



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

INLAND REVENUE
(AMENDMENT)
ACT, No. 27 OF 1995

[Certified on 22nd November, 1995]

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Inland Revenue (Amendment)

Act, No. 27 of 1995

[Certified on 22nd November, 1995]

L.D.—O. 17/95

AN ACT TO AMEND THE INLAND REVENUE ACT, No. 28 OF 1979

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Inland Revenue (Amendment) Act, No. 27 of 1995.

Short title.

2. Section 9 of the Inland Revenue Act, No. 28 of 1979 (hereinafter referred to as the "principal enactment") is hereby amended in paragraph (bb) of subsection (1) of that section as follows:—

Amendment of section 9 of Act No. 28 of 1979.

(1) by the substitution, for the words and figures "the official emoluments, of any person, or any profits from employment referred to in paragraph (c) of section 4 (1), paid to—", of the words and figures "the official emoluments or any profits from employment referred to in paragraph (c) of subsection (1) of section 4, paid to—";

(2) by the repeal of sub-paragraph (i) of that paragraph and the substitution, therefor of the following sub-paragraph:—

"(i) any individual who holds any paid office under the Republic, out of the Consolidated Fund;";

(3) by the addition, immediately after sub-paragraph (ix) of that paragraph, of the following sub-paragraph:—

"(x) a member or employee of any board or commission of inquiry established by or under any law being a board or commission all the members of which are appointed by the President or by a Minister."

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

Amendment of section 11 of the principal enactment.

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

'(aa) any dividend paid by a flagship company (with which an agreement has been entered into by the Board of Investment of Sri Lanka) to any shareholder during the

period for which the profits and income of that company are exempt from income tax under the terms of that agreement or within one year thereafter out of the profits and income of such company which are exempt from income tax.

In this paragraph, "flagship company" means any company which has entered into an agreement with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978 and which has, in accordance with such agreement, invested in Sri Lanka, within the period specified in such agreement, not less than fifty million United State of America Dollars or its equivalent in any other foreign currency—

(a) in the purchase or construction of any building or in the purchase of any land, plant, machinery or furniture; and

(b) in the acquisition of any asset not included in paragraph (a),

for the use of the undertaking carried on by the company;';

(2) in paragraph (b) of that section by the substitution for the figures "17D, 18", of the figures "17D, 17J, 18".

**Insertion of
new section
17J in the
principal
enactment.**

4. The following new section is hereby inserted immediately after section 17H, and shall have effect as section 17J of the principal enactment:—

'Exemption from income tax of the profits and income of an industrial undertaking carried on by a company utilizing advanced technology.

17J. (1) The profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of capital assets) of any company referred to in subsection (2) shall be exempt from income tax for a period of five years from the commencement of the year of assessment in which such company commenced to carry on business.

(2) The provisions of subsection (1) shall apply to any company which—

(a) is incorporated on or after April 1, 1995;

- (b) is approved by the Minister to be a company to which this section applies by Order published in the Gazette on or before March 31, 1997, on an application in writing in that behalf made on or before September 30, 1996 ;
- (c) is engaged only in carrying on any industrial undertaking —
- (i) for the production or manufacture of any goods or commodities ; or
 - (ii) for the provision of any service, utilizing advanced technology ;
- (d) has before the expiry of a period of two years from the date of its incorporation, invested not less than ten million rupees, in the purchase, for the use of the undertaking carried on by the company, of any plant, machinery, fixtures or equipment ;
- (e) employs as at a date not later than a period of six months from the date on which it commences to carry on business and continues to employ until the expiry of the period of five years referred to in subsection (1) not less than fifty employees other than directors of such company ; and
- (f) is not formed by the splitting up, reconstruction or acquisition of any business which was previously in existence.

For the purposes of paragraph (e) of this subsection the word "employee" has the same meaning assigned to it in subsection (2) of section 16D. '

Amendment
of section 22E
of the
principal
enactment.

5. Section 22E of the principal enactment is hereby amended as follows:—

(1) in paragraph (a) of that section, by the substitution for the words and figures "section 17D or section 20 or section 22c", of the words and figures "section 17D or section 17J or section 20 or section 17J, 20".

(2) in the marginal note to that section by the substitution for the figures "17D, 20", of the figures "17D, 17J, 20".

Amendment
of section 29
of the
principal
enactment.

6. Section 29 of the principal enactment is hereby amended in paragraph (a) of subsection (3) of that section by the substitution for the words and figures "section 17G, or section 17H, or section 22A," of the words and figures "section 17G, or section 17H, or section 17J, or section 22A.

Amendment
of section 30
of the
principal
enactment.

7. Section 30 of the principal enactment is hereby amended as follows:—

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

(a) by the substitution, in paragraph (aaaa) of that section, for the words and figures "any year of assessment commencing on or after April 1, 1992, and", of the words and figures "any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1995;"

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

' (aaaaaa) an allowance of sixty thousand rupees in respect of any year of assessment commencing on or after April 1, 1995, and "; and

(c) by the substitution, in the proviso to that subsection, for the words "or paragraph (aaaa) or paragraph (aaaaa) in ascertaining", of the words "or paragraph (aaaa) or paragraph (aaaaa) or paragraph (aaaaaa) in ascertaining";

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

(a) in the first proviso to that subsection—

(i) by the substitution, in paragraph (f) of that proviso, for the words and figures "any year of assessment commencing

on or after April 1, 1992:”, of the words and figures “any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1995;”;

(ii) by the insertion, immediately after paragraph (f) of that proviso, of the following paragraph:—

“(g) an allowance of sixty thousand rupees in respect of any year of assessment commencing on or after April 1, 1995:”;

(b) in the second proviso to that subsection—

(i) by the substitution, in sub-paragraph (i) of that proviso, for the words and figures “an year of assessment commencing on or after April 1, 1987, but prior to April 1, 1992; and”, of the words and figures “an year of assessment commencing on or after April 1, 1987, but prior to April 1, 1992;

(ii) by the substitution in sub-paragraph (ii) of that proviso, for the words and figures “an year of assessment commencing on or after April 1, 1992:”, of the words and figures “an year of assessment commencing on or after April 1, 1992, but prior to April 1, 1995; and ”; and

(iii) by the addition, immediately after sub-paragraph (ii) of that proviso of the following sub-paragraph:—

“(iii) sixty thousand rupees, where such year of assessment is an year of assessment commencing on or after April 1, 1995:”.

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

(1) in the proviso to subsection (1) of that section—

(a) by the substitution, in subparagraph (iv) of that proviso, for the words and figures “for any year of assessment commencing on or

Amendment
of section 32
of the
principal
enactment.

after April 1, 1986, but prior to April 1, 1992; and", of the words and figures "for any year of assessment commencing on or after April 1, 1986 but prior to April 1, 1992;"

(b) by the substitution, in sub-paragraph (v) of that proviso for the words and figures "for any year of assessment commencing on or after April 1, 1992," of the words and figures "for any year of assessment commencing on or after April 1, 1992, but prior to April 1, 1995; and"; and

(c) by the addition, immediately after sub-paragraph (v) of that proviso, of the following sub-paragraph:—

" (vi) sixty thousand rupees, for any year of assessment commencing on or after April 1, 1995";

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

(a) by the substitution, in paragraph (vi) of that subsection, for the words and figures "any year of assessment commencing on or after April 1, 1988;", of the words and figures "any year of assessment commencing on or after April 1, 1988, but prior to April 1, 1992; or";

(b) by the addition, immediately after paragraph (vi) of that subsection, of the following paragraph:—

" (vii) Part 11E of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1992, but prior to April 1, 1994; or

(viii) Part 11F of the First Schedule to this Act in respect of any year of assessment commencing on or after April 1, 1994: "

Amendment
of section 32cc
of the
principal
enactment.

9. Section 32cc of the principal enactment is hereby amended by the substitution for the words "be chargeable with income tax at the rate of fifteen per centum." of the following:—

"be chargeable with income tax at the rate of fifteen per centum:

Provided that where such person in Sri Lanka is a flagship company within the meaning of paragraph (aa) of section 11 such royalty shall be chargeable with income tax at the rate of ten per centum."

10. Section 32EE of the principal enactment is hereby amended in paragraph (a) of that section as follows:—

Amendment
of section
32EE of the
principal
enactment.

(1) by the substitution, in sub-paragraph (ii) of that paragraph, for the words and figures "any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1994, and", of the words and figures "any year of assessment commencing on or after April 1, 1992 but prior to April 1, 1993,";
and

(2) by the repeal of sub-paragraph (iii) of that paragraph.

11. The following new section is hereby inserted, immediately after section 32EE of the principal enactment, and shall have effect as section 32EEE of the principal enactment:—

Insertion of
new section
32EEE in the
principal
enactment.

'Tax
credit
against tax
on
profits from
employment
for any
year of
assessment
commencing
on or after
April 1, 1993.

32EEE. (1) There shall be deducted from the income tax payable for any year of assessment commencing on or after April 1, 1993, by any individual not being an individual to whom the provisions of sub-section (7) of section 67 apply, whose assessable income for that year of assessment includes profits from employment, an amount ascertained in accordance with the succeeding provisions of this section—

(a) where such year of assessment is the year of assessment commencing on April 1, 1993, and where for that year of assessment the amount of the relevant profits from employment of such individual—

(i) does not exceed one hundred and forty-four thousand rupees, an amount equal to—

twenty-five thousand six hundred and fifty rupees, or

the amount of income tax which is attributable to

the relevant profits from
employment of such
individual for that year
of assessment.

whichever is less ;

- (ii) exceeds one hundred and forty-four thousand rupees an amount equal to—

one thousand eight hundred
rupees, or

the amount of income tax
which is attributable to
the relevant profits
from employment of
such individual for that
year of assessment,

whichever is less ;

- (b) where such year of assessment is the year of assessment commencing on April 1, 1994, and where for that year of assessment the amount of the relevant profits from employment of such employee—

- (i) does not exceed one hundred and forty four thousand rupees, an amount equal to—

twenty-one thousand nine
hundred and fifty rupees,
or

the amount of income tax
which is attributable to
the relevant profits
from employment of
such individual for that
year of assessment,

whichever is less ;

- (ii) exceeds one hundred and forty-four thousand rupees but does not exceed one hundred and eighty thousand rupees, an amount equal to—

seventeen thousand nine hundred and eighteen rupees reduced by thirty-two and four-fifth *per centum* of the excess of the relevant profits from employment of such individual for that year of assessment over one hundred and forty-four thousand rupees ; or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment,

whichever is less ;

(iii) exceeds one hundred and eighty thousand rupees, an amount equal to—

six thousand rupees ; or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment,

whichever is less ;

(c) where such year of assessment is any year of assessment commencing on or after April 1, 1995, and where for that year of assessment the amount of the relevant profits from employment of such individual—

(i) does not exceed one hundred and forty-four thousand rupees, an amount equal to—

fifteen thousand seven hundred rupees, or

the amount of income tax which is attributable to the relevant profits from

employment of that
individual for that year
of assessment,

whichever is less ;

(ii) exceeds one hundred and forty-four thousand rupees but does not exceed one hundred and seventy thousand four hundred rupees, an amount equal to—

twelve thousand two hundred and forty-four rupees reduced by thirty-five *per centum* of the excess of the relevant profits from employment of such individual for that year of assessment over one hundred and forty-four thousand rupees, or

the amount of income tax which is attributable to the relevant profits from employment of that individual for that year assessment,

whichever is less ;

(iii) exceeds one hundred and seventy thousand four hundred rupees, an amount equal to—

three thousand rupees, or
the amount of income tax which is attributable to the relevant profits from employment of that individual for that year of assessment.

whichever is less,

(2) For the purposes of this section--

(a) "the relevant profits from employment" in relation to any individual and to any year of assessment means the profits from employment

of such individual for such year of assessment after deducting therefrom the aggregate of—

- (i) such part, if any, of such profits as is chargeable with income tax at the rates specified in Part IV of the First Schedule to this Act; and
 - (ii) such part, if any, of such profits as is chargeable with income tax in accordance with the provisions of subsection (3) of section 32, as provided for under the proviso to subsection (2) of section 32;
- (b) “the amount of income tax which is attributable to the relevant profits from employment” in relation to any individual and to any year of assessment means the sum which bears to the relevant income tax payable by that individual for that year of assessment, the same proportion as the proportion which the relevant profits from employment of that individual for that year of assessment bears to the relevant assessable income of that individual for that year of assessment;
- (c) “relevant income tax” in relation to any individual and to any year of assessment, means the income tax payable by that individual for that year of assessment before granting any relief, whether under this section or any other section, of this Act and after deducting therefrom the income tax, in respect of the profits from employment referred to in sub-paragraphs (i) and (ii) of paragraph (a) of this section;
- (d) relevant assessable income” in relation to any individual and to any year of assessment, means—

the assessable income of that individual for that year of assessment after deducting therefrom the aggregate amount of profits referred to in subparagraphs (i) and (ii) of paragraph (a) of this subsection, or

an amount equal to the relevant profits from employment of such individual for that year of assessment,

whichever is more.

**Amendment
of section
32M
of the
principal
enactment.**

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

- (i) in paragraph (b) of subsection (1) of that section, by the substitution for the words “the production or manufacture by such specified undertaking”, of the words “the production, manufacture or packaging by such specified undertaking”;
- (2) by the repeal of paragraph (a) of subsection (4) of that section, and the substitution therefor, of the following paragraph:—

“(a) is made during the period for which—

- (i) the taxable income of the person who, or of any partner of a partnership which, carried on the specified undertaking referred to in subsection (1) is chargeable with income tax in accordance with the provisions of this Chapter; or

- (ii) the export profits and income of the specified undertaking referred to in subsection (1) are exempt from income tax, under paragraph (b) of subsection (1) of section 20 or in terms of an agreement entered into by such specified undertaking with the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law, No. 4 of 1978, and,”.

13. Section 33A of the principal enactment is hereby amended in paragraph (i) of subsection (2) of that section by the substitution for the words and figures "section 33(1) and", of the words and figures "section 33(1) (a), and".

Amendment
of section
33A
of the
principal
enactment.

14. Section 67 of the principal enactment is hereby amended in subsection (7) of that section by the substitution for the words "date on which he commences employment in Sri Lanka." of the following:—

Amendment
of section
67 of the
principal
enactment.

"date on which he commences employment in Sri Lanka:

Provided that where such individual is an individual employed in a flagship company within the meaning of paragraph (aa) of section 11, such individual shall be deemed to be non-resident for a period of five years calculated from the date on which he commences employment in Sri Lanka."

15. Section 73 of the principal enactment is hereby amended in subsection (1A) of that section as follows:—

Amendment
of section
73
of the
principal
enactment.

(1) in paragraph (v) of that subsection, by the substitution for the words and figures "commencing on or after April 1, 1992," of the words and figures "commencing on or after April 1, 1992, but prior to April 1, 1995; and"; and

(2) by the addition, immediately after paragraph (v) of that subsection, of the following paragraph:—

"(vi) sixty thousand rupees, for any year of assessment commencing on or after April 1, 1995,".

16. Section 99 of the principal enactment is hereby amended by the repeal of subsection (1) of that section, and the substitution therefor, of the following subsection:—

Amendment
of section 99
of the
principal
enactment.

(1) Every employer who employs—

(a) an individual who receives remuneration in excess of five thousand rupees per mensem or sixty thousand rupees per annum; or

(b) any non-resident individual receiving remuneration for services rendered in Sri Lanka in excess of eighty five rupees per mensem or one thousand rupees per annum; and

who has not given notice to the Commissioner-General under sub-section (1) of section 107c of the Inland Revenue Act, No. 4 of 1963 or under this Chapter of this Act, shall give notice to the Commissioner-General not later than December 31, 1995, that he has in his employ such individual (hereinafter in this Chapter referred to as a "specified employee").'

Insertion of
new section
112A in the
principal
enactment.

17. The following new section is hereby inserted immediately after section 112 of the principal enactment and shall have effect as section 112A of that enactment:—

"Special provisions for refund by the employer, of taxes deducted from the remuneration of certain employees for the year of assessment commencing on April 1, 1993.

112A. (1) Where the aggregate amount of such part of remuneration being the relevant profits from employment (within the meaning of subsection (2) of section 32EEE) of any specified employee for the year of assessment commencing on April 1, 1993 does not exceed one hundred and forty-four thousand rupees it shall be lawful for the employer of such employee to refund to such employee the income tax deducted by such employer in accordance with the provisions of this Chapter for that year of assessment from such part of such remuneration of such employee and remitted to the Commissioner-General.

(2) Where an employer has refunded income tax to any employee under the provisions of subsection (1), such employer shall be entitled to—

(a) set off the amount so refunded or any part thereof, against any subsequent remittance required to be made by him in respect of any pay period ; and

(b) a refund of the excess, if any, of the amount so refunded over the total of the sums set off under the provisions of paragraph (a). if a claim is made in writing in that behalf to the Commissioner-General, not later than March 31, 1997.

(3) The Commissioner-General may, for the purpose of permitting the set off or granting the refund under subsection (2), require such employer to produce proof of the refund of the income tax referred to in subsection (1).

(4) Where an employer has set off, under the provisions of paragraph (a) of subsection (2), any income tax referred to in subsection (1) against any subsequent remittance required to be made by him, the provisions of subsection (1) of section 107 and subsection (1) of section 108 shall not be applicable to such employer in respect of the tax so set-off.

(5) Where a specified employee has received a refund under subsection (1), such employee shall not be entitled—

(a) to a set-off under section 111, of the amount of income tax deducted under this Chapter and refunded to him under subsection (1); or

(b) to a refund under section 149, of such amount.”.

18. Section 113M of the principal enactment is hereby amended as follows:—

(1) in subsection (1) of that section by the substitution for the words “any income tax otherwise payable by such employer.” of the following:—

“any income tax otherwise payable by such employer :

Provided, however, that for any year of assessment commencing on or after April 1, 1994, if the aggregate of the official emoluments of such employee for that year of assessment does not exceed one hundred and forty-four thousand rupees no income tax in respect of such emoluments of such employee shall be payable by such employer for that year of assessment.”; and

Amendment
of section
113M in
the principal
enactment.

- (2) in subsection (2) of that section, by the substitution for the words and figures "section 99, section 102", of the words and figures "section 99, section 100, section 102".

**Amendment
of section
113R of the
principal
enactment.**

19. Section 113R of the principal enactment is hereby amended as follows:—

- (1) in paragraph (b) of that section—

(a) by the substitution, for the words and figures "for any year of assessment commencing on or after April 1, 1994, the excess of—", of the words and figures "for the year of assessment commencing on April 1, 1994, the excess of—"; and

(b) in sub-paragraph (ii) of that paragraph, by the substitution for the words "six thousand rupees." of the words "six thousand rupees;"

- (2) by the addition, immediately after paragraph (b) of that section, of the following paragraph:—

" (c) for any year of assessment commencing on or after April 1, 1995, the excess of—

(i) the income tax computed at the rates specified in Part 11F of the First Schedule to this Act on such emoluments of such employee after deducting therefrom a sum of sixty thousand rupees, over

(ii) three thousand rupees."

**Amendment
of section
163 of the
principal
enactment.**

20. Section 163 of the principal enactment is hereby amended in paragraph (B) of the definition of "qualifying distribution" as follows:—

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

" (i) if taxable for that year of assessment, would be taxed at the appropriate rate specified in—

(a) the Second Schedule to this Act, as the rate applicable to companies of that class; or

- (b) any regulation made by the Board of Investment of Sri Lanka under the Board of Investment of Sri Lanka Law, No. 4 of 1978, and published in the Gazette as being applicable to any company which has entered into an agreement with such Board under section 17 of such Law, or”;
- (2) in sub-paragraph (ii) of that paragraph, by the substitution for the words and figures “section 32H or of section 32K.”, of the words and figures “section 32H, or of section 32K or of section 32M,”.
- (3) in sub-paragraph (a) of that paragraph—
- (i) in item (iii) of that sub-paragraph by the substitution for the words “dividend received by such company; or”, of the words “dividend received by such company;”;
- (ii) by the insertion, immediately after item (iii) of that sub-paragraph, of the following item :—
- “ (iv) profits and income on which tax payable under paragraph (a) of sub-section (1) of section 33 does not exceed the amount of any tax credit referred to in section 82 for any tax paid outside Sri Lanka on such profits and income or,”.

21. The Seventh Schedule to the principal enactment is hereby repealed and the following Schedule substituted therefor :—

Replacement
of the
Seventh
Schedule to
the principal
enactment.

“ SEVENTH SCHEDULE [Section 33A (1)]

The rates of advance company tax for every year of assessment commencing on or after April 1, 1988, but prior to April 1, 1992, shall be as follows :—

- (i) on the amount equal to the amount, of every qualifying distribution, made by a small company 25 per centum

- (ii) on the amount equal to the amount, of every qualifying distribution, made by a quoted public company, or a people's company *33 1/3 per centum*
- (iii) on the amount equal to the amount, of every qualifying distribution, made by a unit trust or mutual fund or a company, (other than a small company, or a quoted public company or a people's company) *50 per centum*

The rates of advance company tax for the year of assessment commencing on April 1, 1992 shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution made by a small company *25 per centum*
- (ii) on the amount equal to the amount of every qualifying distribution made by a quoted public company or a peoples' company *33 1/3 per centum.*
- (iii) on the amount equal to the amount of every qualifying distribution made by a unit trust or mutual fund or a company (other than a small company or a quoted public company or a peoples' company) *40 per centum.*

The rates of advance company tax for the year of assessment commencing on April 1, 1993, shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution made by a small company *25 per centum,*
- (ii) on the amount equal to the amount of every qualifying distribution made by a unit trust, mutual fund or company other than any small company *33 1/3 per centum.*

The rates of advance company tax for every year of assessment commencing on or after April 1, 1994, shall be as follows:—

- (i) on the amount equal to the amount of every qualifying distribution made, out of profits other than profits which are taxed in accordance with

the provisions of section 32F, section 32H, or section 32K or section 32M by a unit trust or mutual fund or any other company 27 per centum.

(ii) on the amount equal to the amount of every qualifying distribution made by a company out of the profits which are taxed in accordance with the provisions of section 32H or section 32K or section 32M 8 per centum.

(iii) on the amount equal to the amount of every qualifying distribution made by a company out of the profits which are taxed in accordance with the provisions of section 32F 5 per centum."

22. (1) The amendments to section 32EE, section 32M, section 33A and the replacement of the Seventh Schedule to the principal enactment made by sections 10, 12, 13 and 21 respectively of this Act shall be deemed for all purposes to have come into force on October 31, 1994.

Retrospective effect.

23. Where an employer has, during the period commencing on May 18, 1994, and ending on the date of commencement of this Act, refunded under subsection (1) of section 112A or set off under subsection (2) of section 112A any income tax, such employer shall be deemed—

Validation of refund or set off.

(a) to have validly refunded or set off as the case may be such tax so refunded or set off; and

(b) not to be a defaulter in respect of such tax so set off, notwithstanding the provisions of subsection (1) of section 107.

24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

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