 56 of 1957.]

(LA) APPROVED INVESTMENTS

Relief on account of approved investments.

47A. (1) In this section—

“approved investment” means an investment of not less than one thousand rupees in any approved project other than an investment for the purpose of purchasing an existing investment in that project; and

“approved project” means any such project for the expansion of an existing undertaking or for the establishment of a new undertaking as—

(i) where such undertaking is an industrial undertaking, is considered by the Minister for the time being in charge of the subject of industries to be essential for the economic progress of Ceylon and is at the request of such Minister declared by the Minister of Finance by notice published in the Gazette to be an approved project for the purposes of this section, and

(ii) where such undertaking is an undertaking other than an industrial undertaking, is considered by the Minister of Finance to be essential for the economic progress of Ceylon and is declared by him by notice published in the Gazette to be an approved project for the purposes of this section.

(2) Where a person has in any year of assessment made in any approved project or approved projects two or more investments each of which is less than one thousand rupees and is not for the purpose of purchasing an existing investment in an approved project, the aggregate amount of such investments shall, if it is not less than one thousand rupees, be deemed to be one approved investment for the purposes of this section.

(3) Where in any year of assessment a person makes an investment in an approved project, then—

(a) the actual amount of that investment, or

(b) an amount representing one-fifth of the assessable income of that person for that year of assessment, or, if that person is a company, an amount representing one-tenth of the assessable income of that company for that year of assessment, or

(c) one hundred thousand rupees, whichever amount is the least, shall, for the purposes of subsection (4) of this section, be the permitted allowance in relation to such investment.

(4) In respect of the year of assessment commencing on the 1st day of April, 1958, and of each of the two succeeding years of assessment, a person who has, in the preceding year of assessment, made an approved investment shall, subject to the provisions of section 47B, be entitled, on account of that investment, to such relief from the tax as will secure that the tax payable

by him is reduced to the amount which would be payable as the tax if the permitted allowance in relation to that investment were deducted from his statutory income.'

28. The following new heading and new section are hereby inserted immediately after section 47A, and the new section shall have effect as section 47B, of the principal enactment:—

Insertion of new heading and new section 47B in the principal enactment.
[§ 8, 56 of 1957.]

“(LB) LIMIT OF RELIEF IN CASES OF APPROVED DONATIONS AND APPROVED INVESTMENTS

Limit of relief on account of approved donations and approved investments.

47B. (1) Where in any year of assessment a person has made an approved donation under section 46 and has not made an approved investment under section 47A, the amount of the relief from the tax on account of that donation shall not exceed one-half of such permitted allowance in relation to that donation as is referred to in section 46.

(2) Where in any year of assessment a person has made an approved investment under section 47A and has not made an approved donation under section 46, the amount of the relief from the tax on account of that investment shall not exceed one-half of such permitted allowance in relation to that investment as is referred to in section 47A.

(3) Where in any year of assessment a person has made an approved donation under section 46 and an approved investment under section 47A, then—

(a) the aggregate of the amount of that donation and the amount of that investment, or

(b) an amount representing one-fifth of the assessable income of that person for that year of assessment, or, if that person is a company, an amount representing one-tenth of the assessable income of that company for that year of assessment, or

(c) one hundred thousand rupees, whichever amount is the least, shall, for the purposes of subsection (4) of this section, be the permitted allowance in relation to both that donation and that investment.

(4) In respect of the year of assessment commencing on the 1st day of April, 1958, and of each of the two succeeding years of assessment, a person who has, in the preceding year of assessment, made an approved donation under section 46 and an approved investment under section 47A shall, on account of the aggregate of the amount of that donation and the amount of that investment, be entitled to such relief from the tax as will secure that the tax payable by him is reduced to the amount that would be payable as the tax if the permitted allowance in relation to both that donation and that investment were deducted from his statutory income:

Provided that the amount of such relief shall not exceed one-half of such permitted allowance."

Amendment
of section 48
of the
principal
enactment.
(11 21, 13 of 1959.)

29. Section 48 of the principal enactment is hereby amended as follows:—

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

(i) by the substitution, for the words "if he were resident", of the following:—

"if, where that year of assessment commences before April 1, 1959, he

were resident in Ceylon in that year of assessment and where that year of assessment commences on or after April 1, 1959, he were resident in Ceylon in the year preceding that year of assessment," and

- (ii) by the substitution, for the first proviso to that subsection, of the following proviso:—

“ Provided that—

- (a) where any such individual is non-resident for a part only of a year of assessment commencing before April 1, 1959, the relief shall be calculated by reference to the Ceylon income, total income, and Ceylon tax of that part of that year of assessment, and
- (b) where any such individual is non-resident for a part only of the year preceding a year of assessment commencing on or after April 1, 1959, the relief shall be calculated by reference to the Ceylon income, total income, and Ceylon tax of that part of that preceding year.” ; and

- (b) by the insertion, immediately after subsection (2) of that section, of the following new subsection:—

“(2A) In respect of any year of assessment commencing on or after April 1, 1958, subsection (2) shall have effect as if it referred to a non-resident individual whose total income from all sources, wherever arising, does not exceed fifty thousand rupees.”.

Insertion of Chapter VIII A in the principal enactment. [§ 22, 13 of 1959.]

30. The following Chapter is hereby inserted immediately after section 57 of the principal enactment:—

‘CHAPTER VIII A

TAX IN RESPECT OF COMPANIES

[§ 22, 13 of 1959.]

Certain provisions of this Ordinance not to apply to companies in respect of any year of assessment commencing on or after April 1, 1958.

57A. (1) In respect of any year of assessment commencing on or after April 1, 1958, —

- (a) the rate or rates of the tax referred to in section 5, and
- (b) the provisions of Chapter VII and the provisions of section 44 other than subsection (2) and subsection (5) of that section,

shall not apply to any resident or non-resident company.

(2) The provisions of subsection (2) of section 44 shall not apply to any resident company after April 30, 1959, and the provisions of subsection (5) of that section shall not apply to any person after March 31, 1960.

[§ 22, 13 of 1959.]

Tax to which resident companies are liable.

57B. (1) In respect of any year of assessment commencing on or after April 1, 1958, the tax to which a company resident in Ceylon in the year preceding such year of assessment shall be liable shall consist of—

- (a) a sum equal to 45 *per centum* of the taxable income of such company for such year of assessment, and
- (b) a sum equal to 33½ *per centum* of the aggregate amount of the gross dividends distributed by such company out of the profits on which the taxable income of such company is computed for such year of assessment:

Provided that where it is proved to the satisfaction of the Commissioner that a resident company—

- (i) being a company which has ceased to have the exemption from tax under section 8 or section 9, has not made an average annual profit of more than one hundred and fifty thousand rupees computed by reference to any three consecutive years of assessment after that company ceased to have that exemption, or
- (ii) had as average profits or income for each of the last three years of assessment an amount not exceeding one hundred and fifty thousand rupees and *either* fifty *per centum* or more of the shares in the capital of that company during the last three years of assessment were held by any individual or family to whom that company was the chief source of income, *or* fifty *per centum* or more of the shares in the capital of that company are owned by shareholders none of whom has an annual income from all sources exceeding thirty thousand rupees,

there shall be deducted from the amount of the tax computed under paragraph (a) of this subsection in respect of that company a sum equal to one-half of the tax under that paragraph on the first Rs. 50,000 of the taxable income of that company for the year of assessment, or a sum equal to one-third of the tax under that paragraph on the amount by which one hundred and fifty thousand rupees exceeds the amount of the taxable income of that company for the year of assessment, whichever sum is less.

[§ 130 (4) (g),
4 of 1963.]

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

(a) a deduction has been made under section 57D (1) in respect of that dividend by the first-mentioned company, or

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

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

[§ 22, 13 of 1959.]

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

(4) The provisions of paragraph (a) or paragraph (b) of subsection (1) may be amended by resolution of the House of Representatives.

[§ 22, 13 of 1959.]

Tax to which non-resident companies are liable.

57c. (1) In respect of any year of assessment commencing on or after April 1, 1958, the tax to which a non-resident company shall be liable—

[§ 22, 13 of 1959.]

(a) shall, where there are remittances of such company in the year preceding such year of assessment, or, if the statutory income of such company is directed by the Commissioner under section 13 (2) to be computed up to some other day other than the thirty-first day of March as is specified in the direction, where there are remittances in the year ending on such specified day in the year preceding such year of assessment, consist of a sum equal to 45 *per centum*, and an additional 6 *per centum*, of the taxable income of such company for such year of assessment and a sum which shall, if the aggregate amount of such remittances is less than one-third of such taxable income, be equal to 33½ *per centum* of such aggregate amount, and, if such aggregate amount is not less than one-third of such taxable income, be equal to 33½ *per centum* of one-third of such taxable income; and

[§ 13, 10 of 1962.]

(b) shall, where there are no such remittances, consist of a sum equal to 45 *per centum*, and an additional 6 *per centum*, of such taxable income.

[§ 22, 13 of 1959.]

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

[§ 130 (4) (h),
(1), 4 of 1963.]

(a) sums remitted abroad out of the profits of that company, such sums not including any dividends paid by a resident company to such non-resident company if such resident company has made a deduction under subsection (1) of section 57D in respect of that dividend,

(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 38 to be derived from Ceylon as is retained abroad.

[§ 22, 13 of 1959.]
[§ 130 (4) (h),
(1), 4 of 1963.]

(3) Where a dividend is paid by any resident company to any non-resident company and a deduction has been made under subsection (1) of section 57D in respect of that dividend by the resident company, that dividend shall, notwithstanding anything to the contrary in any other provision of this Ordinance, be deemed not to form part of the assessable income of the non-resident company.

[§ 22, 13 of 1959.]

(4) The rates of the tax specified in subsection (1) may be amended by resolution of the House of Representatives.

Resident company entitled to deduct from dividend tax of 33½ per centum and if so requested by the Commissioner, tax at a higher rate.

57D. (1) Subject to the provisions of subsection (2) and subsection (3), every resident company shall be entitled to deduct from the amount of any dividend payable to any shareholder in the form of money or of an order to pay money out of the profits on which the taxable income of that company is computed for any year of assessment commencing on or after April 1, 1959, tax equal to 33½ per centum of such amount:

[§ 22, 13 of 1959.]
[§ 14, 10 of 1962.]
[§ 130 4 (i), 4 of 1963.]

Provided that where the amount of such dividend consists of any part of the amount of a dividend received by that company from another resident company, such part shall not be included in such amount.

(2) The Commissioner may give notice in writing for any year of assessment commencing on or after April 1, 1959, to a resident company requiring it to deduct from the amounts of dividends payable to a particular shareholder tax on such amounts at a rate greater than 33½ per centum but not greater than the highest rate at which tax is chargeable for such year of assessment on the taxable income of an individual; and where such notice is given, such company shall deduct from the amounts of all dividends payable during such year of assessment to such shareholder tax on such amounts at the rate specified in such notice; and such part of the tax required to be so deducted as exceeds 33½ per centum of the amounts of such dividends shall be a debt due from such company to the Crown and shall be recoverable forthwith as such, or may be assessed and charged upon such company in addition to any tax otherwise payable by it.

[§ 22, 13 of 1959.]

[§ 22, 13 of 1959.]

(3) Where a resident company has obtained or is entitled to obtain relief in respect of double taxation under the provisions of section 48 or section 49, the rate at which such company may deduct tax from the dividends payable during any year of assessment commencing on or after April 1, 1959, shall be reduced as the Commissioner may direct.

[§ 22, 13 of 1959.]

(4) Notwithstanding that the whole or any part of the amount of a dividend payable to any shareholder during any year is exempt from the tax by virtue of section 9, any deduction which may be made under the preceding provisions of this section shall be calculated on the total amount of the dividend; and where such deduction is made—

(a) if the whole of the amount of the dividend is exempt from tax, there shall be due from the company as a debt to the Crown the total sum actually deducted under such preceding provisions; and

(b) if only a part of the amount of the dividend is exempt from the tax, there shall be due from the company as a debt to the Crown the difference between—

(i) the total sum actually deducted under such preceding provisions, and

(ii) the sum which would have been deducted thereunder if the dividend had been reduced by such part thereof as is exempt from the tax.

Any such debt shall be recoverable forthwith or may be assessed and

charged upon the company in addition to any tax otherwise payable by the company under this Ordinance.

(5) Every person who issues a warrant, cheque or other order drawn or made in payment of any dividend in respect of which a deduction has been made under subsection (1) and which becomes payable by a resident company during any year of assessment shall annex thereto a statement in writing showing—

[§ 22, 13 of 1959.]
[§ 130 (4) (i),
(ii), 4 of 1963.]

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

(5A) Where a statement referred to in subsection (5) discloses that a shareholder of a resident company received a dividend which included part of the amount of a dividend (other than a dividend referred to in section 8 (3) or section 9 (3A)) received from any other resident company, then that part of such amount shall, for the purpose of determining the statutory income of such holder, be increased by fifty *per centum* and he shall be entitled to a set-off against the tax payable by him of an amount equivalent to the said fifty *per centum*.

[§ 22, 13 of 1959.]
[§ 130 (4) (i),
(iii), 4 of 1963.]

[§ 22, 13 of 1959.]
 [§ 130 (4) (i),
 (iv), 4 of 1963.]

(6) Where the assessable income of a person other than a company includes a dividend from a resident company in the form of money or of an order to pay money, he shall be entitled, on production of a statement relating to such dividend made in accordance with subsection (5), to a set-off against the tax payable by him of the amount of tax shown on such statement :

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

[§ 22, 13 of 1959.]

(7) Where for any year of assessment commencing on or after April 1, 1960, the assessable income of a person includes a dividend from a resident company in the form of shares or debentures, he shall be entitled to a set-off, against the tax payable by him, of an amount equal to that which the company is entitled under subsection (1) to deduct as tax on such dividend.

[§ 22, 13 of 1959.]

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

Amendment
 of section 68
 of the
 principal
 enactment.
 [§ 23, 13 of 1959.]

31. Section 68 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution, in the proviso to that subsection, for the words "any time", of the words "any time, whether or not such time is before the commencement of the year of assessment to which the assessment relates,".

32. Section 69 of the principal enactment is hereby amended as follows :—

(a) by the substitution, for the words “three years”, of the words “six years”; and

(b) in the proviso to that section, by the substitution, for the words “at any time within ten years”, of the words “at any time”.

Amendment of section 69 of the principal enactment. [§ 24, 13 of 1959.]

33. Section 71 of the principal enactment is hereby amended, in subsection (2) of that section, by the substitution, for the word and figures “section 22”, of the following :—

“section 22 or under subsection (2) of section 23”.

Amendment of section 71 of the principal enactment. [§ 12, 38 of 1957.]

34. Section 73 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution, for the words “may within twenty-one days”, of the words “or by the amount at which any property has been valued for the purpose of any capital gains may within thirty days”.

Amendment of section 73 of the principal enactment. [§ 25, 13 of 1959.]

35. The following new section is hereby inserted immediately after section 73, and shall have effect as section 73A, of the principal enactment :—

Insertion of new section 73A in the principal enactment. [§ 2, 36 of 1958.]

‘Power of the Commissioner to authorize persons besides Assistant Commissioner to hear and determine appeals.

73A. (1) The Commissioner may authorize any number of persons, besides Assistant Commissioners, to hear and determine appeals made to the Commissioner under section 73.

(2) Every person authorized by the Commissioner under subsection (1) is hereinafter referred to as an “authorized adjudicator”.

(3) Each authorized adjudicator shall hear and determine such appeals under section 73 as may be assigned to him by the Commissioner.

(4) Where there is or are any authorized adjudicator or authorized adjudicators, subsections (3), (4), (5) and (6) of section 73, sections 75 and 76, and subsections (4) and (8) of section 77, shall have effect as if for the word "Commissioner", wherever it occurs in those subsections or sections, there were substituted the words "Commissioner or authorized adjudicator", and subsection (3) of section 75 shall have effect as if for the word "Commissioner's", there were substituted the words "Commissioner's or authorized adjudicator's".

(5) Every authorized adjudicator shall be paid such remuneration as may be determined by the Minister.'

Amendment of section 77 of the principal enactment.
[§ 13, 38 of 1957.]

36. Section 77 of the principal enactment is hereby amended, in subsection (9) of that section, by the substitution, for the words "one hundred rupees," of the words "two hundred and fifty rupees,".

Insertion of new section 80A in the principal enactment.
[§ 26, 13 of 1959.]
[§ 2, 5 of 1961.]
[§ 15, 10 of 1962.]

37. The following new section is hereby inserted immediately after section 80, and shall have effect as section 80A, of the principal enactment:—

"Reduction of the tax in certain circumstances.

80A. Where the aggregate of—

(a) the contribution which a person is liable to make in respect of his taxable wealth to the Personal Tax for any year of assessment, and

(b) the income tax to which he is liable for that year of assessment,

exceeds eighty *per centum* of his assessable income for that year of assessment, such excess shall be set off against the income tax to which he is liable."

38. Section 82 of the principal enactment is hereby amended by the substitution, for the words "together with", of the word "and".

Amendment of section 82 of the principal enactment. [§ 130 (4) (j). 4 of 1963.]

39. Section 84 of the principal enactment is hereby amended in subsection (2) of that section, by the substitution, in paragraph (b) of that subsection, for all the words from "and any property so seized", to the end of that paragraph, of the following:—

Amendment of section 84 of the principal enactment. [§ 130 (4) (k). 4 of 1963.]

"and where the property so seized is currency, such currency shall be applied in satisfaction of the tax in default and where the property so seized is not currency, such property shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with costs and charges within the said five days, the Government Agent, Assistant Government Agent, Fiscal, Deputy Fiscal or the tax collector shall cause such property to be sold by public auction or, where such property is a negotiable instrument or a share in any corporation or public company, to be sold through a broker at the market rate of the day."

40. The following new section is hereby inserted immediately after section 85, and shall have effect as section 85A, of the principal enactment:—

Insertion of new section 85A in the principal enactment. [§ 130 (4) (l). 4 of 1963.]

'Recovery of tax by vesting immovable property of defaulter in the Crown.

85A. (1) Where any tax is in default and the Commissioner is of opinion that the recovery of such tax or any part thereof by the means provided in section 84 or section 85 is impracticable or inexpedient, he may make an application by petition in writing to the District Court having jurisdiction in the district where the defaulter resides or in which any immovable property belonging to the defaulter and specified in such petition is situate for an order by that Court that such property shall vest in the Crown.

Every such petition shall specify—

- (a) the particulars of the tax in default;
- (b) the name or names and the address or addresses of the person or persons by whom the tax is payable, and
- (c) the particulars of immovable property to be vested in the Crown.

There shall be attached to every such petition a certificate under the hand of the Commissioner that the amount of the tax specified in the petition is due from the defaulter.

(2) Whenever the Commissioner makes an application to a District Court under this section, he shall forthwith issue to the defaulter, whether resident or non-resident, a notification thereof by personal service, registered letter sent through the post or telegraph, but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

(3) Within ten days after the date on which an application is made to a District Court by the Commissioner under subsection (1), the Commissioner shall cause to be published in the Gazette a notice setting out the petition made in respect of such application.

(4) No person shall, on or after the date on which a notification was issued to a defaulter under subsection (2) of an application made by petition in

writing to a District Court for the vesting of any property, alienate to any other person—

(a) any property which is specified in that petition ; or

(b) any rights in respect of that property,

and any alienation of that property or those rights to any other person shall be null and void :

Provided that the preceding provisions of this subsection shall not be deemed to apply to any property or portions of any property which is or are not vested under this section in the Crown by an order of the District Court.

In this subsection, “alienate”, when used with reference to any immovable property or rights in respect of that property, includes an alienation, or a lease, hypothecation, transfer or disposal in any manner whatsoever of such property or such rights, and “alienation” shall be construed accordingly.

(5) Any person who wishes to prefer a claim to any immovable property in respect of which a notice under subsection (3) has been published in the Gazette may, not later than fourteen days after the date of publication of such notice, apply by petition in writing to the District Court, to which the application was made by the Commissioner under subsection (1), to have such property declared as not liable to vesting in the Crown. Every such petition shall set out the right, title or interest of the petitioner to or in such property.

(6) The District Court to which the application was made by the Commissioner under subsection (1) shall, after the expiry of the period of fourteen days referred to in subsection (5), proceed in a summary manner to investigate and determine such claims as have been made in respect of the immovable property proposed to be vested in the Crown by such application. At the end of the investigation of a claim—

(a) if the District Court is satisfied that the claimant is entitled to the ownership of the immovable property or any portion thereof, the Court shall make order accordingly, and

(b) if the Court is satisfied that the claimant has not established his claim to that property or that he has established his claim only to a portion thereof, the Court shall make order vesting in the Crown that property or that portion thereof in respect of which the claimant has not established ownership,

and the Court shall make such order as to costs as the Court shall deem just.

(7) If, at the expiry of fourteen days referred to in subsection (5), no claim has been made by any person under that subsection, the Court shall make order that the immovable property specified in the application made by the Commissioner under subsection (1) shall vest in the Crown.

(8) Where any immovable property is vested in the Crown under this section by an order of the District Court, such property shall vest in the Crown subject to such encumbrances and charges as were existing on the date on which the application was made by the Commissioner.

(9) Nothing in the preceding provisions of this section shall be deemed to empower the District Court to which an application is made by the Commissioner under subsection (1) to call in question or examine in any investigation under this section the correctness of any statement relating to particulars of the tax in default in such application or in the certificate referred to in that subsection or to postpone or defer such investigation by reason only of the fact that an appeal is pending against the assessment by which the tax which is in default was charged.

(10) An order under this section vesting in the Crown any immovable property of a defaulter may, upon an application made by the Commissioner, be revoked by the District Court by which such order was made.

(11) No application for the revocation of an order vesting in the Crown any immovable property of a defaulter shall be made to the District Court by the Commissioner except in any of the following cases:—

(a) Where the assessment of the tax in default is annulled upon the final determination of an appeal made under Chapter XI of this Ordinance against such assessment.

- (b) Where the tax which the defaulter is liable to pay after the final determination of any appeal made under Chapter XI of this Ordinance is paid by him within forty days after such final determination or within six months after the date of the order vesting such immovable property in the Crown, whichever is the later.
- (c) Where the amount of tax in default is paid, when no appeal under Chapter XI of this Ordinance is made by him against the assessment of the tax, by the defaulter within six months after the date on which the order vesting in the Crown such immovable property was made.
- (12) Where an order under this section vesting in the Crown any immovable property of any person is revoked under subsection (10), such person shall not be entitled to claim any compensation for any loss or damage which he may have suffered as a result of, or in consequence of, the order vesting such immovable property in the Crown having been made; and no action against the Crown for compensation for any such loss or damage shall be entertained by any court.
- (13) At any time after any immovable property is vested in the Crown under the provisions of this section, such time being not less than six months after the date of vesting, the Commissioner shall cause the market value of such property to be determined

by the Chief Valuer of the Government or by a Valuer of the Valuation Department who is authorized in that behalf by the Chief Valuer of the Government.

(14) Where the market value of any immovable property vested in the Crown by an order of the District Court under this section is more than the amount of the tax which the defaulter has to pay, the Commissioner, in his discretion may—

- (i) with the approval of the Secretary to the Treasury, refund to the defaulter the amount by which the market value of that property exceeds the tax in default, or
- (ii) cause such property to be sold.

(15) Every sale under this section of any immovable property shall be—

- (a) on a date not earlier than six months after the date of the order vesting such property in the Crown,
- (b) by public auction, and
- (c) after notice of such sale is given at least fourteen days before the date fixed for such sale by advertisement published in the Gazette and in one or more newspapers.

(16) The sum realized by the sale of any immovable property under this section shall be applied in the following order :—

- (i) in satisfaction of the amount payable to any person who has a mortgage or charge on such

immovable property and whose claim to such mortgage or charge has been proved to the satisfaction of the Commissioner,

(ii) in payment of the costs and charges of maintaining and selling the immovable property, and

(iii) in satisfaction of the tax in default,

and any balance shall be paid to the defaulter.

(17) (a) Where an order is made by the District Court vesting any immovable property in the Crown, the Court may in such order or in any subsequent order direct that any person authorized in that behalf by the Commissioner shall take possession of such property for and on behalf of the Crown.

(b) Where the person directed under this subsection to take possession of any immovable property is unable or apprehends that he will be unable to take possession of that property because of any obstruction or resistance which has been or is likely to be offered, such person shall, on his making an application in that behalf to the District Court which directed him to take possession of such property, be entitled to an order of that Court directing the Fiscal to deliver possession of that property to him for and on behalf of the Crown.

(c) Where an order under paragraph (b) of this subsection is issued to the Fiscal by a District Court, he shall forthwith execute that order and shall

in writing report to that Court the manner in which that order was executed.

(d) For the purpose of executing an order under paragraph (b) of this subsection, the Fiscal or any person acting under his direction may use such force as may be necessary to enter the property to which that order relates and to eject any person in occupation of that property and to deliver possession of that property to the person who is authorized to take possession of that property for and on behalf of the Crown.

(18) Where an order under this section vesting in the Crown any immovable property of any person is revoked under subsection (10), the Crown shall be liable to account to such person for the income derived from such property during the period for which such property was vested in the Crown and to pay such income to such person less the expenses incurred in maintaining such property during that period.

(19) Where any immovable property is sold under this section, the Commissioner shall in the name and on behalf of Her Majesty be entitled to execute the instrument of transfer of such property to the purchaser.

(20) Any person who is aggrieved by an order of the District Court under subsection (6) may appeal therefrom to the Supreme Court, and the provisions of the Civil Procedure Code relating to appeals from the District Court to the Supreme Court shall apply in relation to such appeal.

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(21) In this section—

“immovable property” means any land (other than a land which is subject to a fideicommissum, life interest or trust) and includes things attached to the earth or permanently fastened to anything attached to the earth; and

“market value”, in relation to any immovable property, means the value which such property will fetch in the open market.’.

Amendment
of section 89
of the
principal
enactment.
[§ 16, 10 of 1962.]

41. Section 89 of the principal enactment is hereby amended in subsection (1) of that section, in paragraph (ii) of the proviso to that subsection, as follows:—

(a) by the substitution, for the words and figures “section 44 or”, of the words and figures “section 57D or”, and

(b) by the substitution, for the words and figures “and (8) and section 45 (4).”, of the words and figures “and (8), section 45 (4), and section 57D (6), (7) and (8).”.

Amendment
of section 90
of the
principal
enactment.
[§ 17, 10 of 1962.]

42. Section 90 of the principal enactment is hereby amended as follows:—

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

(i) by the substitution in paragraph (a) of that subsection, for the figures “45 (1),”, of the following:—
“45 (1), 57D (2),”; and

(ii) by the substitution in paragraph (c) of that subsection, for the figures “45 (3),”, of the following:—
“45 (3), 57D (5),”; and

- (b) in subsection (2) of that section, by the substitution, in paragraph (b) of that subsection, for the word and numerals "Chapter VI", of the following:—

"Chapter VI or Chapter VIIA".

43. Section 92 of the principal enactment is hereby amended, in subsection (1) of that section, as follows:—

Amendment
of section 92
of the
principal
enactment.
[§ 18, 10 of 1962.]

- (a) by the substitution, in paragraph (c) of that subsection, for the word and numerals "Chapter VI", of the following:—

"Chapter VI or Chapter VIIA";

- (b) by the substitution, for the words "thereby evades", of the words "thereby evades or attempts to evade"; and

[§ 27, 13 of 1959.]

- (c) by the substitution, for the words "to evade", of the words "to evade or to attempt to evade".

[§ 27, 13 of 1959.]

44. Section 95 of the principal enactment is hereby amended as follows:—

Amendment
of section 95
of the
principal
enactment.
[§ 28, 13 of 1959.]

- (a) in subsection (1) of that section by the substitution, for the words "The Board of Income Tax", of the words "the Minister";

- (b) in subsection (4) of that section by the substitution, for the words "section shall", of the words "section, other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall";

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

"(5A) A rule prescribing a penalty for the contravention of or failure to comply with a rule shall not come into operation until it is approved by the Senate and the House of Representatives and notice of such approval is published in the Gazette"; and

- (d) in subsection (6) of that section by the substitution, for the words "All such rules shall", of the words "All such rules, other than a rule prescribing a penalty for the contravention of or failure to comply with a rule, shall".

Amendment of section 96 of the principal enactment.
[§ 29, 13 of 1959.]

45. Section 96 of the principal enactment is hereby amended as follows:—

- (a) by the substitution, for the words "The Board of Income Tax", of the words "The Minister"; and

- (b) in the marginal note to that section, by the substitution, for the words "Board of Income Tax", of the word "Minister".

Insertion of new section 96A in the principal enactment.
[§ 30, 13 of 1959.]

46. The following new section is hereby inserted immediately after section 96, and shall have effect as section 96A, of the principal enactment:—

'Power to search buildings or places.

96A. (1) Any officer appointed for the purposes of this Ordinance who is specially authorized by the Commissioner in that behalf may, accompanied by a peace officer, do all or any of the following:—

- (i) enter and search any building or place where he has reason to believe that any articles, books of account or other documents which in his opinion will be useful for, or relevant to, any proceeding under this Ordinance may be found and examine them, if found;
- (ii) seize any such articles, books of account or other documents or place marks of identification thereon or make extracts or copies therefrom;
- (iii) make a note or an inventory of any other thing found in the course of any search under this section which in his opinion

will be useful for, or relevant to, any proceedings under this Ordinance,

and the provisions of the Criminal Procedure Code relating to searches shall apply so far as may be to searches under this section.

Cap. 20.

In this subsection "peace officer" shall have the same meaning as in the Criminal Procedure Code.

(2) Before authorizing any officer to exercise the powers under subsection (1), the Commissioner shall record the circumstances which necessitate the exercise of those powers by that officer.

47. The amendments made in the principal enactment by Act No. 13 of 1959 shall not apply to an assessment under the principal enactment for the year of assessment commencing on April 1, 1958, in respect of any person who ceases to be resident in Ceylon during that year of assessment.

Provisions in regard to assessment for year of assessment commencing on April 1, 1958, in respect of persons who have ceased to be residents in Ceylon.
[§ 32, 13 of 1959.]

In this section, the expression "resident in Ceylon" shall have the same meaning as in the principal enactment.

48. The Profits Tax Act is hereby repealed with effect from April 1, 1958 :

Repeal of Chapter 243.
[§ 33, 13 of 1959.]

Provided that the repeal of such Act shall not affect the liability to profits tax—

- (a) in the case of an individual, in respect of any period prior to April 1, 1958, and
- (b) in the case of a company, in respect of any period prior to the period the profits or income for which are or is included in the assessable income of such company, for the purposes of income tax, for the year of assessment commencing on April 1, 1958,

and accordingly, for the purposes of all matters under such Act in respect of any such period, such Act shall be deemed to be in operation.

Savings.
(§ 34, 13 of 1959.)

49. (1) All suits, prosecutions, appeals or other legal proceedings, civil or criminal, instituted by or against the Commissioner of Income Tax before the date on which Act No. 13 of 1959 comes into operation may be continued by or against the Commissioner of Inland Revenue.

(2) Any proxy signed by the Commissioner of Income Tax and filed of record in any legal proceedings pending on the day immediately preceding the date on which Act No. 13 of 1959 comes into operation shall on and after that date have effect as if it had been signed by the Commissioner of Inland Revenue.

(3) All decrees or orders made by any competent court in favour of, or against, the Commissioner of Income Tax before the date on which Act No. 13 of 1959 comes into operation shall on and after that date be deemed to have been made in favour of, or against, the Commissioner of Inland Revenue.

(4) All notices, certificates, other documents, orders, or appointments issued or made under the principal enactment by the Commissioner of Income Tax before the date on which Act No. 13 of 1959 comes into operation shall on and after that date have effect as if they were issued or made by the Commissioner of Inland Revenue.

(5) Any authorization issued to any person by the Commissioner of Income Tax and in force on the day immediately preceding the date on which Act No. 13 of 1959 comes into operation shall on and after that date have effect as if it had been issued by the Commissioner of Inland Revenue.

(6) Every contract, agreement, or other instrument made or executed by or in favour of the Commissioner of Income Tax and in force on the day immediately preceding the date on which Act No. 13 of 1959 comes into operation shall on and after that date be deemed to have been made or executed by or in favour of the Commissioner of Inland Revenue.

(7) Any appeal made under the principal enactment to the Commissioner of Income Tax and pending on the day immediately preceding the date on which Act No. 13 of 1959 comes into operation shall on and after that date be deemed to have been made to the Commissioner of Inland Revenue.

(8) Any appeal referred under the principal enactment to the Board of Review by the Commissioner of Income Tax and pending on the day immediately preceding the date on which Act No. 13 of 1959 comes into operation shall on and after that date be deemed to have been referred by the Commissioner of Inland Revenue.

(9) Any act or proceeding commenced under the principal enactment by the Commissioner of Income Tax and not completed before the date on which Act No. 13 of 1959 comes into operation may be completed by the Commissioner of Inland Revenue.

(10) Any notice, assessment, certificate or order issued or made under the principal enactment by a Deputy Commissioner of Income Tax or an Assistant Commissioner of Income Tax before the date on which Act No. 13 of 1959 comes into operation shall on and after that date have effect as if it was issued or made by a Deputy Commissioner of Inland Revenue or an Assistant Commissioner of Inland Revenue.

(11) Any act or proceeding commenced under the principal enactment by a Deputy Commissioner of Income Tax or an Assistant Commissioner of Income Tax and not completed before the date on which Act No. 13 of 1959 comes into operation may be completed by a Deputy Commissioner of Inland Revenue or an Assistant Commissioner of Inland Revenue.

(12) The reference to Commissioner of Income Tax in any written law shall, on or after the date on which Act No. 13 of 1959 comes into operation, be deemed to be a reference to the Commissioner of Inland Revenue.