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Finance (Amendment) Act, No. 3 of 1963

Date of Assent : March 27, 1963

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Finance (Amendment) Act, No. 3 of 1963

L. D.—O. 26/61.

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

[Date of Assent: March 27, 1963]

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. 3 of 1963.

Short title.

2. Section 16 of the Finance Act, No. 65 of 1961, hereinafter referred to as the "principal Act", is hereby amended as follows:—

Amendment of section 16 of Act No. 65 of 1961.

(a) by the substitution, for all the words and figures "for each year of assessment commencing on or after April 1, 1961," of the following:—

"for the year of assessment commencing on April 1, 1961, and the succeeding year of assessment", and

(b) by the substitution, for the marginal note to that section, of the following marginal note:—

"Land tax for the year of assessment commencing on April 1, 1961, and the succeeding year of assessment."

3. Section 18 of the principal Act is hereby amended in sub-section (1) of that section by the substitution, for the words "for each year of assessment commencing on or after", of the words "for the year of assessment commencing on".

Amendment of section 18 of the principal Act.

4. Section 21 of the principal Act is hereby amended in the definition of the expression "net income" by the substitution, for the words "any year of assessment commencing on or after", of the words "the year of assessment commencing on".

Amendment of section 21 of the principal Act.

4 *Finance (Amendment) Act, No. 3 of 1963*

Amendment of
section 30 of
the principal
Act.

5. Section 30 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows:—

(1) by the substitution, for all the words and figures “any year of assessment commencing on or after April 1, 1961,” of the following:—

“the year of assessment commencing on April 1, 1961, and the succeeding year of assessment,”;

(2) by the substitution, for the words “such individual for that year”, of the words “such individual for any such year of assessment”;

and

(3) in the Proviso to that section, by the substitution for the words “recoverable from any individual”, of the words “recoverable from any individual for any such year of assessment”.

Replacement of
section 33 of
the principal
Act.

6. Section 33 of the principal Act is hereby repealed and the following new section substituted therefor:—

Levy of the
National
Development
Tax.

33. (1) The succeeding provisions of this section shall apply to every employee whose aggregate emoluments for a month exceed three hundred rupees.

(2) Subject to the provisions of section 34, there shall be levied and paid each month during the period commencing on October 1, 1961, and ending on March 31, 1963, a tax (hereinafter referred to as the “National Development Tax”) computed at the rate of four per centum in respect of the emoluments payable for that month (other than any sum payable by way of bonus or commission) to an employee (hereinafter referred to as an “employee subject to the National Development Tax”) by his employer or the person responsible for making the payment of such emoluments, and the proceeds of such tax shall be utilised only for specific development projects.

(3) Where any sum is paid to any employee in any month of the aforesaid period by way of bonus or commission,

such sum shall, for the purposes of the levy of the National Development Tax, be deemed to have been emoluments payable to such employee for that month, and accordingly the National Development Tax computed at the rate of four per centum shall be levied and paid in respect of such sum.

(4) Where any emoluments (other than any sum by way of bonus or commission) which should have been payable to any employee for any month or months of the aforesaid period are paid in a lump sum, the employer of such employee or the person responsible for making the payment of such emoluments shall, having regard to the emoluments so paid to such employee, determine the amount which such employee would have received for that month or for each of those months if such emoluments were in fact paid to such employee for that month or each of those months, and the National Development Tax in accordance with the provisions of sub-section (2) shall be levied and paid in respect of the amount as so determined for that month or for each of those months.

7. Section 35 of the principal Act is hereby amended by the substitution, for the words "monthly emoluments" of the words "emoluments for each month".

Amendment of section 35 of the principal Act.

8. Section 38 of the principal Act is hereby repealed and the following new section substituted therefor:—

Replacement of section 38 of the principal Act.

Amount of the National Development Tax paid by an employee shall be allowed as a deduction for the purposes of the levy of income tax.

38. Where any employee subject to the National Development Tax is liable to income tax under the Income Tax Ordinance for the year of assessment commencing on April 1, 1962, and to income tax under the Inland Revenue Act, 1963, for the succeeding year of assessment, then for the purpose of ascertaining the profits or income of that employee under that Ordinance or Act for each of the aforesaid years of assessment the amount

of the National Development Tax levied from that employee in respect of the year preceding any such year of assessment shall be allowed as a deduction.”.

Amendment of section 39 of the principal Act.

9. Section 39 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended by the substitution, in the definition of “ emoluments ”, for the words “ or allowances ”, of the words “ allowances, bonuses or sums by way of commission ”.

Replacement of section 40 of the principal Act.

10. (1) Section 40 of the principal Act is hereby repealed and the following new section substituted therefor :—

“ Duty of person practising a profession to register himself in the register.

40. Every person who practises any profession on and after the appointed date shall—

- (a) cause himself to be registered in the appropriate register of professions kept and maintained by the appropriate competent authority for that purpose, and have such registration renewed; and
- (b) obtain a certificate of registration from such authority:

Provided that the preceding provisions of this section shall not apply to any such person who satisfies the appropriate competent authority that he is in the exclusive employment of any other person :

And provided further that the preceding provisions of this section shall in the case of a firm apply not to the firm but to each partner of that firm.”.

(2) Section 40 of the principal Act shall cease to be in operation after the fifteenth day of March, 1964.

Amendment of section 42 of the principal Act.

11. Section 42 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended by the substitution, for all the words from “ shall be effective ” to the end of that section of the following :—

“ shall in the first instance be effective for a period commencing on the date on which his name has been so registered and ending on

September 15, 1963. Such registration shall be renewed by that authority for a further period ending on March 15, 1964, upon payment in respect of such renewal of half the amount of the appropriate fee, if any, and the furnishing of the declaration referred to in paragraph (b) of sub-section (1) of section 41.”

12. Section 43 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows :—

Amendment of section 43 of the principal Act.

(1) in sub-section (1) of that section, by the substitution, for all the words from “ that authority as National Development Tax ” to “ by that authority : ”, of the following :—

“ that authority as National Development Tax—

(a) in respect of his registration in the register for the first period ending on September 15, 1963, an amount equivalent to four per centum of his income from his profession as computed for the purposes of the Income Tax Ordinance for the year of assessment commencing on April 1, 1961; and

(b) in respect of his registration in the register for the subsequent period ending on March 15, 1964, an amount equivalent to two per centum of his income from his profession as computed for the purposes of that Ordinance for the year of assessment commencing on April 1, 1962,

either in a lump sum or such number of instalments as may be determined by that authority:”;

(2) by the substitution, for sub-section (2) of that section, of the following 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 amount of the net wealth or the income as declared by such person, and accordingly where the amount of such income is increased, such person shall—

(a) if on his declaration he was liable to pay National Development Tax, be liable to pay as such Tax—

(i) if the declaration was in respect of his registration for the first period ending on September 15, 1963, an additional amount equivalent to four per centum of the difference between the income as declared by him and the income as so increased, and

(ii) if the declaration was in respect of his registration for the subsequent period ending on March 15, 1964, an additional amount equivalent to two per centum of the income as declared by him and the income as so increased ; and

(b) if by reason of the increase of income he becomes liable to pay the National Development Tax, be liable to pay as such Tax—

(i) if the declaration was in respect of his registration for the first period ending on September 15, 1963, an amount equivalent to four per centum of the income as so increased, and

(ii) if the declaration was in respect of his registration for the subsequent period ending on March 15, 1964, an amount equivalent to two per centum of the income as so increased,

and such person shall in addition be liable to pay any difference in the fee for registration consequent on the amount of the income or net wealth as declared by him being so increased.”; and

(3) by the addition at the end of that section of the following sub-section:—

“(3) Where any person fails to pay the amount of any registration fee and National Development Tax as required by sub-section (2), such person shall be deemed to be in default of that amount.”.

13. Section 45 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended by the substitution, for all the words from “or that instalment” to the end of that section, of the words “or that instalment.”.

Amendment of section 45 of the principal Act.

14. (1) Section 47 of the principal Act, as amended by Act No. 9 of 1962, is hereby repealed and the following new section substituted therefor:—

Replacement of section 47 of the principal Act.

Duty of proprietor of a business to register such business, and himself as proprietor thereof, in the register.

47. (1) Every person who carries on any business on and after the appointed date shall—

(a) cause that business to be registered, and himself to be registered as the proprietor thereof, in the appropriate register of businesses kept and maintained by the appropriate competent authority for that purpose, and have such registration renewed; and

(b) obtain a certificate of registration from such authority:

Provided that the preceding provisions of this section shall not apply to a business carried on—

(i) by a person who satisfies the appropriate competent authority that the turnover in such business is less than eighteen thousand rupees per annum, or

(ii) by a person who satisfies the appropriate competent authority that he by himself carries out contracts or piece jobs the gross fees for which do not exceed three thousand and six hundred rupees per annum, or

- (iii) by a company incorporated or registered by any law in force in Ceylon or elsewhere or a corporation:

And provided further that the preceding provisions of this section shall not apply to any business which is commenced after the fifteenth day of March, 1963.

(2) For the purposes of this Part, "turnover" or "gross fees" with reference to a business shall—

(a) for the purposes of the first period of registration in the register ending on September 15, 1963, be the gross income from that business for the period corresponding to the period for which the income on which the National Development Tax payable under section 50 (1) (a) in respect of that period of registration would be computed, and

(b) in relation to the subsequent period of registration in the register ending on March 15, 1964, be the gross income for the period corresponding to the period for which the income on which the National Development Tax payable under section 50 (1) (b) in respect of that period of registration would be computed.'

(2) Section 47 of the principal Act shall cease to be in operation after the fifteenth day of March, 1964.

Amendment of section 49 of the principal Act.

15. Section 49 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended, in sub-section (1) of that section, by the substitution, for all the words from "shall be effective" to the end of that sub-section, of the following:—

"shall in the first instance be effective for a period commencing on the date on which that business has been so registered and ending on

September 15, 1963. Such registration shall be renewed by that authority for a further period ending on March 15, 1964, upon payment in respect of such renewal of half the amount of the appropriate fee, if any, and the furnishing of the declaration referred to in paragraph (b) of sub-section (1) of section 48."

16. Section 50 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows:—

Amendment of section 50 of the principal Act.

(1) in sub-section (1) of that section, by the substitution, for all the words from "that authority as National Development Tax" to "by that authority:", of the following:—

"that authority as National Development Tax—

(a) in respect of his registration in the register for the first period ending on September 15, 1963, an amount equivalent to four per centum of his income from his business as computed for the purposes of the Income Tax Ordinance for the year of assessment commencing on April 1, 1961; and

(b) in respect of his registration in the register for the subsequent period ending on March 15, 1964, an amount equivalent to two per centum of his income from his business as computed for the purposes of that Ordinance for the year of assessment commencing on April 1, 1962;

either in a lump sum or such number of instalments as may be determined by that authority:";

(2) by the substitution, for sub-section (2) of that section, of the following sub-section:—

"(2) Notwithstanding anything in sub-section (1), the competent authority to whom any person has furnished a declaration of income

under section 48 (1) may at any time, if he is of the opinion that such declaration is incorrect, after due investigation increase the amount of the net wealth or the income as declared by such person, and accordingly where the amount of such income is increased, such person shall—

(a) if on his declaration he was liable to pay National Development Tax, be liable to pay as such Tax—

(i) if the declaration was in respect of his registration for the first period ending on September 15, 1963, an additional amount equivalent to four per centum of the difference between the income as declared by him and the income as so increased, and

(ii) if the declaration was in respect of his registration for the subsequent period ending on March 15, 1964, an additional amount equivalent to two per centum of the income as declared by him and the income as so increased; and

(b) if by reason of the increase of income he becomes liable to pay the National Development Tax, be liable to pay as such Tax—

(i) if the declaration was in respect of his registration for the first period ending on September 15, 1963, an amount equivalent to four per centum of the income as so increased, and

(ii) if the declaration was in respect of his registration for the subsequent period ending on March 15, 1964, an amount equivalent to two per centum of the income as so increased,

and such person shall in addition be liable to pay any difference in the fee for registration consequent on the amount of the income or net wealth as declared by him being so increased.”; and

(3) by the addition at the end of that section of the following sub-section:—

“(3) Where any person fails to pay the amount of any registration fee and National Development Tax as required by sub-section (2), such person shall be deemed to be in default of that amount.”.

17. The following new section is hereby inserted immediately after section 55, and shall have effect as section 55A, of the principal Act:—

Insertion of new section 55A in the principal Act.

“Liability of person who practises a profession or carries on a business to pay registration fee and National Development Tax even if he has not caused himself or his business to be registered.

55A. Where a person who practises a profession or carries on a business has not caused himself, or his business, as the case may be, to be registered in the register of professions or businesses as required by section 40 or section 47, the appropriate competent authority may, notwithstanding anything to the contrary in this Act, by notice in writing require such person to pay as the registration fee and the National Development Tax such amount as such authority considers is the registration fee and the National Development Tax which such person is liable to pay, and if such person does not pay such fee or Tax, such person shall be deemed to be in default of such fee or Tax.”.

18. Section 56 of the principal Act is hereby amended as follows:—

Amendment of section 56 of the principal Act.

(1) in paragraph (c) of that section by the omission of the word “and” ;

(2) in paragraph (d), by the substitution, for the full stop, of a semi-colon ; and

(3) by the addition at the end of that section, of the following paragraphs:—

“(e) providing the manner for the assessment and recovery of the registration fee and National Development Tax payable under section 55A ; and

(f) providing for the recall and cancellation of a certificate of registration issued to any person by error or by reason of an incorrect declaration of income or net wealth made under this Act by such person.”.

14 *Finance (Amendment) Act, No. 3 of 1963*

Amendment of section 59 of the principal Act.

19. Section 59 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows :—

(1) in sub-section (1) of that section by the substitution, for all the words and figures from “ an amount equivalent ” to “ of this Act : ”, of the following :—

“ an amount equivalent—

(a) in respect of the first year ending on September 15, 1963, for which he is liable to National Development Tax, to four per centum, and

(b) in respect of the part of the second year ending on March 15, 1964, for which he is liable to National Development Tax, to two 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 : ” ; and

(2) in sub-section (2) of that section by the substitution, for the words “ subsequent year ”, of the words “ subsequent year or part of a subsequent year ”.

Amendment of section 60 of the principal Act.

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

(1) in paragraph (c) of that sub-section, by the substitution, for the words “ Development Tax ; ”, of the words “ Development Tax and the recovery of the amount of any registration fee; ”; and

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

“ (g) for refund of the amount of any registration fee paid in error or overpaid, or the amount of the surtax or the National Development Tax overpaid, by any person or individual ; ”.

21. Section 61 of the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows:—

Amendment of section 61 of the principal Act.

(1) by the renumbering of that section as sub-section (1) of section 61;

(2) in the renumbered sub-section (1) of that section—

(i) in paragraph (b) of that sub-section by the substitution, for the words “otherwise than by error or oversight; or”, of the words “or net wealth otherwise than by error or oversight,”, and

(ii) by the omission of paragraphs (c) and (d) of that sub-section; and

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

“ (2) On the conviction of any person—

(i) for failure to have himself registered in the register of professions, or to have such registration renewed, as required by section 40, or

(ii) for failure to have his business registered and to have himself registered as the proprietor thereof in the register of businesses, or to have such registration renewed, as required by section 47,

such person shall be liable to pay, in addition to any punishment that may be imposed on him under sub-section (1), a fine of rupees fifty for each day on which the failure is continued after conviction thereof.”

22. The Third Schedule to the principal Act, as amended by Act No. 9 of 1962, is hereby amended as follows:—

Amendment of the Third Schedule to the principal Act.

(1) in paragraph (a) of that Schedule by the substitution, for the words and figures “not less than Rs. 5,000 but is less than Rs. 10,000”, of the words and figures “not less than Rs. 15,000 but is less than Rs. 20,000”;

- (2) in paragraph (b) of that Schedule, by the substitution, for the words and figures "not less than Rs. 10,000 but is less than Rs. 15,000", of the words and figures "not less than Rs. 20,000 but is less than Rs. 25,000";
- (3) in paragraph (c) of that Schedule, by the substitution, for the words and figures "not less than Rs. 15,000 but is less than Rs. 20,000", of the words and figures "not less than Rs. 25,000 but is less than Rs. 30,000"; and
- (4) in paragraph (d) of that Schedule, by the substitution, for the expression "Rs. 20,000", of the expression "Rs. 30,000".

Retrospective effect of amendments.

23. 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 effect.

Certificate of registration issued before the date of commencement of this Act deemed to be effective till September 15, 1963.

24. Every certificate of registration issued under the principal Act before the date of commencement of this Act shall, notwithstanding anything specified in such certificate, be deemed to be effective till the fifteenth day of September, 1963.