

Inland Revenue (Amendment) Act, No. 10 of 2007

Explanatory Notes

Inland Revenue Act, No. 10 of 2006 (referred to in this note as the “principal enactment”), has been amended by the above Act, No. 10 of 2007. Changes made are effective from April 01, 2007, unless stated otherwise.

1. Profits from Employment - § 4

1.1. The Rental Value of any place of residence provided to the employee, rent-free or at a rent less than the rental value of such place of residence - § 4 (1)(d)(ii)

The rental value of free or subsidized quarters is assessed as an employment benefit subject to an upper limit depending on the quantum of employment income referred to in Section 4(1) (a). Before this amendment, this quantum as referred to in the Section was in relation to a month, but not specified so therein, leaving room for interpretation that the sum is for a year. The present amendment is intended to remove this ambiguity and specify the quantum as for a year, effective from April 01, 2006.

1.2. The benefit from the allotment of any share of a company by the employer to employees - § 4(1)(e)

The benefit to an employee from the allotment of any share of a company (directly or through a share option scheme) was, prior to this amendment, taxed at the time of disposal of such share (or on the date of cessation of the employment).

By this amendment, this method of taxation has been limited to any such disposal made prior to April 01, 2007. Effective from April 01, 2007, any benefit from such allotment of shares is taxed as normal employment income on the basis of the date of allotment or sale of option.

2. Exemption of Profits from Employment - § 8

2.1. Terminal benefits of employees of Public Corporations - § 8(1)(n)

Section 8(1) (n) is amended to exclude from the apportionment, the terminal benefits exempt from tax, in relation to employees of Public Corporations referred to in Section 8 (1) (b) (ii).

2.2. Benefit from the allotment by the employer of any share; or grant an option to buy any share to an employee under a uniform Scheme - § 8(1)(p)

The value of benefit accruing to an employee from the allotment of any share; or option to buy any share in any company is exempt from income tax, if shares are allotted under a uniform scheme. In this regard the “value” means the excess, if any, of the market value of such share, at the time of allotment or at the time of the sale of option (to buy such share), over the price charged to the employee at the time of allotment. (By the subsequent, the “uniform scheme” requirement has been changed to a “reasonable scheme” requirement).

2.3. Emoluments of a resident employed in a Sri Lankan Ship - § 8(1)(q)

The emoluments of a resident individual employed in a Ship which is owned or chartered by an Off-shore Company registered under Companies Act. No. 07 of 2007 or a Ship deemed to be a Sri Lankan ship under a determination made under paragraph (c) of Section 30 of the Merchant Shipping Act, No. 52 of 1971, is exempt.

3. Exemption of Interests - § 9

Interest on Treasury Bond Investment External Rupee Account (TIERA) - § 9(k)

The interest income of any person from money deposited in any Treasury Bond Investment External Rupee Account is exempt from income tax.

4. Exemption of Dividends - § 10

Dividend paid by Unit Trusts or Mutual Funds - § 10(1)(b)

Dividend paid to a unit holder by any Unit Trust or Mutual Fund, out of profits (whether taxable or not), is exempt from income tax. Prior to 2007/08 dividends paid to a unit holder out of exempt profits or income of the trust or fund were liable to tax.

5. Miscellaneous Exemptions - § 13

5.1. Foreign Currency earnings from services out side Sri Lanka by a Resident Company of Partnership - § 13(b)(i)

The sub-paragraph (i) of paragraph (b) of Section 13 has been amended for inclusion within the exemption, the services related to any construction project for the year of assessment 2006/07 (only). Subsequent years are covered under § 13(dd).

5.2. Foreign currency earnings by Resident Companies, Individuals or Partnerships from services out side Sri Lanka in Construction Projects - § 13(dd)

This new paragraph 13(dd) makes provisions for exemption of profits and income earned in foreign currency by any resident company, a resident individual or any partnership from services rendered out side Sri Lanka in any construction project, if such profits and income, after deducting such amount that Commissioner-General considers as reasonable expenses, are remitted to Sri Lanka through a bank.

5.3. Profits from the Sale of Shares - § 13(t)

Exemption of profits from the sale of shares etc. when the Share Transaction Levy in relation to that transaction paid has been extended to any Unit Trust, Mutual Fund or Venture Capital Company, as well. Accordingly, effective from the year of assessment 2007/08, if the Share Transaction Levy has been paid, the exemption is now available to any person or partnership.

5.4. Interest received by a bank from loans granted to companies referred to in Section 20 or 21 - § 13(x)

An amount equal to interest payable on a loan to any bank by any undertaking referred to in Section 20 or 21 is exempt in the hand of the bank, if entire proceeds of the loan are invested in such undertaking.

As the exemption granted is on an amount equal to interest payable by the respective undertaking, the gross amount of interest is deductible.

This amendment applies effective from April 1, 2006.

6. Exemption of Profits from Agricultural Undertakings - § 16

The amendment specifies that what is exempt under this Section (during the specified period) is the profits and income within the meaning of paragraph (a) of Section 3, other than any profits and income from the disposal of any capital asset.

7. Exemption of Profits of any Company from Specified Undertaking - § 17

The Section 17 has been amended to remove an ambiguity in the interpretation. As the principal enactment is applicable generally with effect from April, 1 2006, operation requirement of the undertaking has been made to be on or after April 1, 2006. Investment criteria have been clearly specified for the period before 01-04-2002 and on or after that date.

8. Exemption of profits of new or upgraded Cinemas - § 24A

Profits and income from exhibition of any cinematographic film is exempt from income tax for 10 years if the Cinema is a new Cinema and for 05 years if the Cinema is an upgraded Cinema. The exemption period of 10 years or 05 years will reckon from the year of assessment in which such Cinema commenced to exhibit any cinematographic film. A new Cinema means a cinema which commences exhibition of cinematographic films on or after 01-04-2007 and is certified by the National Film Corporation (NFC) as being equipped with digital technology and Digital Theatre System (DTS) and Dolby Sound System (DSS). An upgraded cinema means a cinema which had commenced exhibition of cinematographic films without digital technology and DTS and DSS, prior to 01-04-2007, and is certified by the NFC that the cinema being equipped with such digital technology and DTS and DSS, on or after 01-04-2007.

9. Exemption of profits of re-opened abandoned factory - § 24B

Profits and income of any person from the operation of any re-opened abandoned factory are exempt from income tax up to the year of assessment 2010/11. Re-opened abandoned factory means, a factory which was engaged in production or manufacture of any commodity or article, but not so engaged in such production or manufacture for an unbroken period of not less than 03 years preceding to 16-11-2006, and commences production or manufacture of such commodity or article or any other commodity or article, in commercial quantities before 01-04-2008.

10. Allowable deductions in ascertaining profits and income - § 25

10.1. Depreciation allowances - § 25(1)(a)

On Ships-

An increased rate of depreciation allowance at 33 1/3% has been provided in relation to any ship acquired on or after 01-04-2007, being a ship which is owned by a company registered under Part XI of the Companies Act No. 07 of 2007 or is deemed to be a Sri Lanka ship by virtue of a determination made under paragraph (c) of Section 30 of the Merchant Shipping Act, No. 52 of 1971.

On Plant and Machinery used in Construction work –

The rate of depreciation allowance in respect of any plant or machinery acquired on or after 01-04-2007 and used in any business of carrying out construction work is fixed at 25% on the cost of acquisition.

10.2. Bad Debts and Provisions for Doubtful debts -

Specific Provisions for doubtful debts - § 25 (e), (ee), (eee)

As regards (specific) provisions for doubtful debts of any Bank, Financial Institution or any person providing similar services, the reasonable amount to be allowed as a deduction have been restricted not be more than the lesser of:

- the actual amount provided, or
- 1% of the aggregate debts remained as at the end of the period for which the profits are being ascertained.

Any disallowed part is available for deduction in the following year subject to same restriction.

No change in the deduction with regard to other persons (other than banks or financial institutions).

10.3. Tax payable under Provincial Statutes - § 25(1) (h)

Provisos to paragraph (h) of subsection (1) of Section 25 that stipulated a situation of disallowance of tax payable under a provincial statute and making assessments have been removed as the general provisions included (by this the present Act) in Section 26(4) of the principal enactment.

10.4. Traveling Expenses within Sri Lanka - § 25(1)(k)

The amendments made in the proviso to paragraph (k) of Section 25(1) are to remove the doubts in the interpretation of that paragraph in line with Section 26. The amendment is effective from April 1, 2006. However, to make it clearer, the proviso has been further revised by the next amendment.

10.5. Accreditation Expenses - § 25(1)(r)

The accreditation expense incurred by any person who carries on any profession is made allowable in ascertaining the profits and income of that person.

11. Disallowable deductions - § 26

11.1. Prescribed Taxes - § 26(1)(l)

Amendments made to paragraph (l) of Sub-section (1) of Section 26 were to make it clearer the text of that paragraph, and has no effect to the substance of the paragraph.

11.2. Interest payable by any Subsidiary Company to its Holding Company or to other Subsidiary (Thin Capitalization) - § 26(1)(x)

For the purpose of application of thin capitalization rules, a definition for “loan” has been included. Accordingly, a loan includes the collection of funds from the issue of any debt instrument.

11.3. Interest payable by any Holding Company to its Subsidiaries (Thin Capitalization) - § 26(1)(y)

Present application of thin capitalization rules on the interest payable by a Subsidiary to the Holding Company or to other Subsidiary, is extended to cover interest payable by a holding company as well to any Subsidiary on loans obtained.

11.4. Expenses incurred should have been paid within two years - § 26(4)

Now an assessment can be made, if any expense incurred is remained unpaid. However, if proved within 3 years that unpaid expenses were paid within 2 years from the end of the relevant year of assessment, such assessment can be revised.

12. Deductions in arriving at the Assessable Income - § 32

12.1. Interest Income from which Tax is deducted under Sections 134 or 135 - §32(1)(c)

The combined effect of the amendments made by the present amending Act and the Act No. 9 of 2008, in relation to interest is that,

- (i) any person other than a company is not liable to further taxation on such interest, if income tax has been deducted from such interest of that person under Section 133 or 135; or
- (ii) any individual is not liable to further taxation on interest on treasury bills etc. ,if tax has been deducted under Section 134.

12.2. Interest accruing to any person from any Rupee Treasury Bond purchased out of funds drawn from Treasury Bond Investment External Rupee Account (TIERA) - § 32(3)(d)

Interest accruing to any person from any Rupee Denominated Treasury Bond purchased out of funds drawn from any Treasury Bond Investment External Rupee Account, is not liable to further taxation (it means that the tax deducted at source is final).

12.3. Interest income of any person referred to in Section 7(b), from which Tax has been deducted under Section 133 - § 32(4)

Any person referred to in Section 7(b) is not liable to further taxation on interest on deposits, if tax has been deducted from such interests.

12.4. Interest deductible from the Total Statutory Income - § 32(5)(a)

Any part of interest disallowed under thin capitalization rule under Section 26(1)(x) or (y) is not allowed for deduction.

12.5. Losses incurred by a person - § 32(5)(b)

Losses incurred by any person from any business of life insurance on or after 01-04-2007 can not now be deducted from the total statutory income under the common basis.

Further, the requirement of producing accounts certified by an approved accountant with regard to any loss is removed.

12.6. Losses incurred in a Business of Life Insurance - § 32(5)(c)

Any loss incurred in the business of life insurance, on or after 01-04-2007, can be deducted only from profits from the same source included in the total statutory income. Any un-deducted balance can be carried forward to the immediately succeeding year of assessment and so on for the purpose of deduction on the same basis.

12.7. Losses incurred by an undertaking of which the profits and income are exempt from tax under the respective Sections of the Inland Revenue Act No. 10 of 2006 or the Act No. 38 of 2000 or the Act No. 28 of 1979 - § 32(6)

Misquotation of the paragraph 32(5)(b) in sub section (6), as 32(2)(b) has now been rectified. Accordingly, any residue of losses which could not be deducted during the exempt period is deemed to be a loss incurred in the year of assessment immediately succeeding the year of assessment in which the exempt period is over, and be deducted in the manner provided in the paragraph (b) of Section 32(5).

13. Allowance in respect of Qualifying Payments - § 34

13.1. Donations made otherwise than in money to Government etc. - § 34(2)(b)

The limitation of allowable amount to two million rupees, of any donation made otherwise than in money to any institution or fund referred to in Section 34(2) (b) has been removed.

13.2. Qualifying Payment on expenditure incurred in the production of a Film - § 34 (4)(a)(iii)

The sum deductible as qualifying payment on the expenditure incurred by an individual or a company in the production of a film, has been increased from ten million rupees to twenty five million rupees per film.

14. Deduction of income tax from interest payable on Certain Deposits - § 37

The maximum rate of tax referred to in the Section 37(2)(d)(ii) in regard to certain minor children accounts has been reduced from 15% to 10%.

15. Rate of tax on profits arising in Sri Lanka to consignors or Consignees from certain exports – § 42

The scope of the Section 42 has been widened to cover the profits and income of a Consignor or Consignee from export of **any** goods brought to Sri Lanka on a consignment basis and re-exported without any process of manufacture.

16. Rate of Income Tax on Sale of any Share or a Warrant - § 44

Specific taxation of profits including any gain on sale of any share or a right to share at the rate specified in the Fifth Schedule to the Act, (i.e. 15%) has been limited to the period commencing on 01-04-2007.

17. Rates of Income Tax on Profits from certain Undertakings carried on by a Person other than a Company - § 45

The concessionary rate provided in relation to certain specified profits has been made subject to other provisions of the Act, enabling such persons to enjoy further concessions (such as exemptions) provided under other sections.

18. Income Tax to which any Resident Company is Liable - § 61

Tax on deemed distribution of Corporate Profits - § 61(1)(b)(ii)

According to the sub-paragraph (ii) of the new paragraph (b) introduced by the amendment, if a company has not distributed dividends on or before 30th September of any year of assessment, an amount not less than 25% of the distributable profits of the company for immediately preceding year of assessment, a tax is payable at 15% on the

difference between the amount of dividend already declared and the amount equal to 33 1/3% of the distributable profits of the previous year. Accordingly, for the year of assessment 2007/08, if any company has distributed not later than 30 September 2007, dividends aggregating to less than 25% out of the distributable profits of such company for the year of assessment 2006/07, such company is liable to pay tax at 15% on the difference between 33 1/3% of such distributable profits for 2006/07 and the dividends distributed out of distributable profits for 2006/07, on or before September 30, 2007. However, this provision is not applicable to any Unit Trust or Mutual Fund or any company enjoying a tax holiday under a BOI Agreement during the respective year.

Distributable Profits - For the purpose of this section, the distributable profits means:

Book Profit for the year of assessment concerned

Less: the aggregate of

- *Income Tax payable by the company for the year of assessment;*
- *Cost incurred by the company in acquisition of any land or any other capital asset during the year of assessment;*
- *Any notional profits included in the Book profits (on revaluation of assets etc.)*

Add:

- *Amounts charged as Depreciation on the capital assets acquired during the year in arriving at the book profit*
- *Any notional loss deducted in arriving at the book profit (on revaluation of assets etc.)*

19. Dividends not forming part of the Assessable Income of the receiving Company - § 63

Dividends declared by Quoted Public Company have been referred to in the Section 63. Accordingly, dividend declared by a QPC in any situation does not form a part of Total Statutory Income of the recipient company.

20. Requirement of resident companies pay tax under Section 61 and to deduct Tax from Dividends under Section 65

Every resident company is required to pay a tax under Section 61(1)(b)(i) at 10% on the gross dividends distributed, and to deduct tax under Section 65(1) at 10% from the gross dividends distributed in the form of money or an order to pay money. But the following dividends are not subject to aforesaid requirements:

- ◆ any dividend distributed to any person exempt from tax under Section 7(a) or (c);
- ◆ any dividend distributed by or to, any Unit Trust or Mutual Fund;
- ◆ any dividend distributed to any shareholder exempt from tax on that dividend under Section 10;
- ◆ any dividend distributed out of any dividend received from another resident company.

If tax is distributed under Section 61(1), such tax is final in relation to any person other than any company.

If the distribution is made not in the form of money or an order to pay money, then the rate applicable on such dividend is 10% and tax credit is available.

21. Certain undistributed Profits to be treated as distributed - § 66

Where an Assessor assesses any company on the deemed distribution of profits under Section 66, a credit for tax paid for the respective year under Section 61(1) (b) (ii) should be allowed.

22. Unit Trusts and Mutual Funds - § 75

Tax rate applicable to a Unit Trust or Mutual Fund whether its taxable income consists of profits from dealing in debt instruments or any other, is 10% now.

23. Tax on Partnerships - § 78

10% tax on the divisible profits and other income of a partnership is now applicable on the excess of such profits or income over Rs. 600,000.

Further, the references made to the Finance Act, No. 11 of 2004 in the principal enactment have been replaced by the Economic Service Charge Act, No. 13 of 2006, in relevant places. This amendment is effective from April 1, 2006.

24. Taxation of deemed profits of Non-Governmental Organizations - § 102

Provisions relating to Non-Governmental Organizations have been slightly modified effective from 01-04- 2006.

24.1. Non-Governmental Organization - § 102(2)

A Non-Governmental Organization accordingly means, any organization or association, whether corporate or unincorporated, formed by a person or a group of persons on a voluntary basis and which is non-governmental in nature, dependent on money received in the manner referred to in subsection (1) of Section 102 and established and constituted for the provision or relief and services of a humanitarian nature to the poor and destitute, the sick, orphans, widows, youth, children or generally for the provision of relief to the needy, unless such organization or association is determined by the Commissioner-General not to be a non-governmental organization for the purposes of section 102, but does include any approved charity within the meaning of paragraph (a) of subsection (8) of section 34, in respect of which any remission or reduction has been granted under subsection (3) of Section 35. This amendment is effective from 01-04-2006.

24.2. Tax Rate for Profits and Income of Non-Governmental Organization - § 102(3)

The deemed profits and Income of a Non-Governmental Organization are chargeable to income tax at 30% subject to the provisions of paragraph (e) of Section 7.

Reduction or Remission of Tax payable by a Non-Governmental Organization –

Commissioner-General may reduce or remit the tax payable by any non-governmental organization for any year of assessment, if it appears to him that such reduction is just and equitable in all the circumstances of the case, if Commissioner –General is satisfied that such Non-Governmental Organization is engaged in:

- (a) rehabilitation and the provision of infrastructure facilities and livelihood support to displaced persons in any area identified by the Government for the purposes of such rehabilitation and provision; or
- (b) any other activity approved by the Minister as being of humanitarian in nature, taking into consideration the nature and gravity of any disaster and the magnitude of relief required to be provided consequently.

A guideline has been issued in this regard.

25. Returns and Information to be furnished - § 106

Certain individuals have a facility of non-furnishing returns, if such individual's sources of income consist only of employment income not exceeding Rs. 420,000 and interest from which tax has been deducted under Section 133. Now this facility has, been extended to those have in addition any interest from which tax has been deducted under Section 134 or 135, as well.

Also the date of payment referred to in has been made in order, changing from "November 30" to "September 30."

26. Power of Commissioner-General to impose penalty for failure to furnish Return - § 112

Paragraph (e) of sub-section (1) introduced to Section 112 provides that a precedent partner of a partnership too, is liable to be imposed a penalty by the Commissioner-General, in the case of non-submission of the Return of Income of a Partnership [required to be submitted under Section 76(3)].

27. Payment of Tax by Self-Assessment - § 113

The last date for payment of 15% tax on the excess of 1/3rd of distributable profits of the previous year, over the actual amount distributed, in case the required sum has not been distributed (under Section 61(1)(b)(ii)), has been specified as May 15 of the following year. (However, by the Act No. 09 of 2008 that date has been fixed for 30th September of the same year of Assessment.)

28. Banks and Financial Institutions to deduct Income Tax - § 133

Section 133 of the principal enactment has been replaced by a new section 133.

28.1. Interest paid to any Partnership, Company or Body of Persons other than Charitable Institution – § 133(4)(a)

The Withholding Tax rate is 10%.

28.2. Charitable Institutions – § 133(4)(b)

The Withholding Tax rate applicable is 10%, if the assessable income exceeds Rs. 300,000. However, if the assessable income does not exceed Rs. 300,000 and a declaration has been made to the Bank in writing to that effect no withholding tax will be deducted by the Bank.

Tax will be deducted at 10%, if no declaration has been made.

28.3. Individuals – § 133 (4)(c)

In the case of an individual, if a declaration is made in writing to the branch of the bank to the effect that the:

- Assessable income of such individual does not exceed Rs. 300,000, then no Withholding Tax will be deducted by the bank
- Assessable income exceeds Rs. 300,000 but does not exceed Rs. 600,000, then the WHT will be deducted at 2 ½%

In the case where such individual has declared that the assessable income exceeds Rs. 600,000 or not tendered a declaration to the bank then tax will be deducted at 10%.

28.4. Exemptions from Tax deduction – § 133(3)

The following interests are not subject to tax deduction by the bank or financial institution:

Any interest -

- the recipient is a Foreign Government;
- the recipient is the Consolidated Fund of the Government of Sri Lanka;
- the recipient is any provincial fund or any Provincial Council;
- exempt from income tax under the Inland Revenue Act;
- tax from which deductible under Sections 37 or 96;
- accruing to any one savings account maintained by a charitable institution or an individual, and such interest is less than Rs. 5000 per month. - § 133(4)(c)

28.5. Directions to Banks or Financial Institutions - § 133 (8)

In the case of a recipient of interest in any year of assessment has reasons to believe that income tax payable by him for that year of assessment (where such interest forms part of assessable income for that year, or computed by him for that year of assessment, as if the tax deductible interest formed part of assessable income) is less

than the income tax deductible by the Bank or Financial Institution from the interest for that year of assessment, such recipient may request the Commissioner-General that the Bank or Financial Institution be directed to adjust, as so directed, the deduction requirement.

29. Deducting Tax from Interest on Securities, Treasury Bonds etc. - § 134

- 29.1.** The existing Section has been re-numbered as subsection (1) of the Section 134 of the principal enactment, and a new subsection (2) has been added.
- 29.2.** The new sub-section (2) introduced to define the excess of the face value of the bill or security over the price paid as interest.

30. A Notional Tax Credit on Secondary Market Transactions - § 137

Tax deducted form Interest accruing to any person on corporate debt security dealing in primary market or secondary market - § 137(2)

Where any person is engaged in any primary market transaction or any secondary market transaction involving any corporate debt security issued by or on behalf of any company, from which income tax has been deducted under Section 135, at the rate of 10% at the time of the interest is paid or credited or the discount is allowed on such security, such person is entitled to a notional tax credit at 10% of the grossed up amount of interest income from such transaction, to an amount of 1/9th of the same, if such interest income forms part of the statutory income of such person being a company or the assessable income of such person being a person other than a company, for that year of assessment.

31. Excess notional tax credit over the tax paid- § 138

Excess over the notional tax credit to be carried forward - § 138(2)

Excess notional tax credit can not be refunded, but can be carried forward to be set off against the liabilities of the following year; and so on.

32. Issue of Directions where deductions are made under Sections 133 or 135 - § 139

In the Section 139 of principal enactment, the reference to Section 136 has been replaced with the relevant reference to Section 135.

33. Specified Persons to deduct Income Tax from Specified Fees - § 153

The rate of withholding tax on fees in respect of any construction work is fixed at 1%.

The definition of the term “specified fee” has been expanded by the inclusion therein a payment made for the supply of any article on a contractual basis through a tender or quotation or other form, as well.

This amendment is effective from April 1, 2006.

34. Members of the Board of Review - § 166

The maximum number of members to the Board of Review has been increased from 20 to 30.

35. Tax in Default and sums added thereto - § 173

35.1. In paragraph (A) of the proviso to Section 173(3), the reference to the paragraph (c) of sub-section (1) of Section 61 has been removed.

35.2. Paragraph (C) of the proviso to that sub-section (3) has been renamed as paragraph (iii) of proviso and a new paragraph (iv) has been added.

The new paragraph (iv) provides that the Commissioner-General is required to waive the penalty accrued on the tax for any year of assessment ending on or before March 31, 2005, and which remained unpaid as at October 1, 2005, if the entirety of such tax is paid in accordance with a scheme agreed to on or before December 31, 2007, with him in that behalf, within a period of not more than three years succeeding the date of such agreement.

However, where any such scheme so agreed to is not adhered to, the Commissioner-General shall, notwithstanding the provisions of the sub-paragraph (iii) of sub-section (3), not reduce or waive such penalty.

36. Tax to include fines etc. - § 175

36.1. An omission has been rectified by the insertion of new paragraph (bb) to include taxes imposed under Inland Revenue Act No. 38 of 2000, within the scope of Section 175.

36.2. By amending the paragraph (d) of the principal enactment, quarterly instalment of income tax referred to in Section 165 of the Inland Revenue Act, No. 38 of 2000 has also brought under the coverage of Section 175 of the principal enactment.

37. Refunds - § 200

37.1. The misquotation in subsection (7) of the section corresponds to the exemption has been rectified by the substitution of “Section 7” for “Section 8”.

37.2. Section 200(8) has been amended to reiterate that tax deducted at source on interests or discounts from treasury bills etc. not forming part of Assessable income, can not be refunded.

38. Admissibility of Statements and Documents in Evidence - § 207

In the principal enactment reference was given only to statements made or documents produced to Commissioner-General, Commissioner, Deputy Commissioner, and Assessor. By this amendment the officials covered expanded by the inclusion of newly created ranks, viz. Senior Deputy Commissioner-General, Deputy Commissioner-General, Senior Commissioner.

39. Officers - § 208

Senior Assessor or Assessor to act with the written approval of the superior - § 208(4)

Section 208(4) of the principal enactment requires that a written approval of a Commissioner or Deputy Commissioner of Inland Revenue to exercise, perform or discharge any power, duty or function conferred, or imposed or assigned to Senior Assessor or Assessor. This approval should be obtained, on a case by case basis on all the instances, by the Deputy Commissioner or by or under the authority of the Commissioner-General.

However, by the subsequent amending Act (Act No. 9 of 2008), the above requirement of obtaining written approval has been narrowed down by limiting it to instances of making assessments and making adjustments under appeals.

40. Applicability of the Inland Revenue Act, No. 28 of 1979 and the Inland Revenue Act, No. 38 of 2000 - § 218

Effective dates of amendments: 01-04-2006

- 40.1.** Section 218(2) of the principal enactment has been amended to rectify the date referred to in, and to include reference to Inland Revenue Act, No. 28 of 1979. Accordingly, any remaining tax exemption period as at 31-03-2006 will continue either under 1979 Act, or 2000 Act, as applicable.
- 40.2.** Sub-section (5) of the Section 218 has been replaced by a new section, and accordingly, the repayment of loans or monthly payments under rent purchase agreements on or after April 1, 2006 to the Government, or to any institution referred to in Section 31(2)(ee) of the Inland Revenue Act, No. 28 of 1979, or expenditure incurred prior to April 1, 2006, referred to in Section 31(2)(i) of the Inland Revenue Act, No. 38 of 2000 (qualifying payments), any part of which apportioned to any year of assessment commencing on or after April 1, 2006, will continue to be deductible from the assessable income of any year of assessment commencing on or after April 1, 2006.
- 40.3.** Sub-section (6) of the Section 218 has been replaced by a new section. Accordingly, where any capital asset was acquired or qualified building was constructed, as the case may be, prior to April 1, 2000 or in between April 1, 2000 and April 1, 2006, the allowance for depreciation could be computed in accordance with the relevant provisions in the Inland Revenue Act, No. 28 of 1979 or Inland Revenue Act, No. 38 of 2000.

41. The First Schedule

The Part IV of the First Schedule has been replaced and also a new part, Part V has been added, to provide for further relieves in the taxation of terminal benefits:

Part IV

The rates of income tax applicable to profits from employment specified in sub-section (2) of Section 35 (uniform scheme terminal benefits.)

- (a) For the year of assessment commencing on April 1, 2006 –

Where the period of contribution or the period of service, as the case may be, in relation to the excess referred to in sub-section (2) of Section 35 (other than any sum referred to in the proviso to that sub-section) is less than 20 years.

On the first Rs. 1,000,000 of the sum received Nil

Where the period of contribution or the period of service, as the case may be, in relation to the excess referred to in sub-section (2) of Section 35 (other than any sum referred to in the proviso to that sub-section) is not less than 20 years.

On the first Rs. 2,000,000 of the sum received	Nil
On the next 500,000	5 percent
On the next 500,000	10 percent
On the balance	15 percent

- (b) For any year of assessment commencing on or after April 1, 2007 –

Where the period of contribution or the period of service, as the case may be, in relation to the excess referred to in sub-section (2) of Section 35 (other than any sum referred to in the proviso to that sub-section) is less than 20 years.

On the first Rs. 2,000,000	Nil
On the next Rs. 1,000,000	5 per centum
On the balance	10 per centum

Where the period of contribution or the period of service, as the case may be, in relation to the excess referred to in sub-section (2) of Section 35 (other than any sum referred to in the proviso to that sub-section) is not less than 20 years.

On the first Rs. 5,000,000	Nil
On the next Rs. 1,000,000	5 per centum
On the balance	10 per centum

Part V

[Non-uniform scheme compensation for loss of office or employment]

The rate of income tax applicable to any sum referred to in the proviso to sub-section (2) of Section 35	As per Part – I, but subject to a maximum of 20 per centum.
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42. The Second Schedule

The Second Schedule to the Act has been replaced by the following.

SECOND SCHEDULE [§ 61 & § 75]

Rates of Income Tax – Companies

PART – A

1. Any Venture Capital Company – on the Taxable Income for every year of assessment commencing on or after April 1, 2006 20 per centum
2. Any Unit Trust or Mutual Fund –
 - (a) For the year of assessment commencing on April 1, 2006 –
 - (i) On such part of the Taxable Income as is referred to in sub-section (4) of Section 75 10 per centum
 - (ii) On the balance part of the Taxable Income 20 per centum
 - (b) For any year of assessment commencing on or after April 1, 2007 –
On the Taxable Income 10 per centum

PART – B

1. (a) For the year of assessment commencing on April 1, 2006 –

Any company other than a company referred to in PART – A and of which the Taxable Income does not exceed Rs. 5,000,000. 15 per centum

(b) For the year of assessment commencing on or after April 1, 2007 -
Any company –

- (A) (i) of which the Taxable Income does not exceed Rs. 5,000,000 ;
(ii) Which is not a company referred to in PART – A ; and

(B) which is not the holding company, a subsidiary company, or an associate company of a group of companies.

On the Taxable Income

15 per centum

For the purpose of item (B), the expressions “holding company”, and “subsidiary company”, have the same respective meanings, which they have in the Companies Act No. 7 of 2007.

2. Any company for the year of assessment in which its shares are first quoted in any official list published by a stock exchange licensed by the Securities and Exchange Commission of Sri Lanka, (hereinafter referred to as the “first year of assessment”) and for each year of assessment within the period of four years immediately succeeding the first year of assessment, for which the Taxable Income exceeds Rs. 5,000,000 –

On the Taxable Income for that year of assessment

33 1/3 per centum

Provided that where such first year of assessment is any year of assessment which commences prior to April 1, 2006, the rate of 33 1/3 *per centum* shall apply in relation to any year of assessment which falls within such period of four years, but which commences on or after April 1, 2006.

3. Any company other than any company hereinbefore referred to in this Schedule, for any year of assessment –

On the Taxable Income for that year of assessment

35 per centum

Marginal Relief

4. Where the Taxable Income of any company for any year of assessment exceeds five million rupees, then such part of the tax (computed in accordance with this Act), payable by such company for such year of assessment as is attributable to such excess, shall not be more than such excess.