

PARLIAMENT OF CEYLON

2nd Session 1961-62



Finance (Amendment) Act, No. 9 of 1962

Date of Assent : May 25, 1962

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Finance (Amendment) Act, No. 9 of 1962

L. D.—O. 26/61.

AN ACT TO AMEND THE FINANCE ACT,
No. 65 OF 1961.

[Date of Assent: May 25, 1962]

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

1. This Act may be cited as the Finance (Amendment) Act, No. 9 of 1962.

Short title.

2. Section 18 of the Finance Act, No. 65 of 1961, hereinafter referred to as the "principal Act", is hereby amended as follows:—

Amendment of section 18 of Act No. 65 of 1961.

(a) in sub-section (1) of that section by the substitution, for the words "such amount as is in excess of his net income as", of the words "the amount by which his net income exceeds the sum"; and

(b) in sub-section (2) of that section by the substitution, for the words "Fund established for the purpose:", of the word "Fund:".

3. Section 19 of the principal Act is hereby amended in sub-section (2) of that section by the substitution, for paragraph (b) of that sub-section, of the following paragraph:—

Amendment of section 19 of the principal Act.

"(b) an investment by an individual in the purchase or construction of a house for his residence provided that he does not own a house at the time of such purchase or construction; or".

4. Section 21 of the principal Act is hereby amended as follows:—

Amendment of section 21 of the principal Act.

(a) by the insertion, immediately before the definition of "individual", of the following definition:—

" "assessable income" shall have the same meaning as in the Income Tax Ordinance;";

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(b) in the definition of "net income", by the substitution, for all the words from "And provided further" to "as a deduction;", of the following:—

"And provided further that, in determining the assessable income of an individual who is in receipt of a reduced pension, the amount of the difference between his unreduced pension and reduced pension shall be added to his assessable income;" ;

(c) in the definition of "non-resident company", by the substitution, for the semi-colon, of a full stop; and

(d) by the omission of the definition of "year of assessment".

Amendment of section 30 of the principal Act.

5. Section 30 of the principal Act is hereby amended by the substitution, for all the words and figures from "to which such individual" to "No. 25 of 1950:", of the following:—

"which has or have been issued under the Food Control Regulations made under the Food Control Act to such individual and the individuals, who for the purposes of the Income Tax Ordinance are deemed to be the family of which the first-mentioned individual is the head:"

Amendment of section 31 of the principal Act.

6. Section 31 of the principal Act is hereby amended by the substitution, for the words "manner of payment," of the words "manner of determination of the Government rice subsidy by the Commissioner, and the manner of assessment and payment,"

Replacement of section 32 of the principal Act.

7. Section 32 of the principal Act is hereby repealed and the following section substituted therefor:—

"Non-application of this Part to the emoluments of certain persons.

32. The succeeding provisions of this Part shall not apply to emoluments which are exempt from income tax under section 7 of the Income Tax Ordinance or under any Double Taxation Relief Agreement made between the Government of Ceylon and the Government of any other country."

8. Section 33 of the principal Act is hereby amended, in sub-section (2) of that section, by the substitution, for the words "the employer of such employee", of the words "the employer of such employee or the person responsible for making the payment of such emoluments".

Amendment of section 33 of the principal Act.

9. Section 35 of the principal Act is hereby amended as follows:—

Amendment of section 35 of the principal Act.

(a) by the substitution, for the words "by his employer.", of the words "by his employer or by such person as is responsible for making the payment of his emoluments."; and

(b) in the marginal note to that section, by the substitution, for the words "Development Tax by employer.", of the words "Development Tax."

10. Section 36 of the principal Act is hereby amended as follows:—

Amendment of section 36 of the principal Act.

(a) by the substitution, for all the words from "by an employer for any month" to "Development Tax", of the words "for any month by an employer from any employee subject to the National Development Tax or by such person as is responsible for making the payment of the emoluments of such employee";

(b) by the substitution, for the words "by such employer", of the words "by such employer or person"; and

(c) in the marginal note to that section by the substitution, for the words "Development Tax collected by employers.", of the words "Development Tax to Commissioner."

11. The following new section is hereby inserted immediately after section 36, and shall have effect as section 36A, of the principal Act:—

Insertion of new section 36A in the principal Act.

" Payment of National Development Tax by employees in certain circumstances.

36A. Where the National Development Tax in respect of any employee cannot be collected from his employer or the person responsible for making the payment of his emoluments, such employee shall, upon being so requested by notice

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in writing by the Commissioner, pay the amount of the National Development Tax to the Commissioner within the time specified in such notice.”.

Amendment of section 37 of the principal Act.

12. Section 37 of the principal Act is hereby amended as follows:—

(a) by the substitution, for all the words from “by his employer”, to “in the prescribed manner”, of the words “by his employer, or the person responsible for making the payment of his emoluments, to the Commissioner in the prescribed manner, or, in the event of the failure of such employer or person to pay, by the employee to the Commissioner,”; and

(b) by the substitution, for the words “may be recovered”, of the words “shall be deemed to be in default and may be recovered from the defaulter”.

Amendment of section 39 of the principal Act.

13. Section 39 of the principal Act is hereby amended as follows:—

(1) by the substitution, for the definition of “employee”, of the following definition:—

“employee”—

(a) includes every person who holds a paid office as a servant of the Crown;

(b) includes a person employed by a person residing outside Ceylon but does not include a person residing outside Ceylon employed by a person carrying on or exercising any trade, business, profession or vocation in Ceylon; and

(c) shall be deemed to include the following:—

(i) the President and Deputy President of the Senate,

(ii) the Speaker, the Deputy Speaker, the Deputy Chairman of Committees and the Leader of the Opposition, of the House of Representatives,

- (iii) the Clerk to the Senate, the Clerk to the House of Representatives or a member of the staff of the Clerk to the Senate or the Clerk to the House of Representatives,
- (iv) a Minister or a Parliamentary Secretary or the Chief Government Whip,
- (v) a Senator or a Member of Parliament by reason only of the fact that he receives any emoluments as a Senator or such Member,
- (vi) a member of the Public Service Commission,
- (vii) a member of the Judicial Service Commission,
- (viii) a member of the panel appointed for the purpose of the constitution of Bribery Tribunals under the Bribery Act,
- (ix) a member of any Board, Tribunal or Commission established under any written law,
- (x) every authorised adjudicator appointed under the Income Tax Ordinance,
- (xi) a director of a company or corporation.' ;

(2) by the substitution, for the definition of "employer", of the following definition:—

“ “ employer ”—

- (a) in relation to any person employed in a Government Department of which he is not the Head, means the Head of that Department; and
- (b) in relation to a person employed by a person residing outside Ceylon, means the agent or attorney in

Ceylon of the second-mentioned person or the receiver or manager in Ceylon in respect of the business carried on by the second-mentioned person; and

- (3) by the substitution, for the definition of "emoluments", of the following definition:—

" "emoluments" means the salary, wages, fees or allowances payable to an employee and such other payments in money which an employee receives or which are made for the benefit of the employee in the course of his employment but does not include the amount of any contribution made by the employer in respect of the employee to any such pension or provident fund as may be approved by the Minister, or allowances given or payments made to the employee in reimbursement of expenses incurred in the course of his employment. "

Amendment of section 40 of the principal Act.

14. Section 40 of the principal Act is hereby amended by the substitution, for the words "for that purpose:", of the words "for that purpose and has obtained a certificate of registration from such authority:".

Amendment of section 41 of the principal Act.

15. Section 41 of the principal Act is hereby amended in sub-section (1) of that section as follows:—

(1) in paragraph (a) of that sub-section, by the substitution, for the words "he has paid", of the words "if any fee is payable by him for such registration, he has paid";

(2) in the Proviso to that sub-section, by the substitution, for the words "the fee", of the words "the fee, if any,"; and

(3) by the repeal of sub-section (2) of that section.

Amendment of section 42 of the principal Act.

16. Section 42 of the principal Act is hereby amended by the substitution, for the words "appropriate fee", of the words "appropriate fee, if any,".

17. Section 43 of the principal Act is hereby amended as follows:—

Amendment of section 43 of the principal Act.

- (a) by the renumbering of that section as sub-section (1) of section 43;
- (b) in renumbered sub-section (1) of that section, by the substitution, for the words " rupees per year, ", of the word " rupees, "; and
- (c) by the addition, at the end of that sub-section, of the following new sub-section:—

" (2) Notwithstanding anything in sub-section (1), the competent authority to whom any person has furnished a declaration of income under section 41 (1) may at any time, if he is of the opinion that such declaration is incorrect, after due investigation increase the income declared by such person, and, such person shall—

(a) if he has paid the National Development Tax on the income as declared by him, be liable to pay as National Development Tax an amount equivalent to four per centum of the difference between the income as declared by him and the income as so increased, or

(b) if he has not paid any National Development Tax, be liable to pay as National Development Tax an amount equivalent to four per centum of the income as so increased,

and accordingly such person shall be liable to pay any difference in the fee for registration consequent on the income as declared by him being so increased."

18. Section 45 of the principal Act is hereby amended by the substitution, for the words " within the period specified in such certificate, ", of the words " when such instalment becomes due, "

Amendment of section 45 of the principal Act.

Amendment of section 47 of the principal Act.

19. Section 47 of the principal Act is hereby amended as follows:—

- (1) by the substitution, for the words “ as the proprietor thereof: ”, of the words “ as the proprietor thereof and such person has obtained a certificate of registration from such authority: ”;
- (2) in paragraph (b) of the Proviso to that section by the substitution, for the word “ annum. ”, of the words “ annum, or, ”; and
- (3) by the insertion, immediately after paragraph (b) of that Proviso, of the following new paragraph:—
“(c) by a company incorporated or registered by any law in force in Ceylon or elsewhere or a corporation.”.

Amendment of section 48 of the principal Act.

20. Section 48 of the principal Act is hereby amended as follows:—

- (1) in sub-section (1) of that section —
 - (i) in paragraph (a) of that sub-section, by the substitution, for the words “except upon”, of the words “if any fee is payable for such registration, except upon”,
 - (ii) in paragraph (b) of that sub-section, by the substitution, for the words “proprietor thereof”, of the words “person carrying on that business”, and
 - (iii) by the substitution, for all the words from “business is sought” to the end of that sub-section, of the words “business is sought.”; and
- (2) by the repeal of sub-section (2) of that section.

Amendment of section 49 of the principal Act.

21. Section 49 of the principal Act is hereby amended in sub-section (1) of that section by the substitution, for the words “appropriate fee”, of the words “appropriate fee, if any,”.

Amendment of section 50 of the principal Act.

22. Section 50 of the principal Act is hereby amended as follows:—

- (a) by the renumbering of that section as sub-section (1) of section 50; and

(b) by the addition, at the end of that sub-section, of the following new sub-section:—

“(2) Notwithstanding anything in sub-section (1), the competent authority to whom a person has furnished a declaration of income under section 48 (1) may, if he is of the opinion that such declaration is incorrect, after due investigation increase the income declared by such person, and if the income as so increased is over three thousand six hundred rupees, such person shall—

(a) if he has paid the National Development Tax on the income as declared by him, be liable to pay as National Development Tax an amount equivalent to four per centum of the difference between the income as declared by him and the income as so increased, or

(b) if he has not paid any National Development Tax, be liable to pay as National Development Tax an amount equivalent to four per centum of the income as so increased,

and accordingly such person shall be liable to pay any difference in the fee for registration consequent on the income as declared by him being so increased.”

23. Section 52 of the principal Act is hereby amended by the substitution, for the words “within the period specified in such certificate, ”, of the words “when such instalment falls due, ”.

Amendment of section 52 of the principal Act.

24. Section 54 of the principal Act is hereby amended by the substitution, for the words “Any certificate”, of the words “Any receipt”.

Amendment of section 54 of the principal Act.

25. Section 55 of the principal Act is hereby amended as follows:—

Amendment of section 55 of the principal Act.

(a) by the substitution, for the words “during that year”, of the words “during the year preceding that year of assessment”; and

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(b) by the substitution, for the words "that person", of the words "that person for that year of assessment".

Amendment of section 56 of the principal Act.

26. Section 56 of the principal Act is hereby amended in paragraph (c) of that section by the substitution, for the words "the proprietors", of the words "the persons registered as proprietors".

Replacement of section 59 of the principal Act.

27. Section 59 of the principal Act is hereby repealed and the following section substituted therefor:—

"Payment of National Development Tax in special cases.

59. (1) Notwithstanding anything in the preceding provisions of this Act, where any person whose aggregate income from all his employments, professions or businesses, or his employment and profession, or his employment and business, or his profession and business, or his employment, profession and business, exceeds three thousand six hundred rupees, then such person shall be liable to pay the Commissioner as National Development Tax an amount equivalent to four per centum of such aggregate income after deducting therefrom any amount paid by such person as the National Development Tax under the provisions of Part VI or Part VII of this Act:

Provided that where in consequence of the levy of the National Development Tax such aggregate income falls below three thousand six hundred rupees, such person shall be liable to pay the difference between the amount of such income and three thousand six hundred rupees.

(2) For the purposes of this section "aggregate income" in respect of any person means the total income derived by such person from his employments, professions and businesses, the income from his employments being the aggregate of his monthly emoluments from such employments for the year commencing on October 1, 1961, or any subsequent year, and the income from his professions or businesses being the income, as computed

for the purposes of the Income Tax Ordinance, for the year preceding the year in which registration of such professions or businesses is sought.

(3) Regulations may be made providing for the furnishing of declarations by persons liable to pay National Development Tax under sub-section (1) and for the manner of payment by such persons of the National Development Tax."

28. The following new section is hereby inserted immediately after section 59, and shall have effect as section 59A, of the principal Act:—

Insertion of new section 59A in the principal Act.

" Establishment of the National Development Fund.

59A. (1) There shall be established for the purposes of this Act a fund called the National Development Fund.

(2) There shall be paid into the National Development Fund all sums which may be paid or recovered under this Act as National Development Tax.

(3) The Minister may, with the prior approval of the House of Representatives, determine the sums of money to be withdrawn from the National Development Fund and the purposes for which such sums shall be applied, and no sums of money other than such sums shall be withdrawn from that Fund. "

29. Section 60 of the principal Act is hereby amended in sub-section (2) of that section as follows:—

Amendment of section 60 of the principal Act.

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

" (aa) prescribing the forms necessary for the purposes of the collection of the National Development Tax or the amount of the Government rice subsidy levied under section 30; "; and

(2) by the insertion, immediately after paragraph (c) of that sub-section, of the following new paragraph:—

“ (cc) for the registration of employers, and persons responsible for making payments of emoluments, for the purposes of the levy of the National Development Tax, and the issue by such employers or persons to employees subject to the tax of certificates specifying the deductions made from their emoluments; ”.

Replacement of section 61 of the principal Act.

30. Section 61 of the principal Act is hereby repealed and the following section substituted therefor:—

“ Offences.

61. Any person who—

- (a) contravenes or fails to comply with any provision of this Act or any regulation made thereunder; or
- (b) makes any incorrect declaration of income otherwise than by error or oversight; or
- (c) practises his profession when the registration thereof is deemed to be suspended under section 45; or
- (d) carries on his business when the registration thereof is deemed to be suspended under section 52,

shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a period not exceeding one year or to both such fine and imprisonment. ”.

31. The following new section is hereby inserted immediately after section 61, and shall have effect as section 61A, of the principal Act:—

Insertion of new section 61A in the principal Act.

“ Offences by body of persons.

61A. Where an offence under this Act is committed by a body of persons, then—

(a) if that body of persons is a body corporate, every director and officer of that body corporate; and

(b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided that a director or an officer of such body corporate or a partner of such firm shall not be deemed to be guilty of that offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.”

32. Section 63 of the principal Act is hereby amended by the insertion, immediately after the definition of the expression “ Commissioner ”, of the following definition:—

Amendment of section 63 of the principal Act.

“ “ profession ” includes any vocation carried on by a person; ”

33. The Second Schedule to the principal Act is hereby amended as follows:—

Amendment of the Second Schedule to the principal Act.

(a) by the omission of the words “ Net Income ”, and

(b) by the substitution, for the words “ Married Couple ”, of the words “ Husband and wife ”.

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Amendment of
the Third
Schedule to
the principal
Act.

34. The Third Schedule to the principal Act is hereby amended as follows:—

- (1) in paragraph (a) of that Schedule, by the substitution, for the words and figures "less than Rs. 10,000", of the words and figures "not less than Rs. 5,000 but is less than Rs. 10,000";
- (2) in paragraph (b) of that Schedule, by the substitution, for the words and figures "less than Rs. 15,000", of the words and figures "not less than Rs. 10,000 but is less than Rs. 15,000"; and
- (3) in paragraph (c) of that Schedule, by the substitution, for the words and figures "less than Rs. 20,000", of the words and figures "not less than Rs. 15,000 but is less than Rs. 20,000".

Retrospective
effect of
amendments.

35. The amendments made in the principal Act by the preceding provisions of this Act shall be deemed for all purposes to have taken effect on the date on which the principal Act came into force.