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2nd Session 1961-62



Income Tax (Amendment) Act, No. 10 of 1962

Date of Assent: May 26, 1962

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AN ACT TO AMEND THE INCOME TAX ORDINANCE, THE LAND TAX ACT, NO. 27 OF 1961, THE COMPANIES TAX ACT, NO. 35 OF 1961, AND THE PERSONAL TAX ACT, NO. 14 OF 1959.

[Date of Assent: May 26, 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 Income Tax (Amendment) Act, No. 10 of 1962.

Short title.

2. Section 4 of the Income Tax Ordinance (hereinafter referred to as the "principal enactment") is hereby amended in sub-section (1) of that section by the substitution, for the words "authorised representative," of the words "authorised 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,".

Amendment of section 4 of Chapter 242.

3. Section 6 of the principal enactment, as amended by Act No. 13 of 1959, is hereby amended in sub-section (2) of that section as follows:—

Amendment of section 6 of the principal enactment.

(1) in paragraph (a) of that sub-section by the substitution, in sub-paragraph (i) of that paragraph, for the words "or to his wife, son or daughter to enable him or her to visit his or her home abroad;" of the words "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;"

(2) in paragraph (e) of that sub-section, by the substitution—

(a) in sub-paragraph (iii) of that paragraph, for the words "cost to him of that which is redeemed," of the words

“ 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,” and

(b) in sub-paragraph (v) of that paragraph, for all the words from “ cost to him ” to the end of that sub-paragraph, of the words “ 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;”;

(3) in paragraph (f) of that sub-section by the substitution—

(a) in sub-paragraph (ii) of that paragraph, for the words “ cost to him of that which is redeemed ”, of the words “ 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,” and

(b) in sub-paragraph (iii) of that paragraph, for all the words from “ cost to him ” to the end of that sub-paragraph, of the words “ 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;” and

(4) in paragraph (k) of that sub-section, by the substitution, in sub-paragraph (ix) of that paragraph, for all the words from “ shall be an amount ” to the end of that sub-paragraph, of the following:—

“ shall—

(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

(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;”

4. Section 7 of the principal enactment, as last amended by Act No. 13 of 1959, is hereby amended in sub-section (1) of that section as follows:—

Amendment of section 7 of the principal enactment.

(1) by the substitution, for paragraph (e) of that sub-section, of the following paragraph:—

“(e) 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;” and

(2) in paragraph (ee) of that sub-section by the substitution, for the words “scientist or technician”, of the words “scientist, technician, expert or adviser”.

5. Section 8 of the principal enactment (as amended by Act No. 38 of 1957 and Act No. 13 of 1959 and therein referred to as section 7A), is hereby amended by the substitution, for all the words and figures from “Where at any time” to “established during that period”, of the words and figures “Where the Government of Ceylon makes a contribution to the capital of any corporation established on or after April 1, 1951,”

Amendment of section 8 of the principal enactment.

6. Section 9 of the principal enactment (as amended by Act No. 38 of 1957 and Act No. 13 of 1959 and therein referred to as section 7B) is hereby amended as follows:—

Amendment of section 9 of the principal enactment.

(a) in sub-section (1) of that section, in paragraph (i) of that sub-section, by the substitution, for sub-paragraph (a) of that paragraph, 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 sub-section (2) of that section, of the following sub-section:—

“(2A) The succeeding provisions of this Act shall apply for any year of assessment commencing on or after April 1, 1962.

The profits and income of—

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

shall be exempt from the tax.”; and

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

“(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 sub-section (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 53D shall not apply to such dividends.”

7. Section 7C of the principal enactment (inserted by Act No. 44 of 1958) is hereby amended by the addition, at the end of that section, of the following new sub-section:—

Amendment of section 7C of the principal enactment.

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

8. Section 11 of the principal enactment (as amended by Act No. 13 of 1959, and therein referred to as section 9) is hereby amended by the repeal of sub-section (1H) of that section.

Amendment of section 11 of the principal enactment.

9. Section 12 of the principal enactment (as amended by Act No. 13 of 1959, and therein referred to as section 10) is hereby amended as follows:—

Amendment of section 12 of the principal enactment.

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

(2) in the renumbered sub-section (1),—

(a) in paragraph (ab) of that sub-section, by the substitution, in sub-paragraph (i) of that paragraph, for all the words and figures “in section 9 (1) (h);” of the following:—

“in paragraph (e) or paragraph (f) or paragraph (h) of sub-section (1) of section 11;”, and

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

“(ac) for any year of assessment commencing on or after April 1, 1962, any travelling expenditure incurred in connection 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 sub-section (2) and not exceeding two thousand rupees a year, incurred by him in connection 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 sub-section (2), incurred by him in connection 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 connection 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 sub-section (2), whichever amount is less,

(iv) the expenditure, determined in accordance with the provisions of sub-section (2), incurred

by an executive officer who is in the employment of such person in travelling within Ceylon in connection 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; ”;

(c) in paragraph (g) of that sub-section by the substitution, for the words and figures “in section 49”, of the following:—

“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 that section, of the following new sub-sections:—

“(2) For the purpose of determining the expenditure incurred in connection with travelling which is referred to in paragraph (ac) of sub-section (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,

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- (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 purposes of paragraph (g) of sub-section (1) may be declared to take effect from a date earlier than the date on which that Order is made."

Amendment of section 15 of the principal enactment.

10. Section 15 of the principal enactment (as amended by Act No. 13 of 1959, and therein referred to as section 13) is hereby amended as follows:—

- (a) by the renumbering of sub-section (9) of that section as sub-section (10); and

(b) by the insertion, immediately after sub-section (8) of that section, of the following sub-section:—

“(9) The whole or any part of that amount which in accordance with the provisions of sub-section (1F) or sub-section (1G) 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 sub-section 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.”

11. 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.

12. 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:—

Insertion of new section 23A in 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 unincorporate 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.”

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Amendment of section 53C of the principal enactment.

13. Section 53C of the principal enactment (inserted by Act No. 13 of 1959), is hereby amended in sub-section (1) of that section by the substitution, in paragraph (a) of that sub-section, for the words "year preceding such year of assessment", of the words and figures "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 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,".

Amendment of section 53D of the principal enactment.

14. Section 53D of the principal enactment (inserted by Act No. 13 of 1959), is hereby amended by the substitution, for sub-section (1) of that section, of the following sub-section:—

" (1) Subject to the provisions of sub-section (2) and sub-section (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 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 33 1/3 per centum of such amount."

Amendment of section 75B of the principal enactment.

15. Section 75B of the principal enactment (inserted by Act No. 13 of 1959, and as amended by Act No. 5 of 1961), is hereby amended by the substitution, for the words "Personal Tax, or the land tax to which he is liable," of the words "Personal Tax".

Amendment of section 89 of the principal enactment.

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

(a) by the substitution, for the words and figures "section 44 or", of the words and figures "section 44 or section 53D 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 53D (6), (7) and (8).".

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

Amendment of section 90 of the principal enactment.

(a) in sub-section (1) of that section—

(i) by the substitution in paragraph (a) of that sub-section, for the figures “ 45 (1),”, of the following:—

“ 45 (1), 53D (2), ”; and

(ii) by the substitution in paragraph (c) of that sub-section, for the figures “ 45 (3),”, of the following:—

“ 45 (3), 53D (5), ”; and

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

“ Chapter VI or Chapter VIIA ”.

18. Section 92 of the principal enactment is hereby amended in sub-section (1) of that section, by the substitution, in paragraph (c) of that sub-section, for the word and numerals “ Chapter VI ”, of the following:—

Amendment of section 92 of the principal enactment.

“ Chapter VI or Chapter VIIA ”.

19. The Land Tax Act, No. 27 of 1961, is hereby amended as follows:—

Amendment of the Land Tax Act, No. 27 of 1961.

(1) by the substitution, for section 7 of that Act, of the following section:—

“ Set off against the land tax in certain circumstances.

7. Where the aggregate of—

(a) the land tax to which a person other than a company is liable for any year of assessment, and

(b) the income tax to which such a person is liable under the Income Tax Ordinance for that year of assessment,

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exceeds eighty per centum of the assessable income of such person under that Ordinance for that year of assessment, the excess shall be set off against the land tax to which that person is liable for that year of assessment.”; and

- (2) by the insertion, immediately after section 7 of that Act, of the following new sections which shall have effect as sections 7A and 7B of that Act:—

“Exemption of companies from land tax in certain circumstances.

7A. Where a company which is liable to the land tax for any year of assessment is also liable to income tax under the Income Tax Ordinance for that year of assessment, then, if the amount of the income tax payable by that company exceeds eighty per centum of the assessable income of that company for that year of assessment, that company shall be deemed for all purposes to be exempt from the liability to the land tax for that year.

Set off against the land tax in certain circumstances.

7B. Where the aggregate of—

(a) the land tax to which a company is liable for any year of assessment, and

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

exceeds eighty per centum of the assessable income of that company for that year of assessment, such excess shall be set off against, the land tax to which that company is liable.”

Amendment of the Companies Tax Act, No. 35 of 1961.

20. The Companies Tax Act, No. 35 of 1961, is hereby amended as follows:—

- (1) by the insertion, immediately after section 5 of that Act, of the following new section which shall have effect as section 5A of that Act:—

“Exemption of tax under this Act in certain circumstances.

5A. Where a company which is liable to the tax under this Act for any financial year is also liable to income tax for the year of assessment corresponding to that financial year then, if the

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amount of the income tax payable by that company exceeds eighty per centum of the assessable income of that company for that year of assessment, that company shall be deemed for all purposes to be exempt from the liability to the tax under this Act for that financial year.”;

- (2) by the repeal of section 6 of that Act and the substitution therefor of the following section:—

“Set off against the tax under this Act in certain circumstances.

6. Where the aggregate of—

(a) the tax to which a company is liable under this Act for any financial year, and

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

exceeds eighty per centum of the assessable income of that company for that year of assessment, such excess shall be set off against the tax to which that company is liable under this Act for that financial year.”.

21. The Personal Tax Act, No. 14 of 1959, is hereby amended as follows:—

Amendment of the Personal Tax Act, No. 14 of 1959.

(1) in section 8 of that Act—

(a) by the substitution, for the words “a person”, of the following:—

“a person (other than a person in the capacity of a trustee of a trust or a corporation or an unincorporate body of persons, who or which is a charitable institution within the meaning of the Income Tax Ordinance)”;

(b) by the substitution, for the colon, of a full stop, and

(c) by the omission of the Proviso to that section;

(2) by the insertion, immediately after section 8 of that Act, of the following new section which shall have effect as section 8A, of that Act:—

"Taxable wealth of a person in the capacity of a trustee of a trust or a corporation or unincorporate body of persons who or which is a charitable institution within the meaning of the Income Tax Ordinance.

8A. (1) Where the net wealth for any year of assessment of a person in the capacity of a trustee of a trust or of a corporation or an unincorporate body of persons, who or which is a charitable institution within the meaning of the Income Tax Ordinance, exceeds twenty thousand rupees, the entirety of such net wealth shall be the taxable wealth of such person or corporation or unincorporate body of persons, as the case may be, for that year of assessment, and such person, corporation or unincorporate body of persons shall be liable to make the contribution in respect of such taxable wealth to the Personal Tax for that year of assessment.

(2) The contribution which a person in the capacity of a trustee of a trust or a corporation or an unincorporate body of persons referred to in sub-section (1), is liable to make in respect of the taxable wealth of such person, corporation or unincorporate body to the Personal Tax for any year of assessment shall not be more than the amount by which the taxable wealth of such person, corporation or unincorporate body exceeds twenty thousand rupees. ”;

(3) in section 12 of that Act—

(a) in sub-section (1) of that section by the substitution, in paragraph (o) of that sub-section, for the words “ Stamp Ordinance. ”, of the words “ Stamp Ordinance, 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

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

“(4) Any Order made by the Minister under paragraph (o) of sub-section (1) may be declared to take effect from a date earlier than the date on which such Order is made.”.