



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**INLAND REVENUE (AMENDMENT)
ACT, No. 18 OF 2013**

[Certified on 24th April, 2013]

Printed on the Order of Government

Published as a Supplement to Part II of the **Gazette of the Democratic
Socialist Republic of Sri Lanka** of April 26, 2013

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5

Price : Rs. 20.00

Postage : Rs. 20.00

Inland Revenue (Amendment) Act, No. 18 of 2013

[Certified on 24th April, 2013]

L.D.—O. 13/2013

AN ACT TO AMEND THE INLAND REVENUE ACT, NO. 10 OF 2006

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

1. (1) This Act may be cited as the Inland Revenue (Amendment) Act, No. 18 of 2013. Short title and the date of operation.

(2) The provisions of this Act, shall come into operation on April 1, 2013:

Provided however that—

- (a) the amendments made to section 16C of the Inland Revenue Act, No.10 of 2006 (hereinafter referred to as the “principal enactment”) by section 7(2) of this Act;
- (b) the amendments made to section 16D of the principal enactment by section 8 of this Act; and
- (c) the amendments made to section 17A of the principal enactment by section 10(4) of this Act,

shall be deemed for all purposes to have come into operation on April 1, 2012.

2. Section 7 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows :- Amendment of section 7 of the principal enactment.

(1) in paragraph (b) of that section –

- (a) by the substitution in sub-paragraph (ixii), for the words and figures “Certified Management Accountants of Sri Lanka Act,

2 *Inland Revenue (Amendment) Act, No. 18 of 2013*

No. 23 of 2009; and”, of the words and figures “Certified Management Accountants of Sri Lanka Act, No. 23 of 2009;”;

(b) by the substitution in sub-paragraph (lxiii), for the words and figures “the National Child Protection Authority Act, No. 50 of 1998.”, of the words and figures “the National Child Protection Authority Act, No. 50 of 1998;”;

and

(c) by the addition, immediately after sub-paragraph (lxiii), of the following new sub-paragraphs :-

“(lxiv) College of General Practitioners of Sri Lanka established by the College of General Practitioners of Sri Lanka Act, No. 26 of 1974;

(lxv) Sri Lanka Social Security Board established by the Sri Lanka Social Security Board Act, No. 17 of 1996;

(lxvi) any Public Corporation to the extent of provision of services on behalf of the Government of Sri Lanka, free of charge out of the funds voted by Parliament from the Consolidated Fund or out of any loan arranged through the Government;

(lxvii) Sri Lanka Savings Bank Limited incorporated under the Companies Act, No. 7 of 2007, which is merged with the National Development Trust Fund (NDTF);

(lxviii) Lanka Puthra Development Bank Limited incorporated under the Companies Act, No. 17 of 1982; and

(lxix) any Government assisted private school other than that incorporated under the Companies Act, No.7 of

2007 which is registered with the Ministry of Education and mandated to follow the Government curricula set by the Ministry of Education and the circulars issued by such Ministry.”.

- (2) by the substitution in paragraph (k) of that section, for the words “dividend to the Government.”, of the words “dividend to the Government;”; and
- (3) by the addition immediately after paragraph (k) of that section, of the following new paragraph:—

“(l) the profits and income for any year of assessment commencing on or after April 1, 2013, of Sri Lanka Deposit Insurance Scheme established by regulation made under the Monetary Law Act (Chapter 422).”.

3. Section 8 of the principal enactment as last amended by Act, No. 22 of 2011 is hereby further amended in subsection (1) as follows :-

Amendment of section 8 of the principal enactment.

- (1) by the insertion immediately after paragraph (dd) of that subsection, of the following new paragraph :-

“(ddd) the emoluments arising in Sri Lanka of any individual who is an expert and who is not a citizen and is brought to and employed in Sri Lanka by any undertaking for the purposes of that undertaking, being an undertaking with which an agreement has been entered into by the Board of Investment of Sri Lanka and invested more than US \$ 50 Million as direct foreign investment made on or after April 1, 2013, during the period of its tax holiday under section 17A or section 16D as the case may be, and if it is confirmed by the Board of Investment of Sri Lanka that the service rendered by him in carrying out

4 *Inland Revenue (Amendment) Act, No. 18 of 2013*

activities of such undertaking in Sri Lanka is essential and such service is not obtainable from Sri Lanka:

Provided that the number of experts in an undertaking to whom this provision is applicable shall not exceed five.

For the purpose of this paragraph “expert” means an individual who has expertise in such field as may be determined by the Commissioner - General on the recommendation made by the Board of Investment of Sri Lanka, as being a field in which sufficient expertise is not available among the citizens of Sri Lanka;” ;

- (2) by the substitution in paragraph (t) of that subsection for the words “exceeds five hundred thousand rupees, then-” of the words and figures “exceeds five hundred thousand rupees, for any year of assessment commencing prior to April 1, 2013, then-”; and
- (3) by the substitution in paragraph (w) of that subsection for the words “one hundred thousand rupees,”, of the words and figures “one hundred thousand rupees, for any year of assessment commencing prior to April 1, 2013,”.

Amendment of section 9 of the principal enactment.

4. Section 9 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-

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

“(aa) the interest accruing to any person or partnership or other body of persons outside Sri Lanka from investment made out of foreign currency brought in to Sri Lanka on or after April 1, 2012, in any security or bond issued by any person in Sri Lanka;” ; and

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

“(o) the interest or discount accruing or arising to any person from any investment made on or after January 1, 2013-

(i) in any Corporate Debt Security, quoted in any Stock Exchange licensed by the Securities and Exchange Commission; and

(ii) in any Municipal Bond issued by any Municipal Council with the approval of the Secretary of the Ministry of Finance.”.

5. Section 13 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows :-

Amendment of section 13 of the principal enactment.

- (1) by the insertion immediately after paragraph (bb) of that section, of the following new paragraph:-

“(bbb) the profits and income earned in foreign currency by any person for any year of assessment commencing on or after April 1, 2012, in respect of any business of procuring goods from one country or manufacturing goods in one country and exporting to another country, other than Sri Lanka;” ;

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

“(dddd) any profits and income earned in foreign currency from outside Sri Lanka, by any resident individual who is a citizen of Sri Lanka, if such profits and income (less

6 *Inland Revenue (Amendment) Act, No. 18 of 2013*

such amount, if any, expended outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted to Sri Lanka through a bank;”;

- (3) by the insertion immediately after paragraph (xxxxxx) of that section, of the following new paragraphs:-

“(xxxxxx) any profits and income from any investment made on or after January 1, 2013 -

- (i) in any Corporate Debt Security, quoted in any Stock Exchange licensed by the Securities and Exchange Commission;
- (ii) in any Municipal Bond issued by any Municipal Council with the approval of the Secretary of the Ministry of Finance;

(xxxxxxx) the interest earned by the DFCC Bank established by the Development Finance Corporation of Ceylon Act, No. 35 of 1955 and National Development Bank PLC incorporated under the Companies Act, No. 7 of 2007, from moneys lent out of funds raised from outside Sri Lanka to Small and Medium enterprises, plantations, construction industry or other manufacturing industries.”;

- (4) by the insertion immediately after paragraph (yyyyyy) of that section, of the following new paragraph :-

“(yyyyyy) any royalty, franchising fee or any payment for designing received by any foreign collaborator from a company

registered with the Board of Investment, during the period of tax holiday under section 17A or section 16D as the case may be, where the investment made in Sri Lanka from foreign direct investment raised outside Sri Lanka exceeds US \$ 50 Million and if such services are considered by the Director General of the Board of Investment to be essential in carrying out activities in Sri Lanka and is not obtainable in Sri Lanka;”and

- (5) by the insertion immediately after paragraph (zzzzzz) of that section, of the following new paragraph :-

“(zzzzzz) where an individual who is a citizen of Sri Lanka, employed abroad returns to the country on or after January 1, 2013 and invests his earnings from employment abroad to commence any business of manufacture of any article, other than liquor or tobacco products, or provision of any service, the profits and income of such person from such business for a period of five years commencing from the beginning of the year of assessment in which the commercial operations of such business commenced.”.

6. Section 15 of the principal enactment is hereby amended by the substitution for all the words from “exempt from income tax,” to the end of that section, of the following words and figures:-

Amendment of section 15 of the principal enactment.

“exempt from income tax-

- (i) for any year of assessment commencing prior to April 1, 2013, if such individual is a citizen of both Sri Lanka and any other country;

8 *Inland Revenue (Amendment) Act, No. 18 of 2013*

(ii) for any year of assessment commencing on or after April 1, 2013, if such individual is a citizen of Sri Lanka and—

(a) citizen of any other country; or

(b) has obtained permanent resident status or similar status in any other country under which such individual may obtain citizenship in such country,

at the time of such arrival and during the whole of such stay.”.

Amendment of section 16c of the principal enactment.

7. Section 16c of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-

(1) in Column 1 of the Schedule of subsection (1) of that section by the substitution for the words and figures “Any activity referred to in paragraph (a) of subsection (2), but not including services relating to agriculture (products shall be with a minimum of 35% value addition, if more than 50% of the production is to be sold in the domestic market)”, of the words and figures “Any activity referred to in paragraph (a) of subsection (2).

In case of manufacture of any article, such article shall be with a minimum of 35% value addition, if more than 50% of the production is to be sold in the domestic market.”; and

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

(i) by the substitution in paragraph (b) of that subsection for the words and figure “Schedule to subsection (1); and” of the words and figure “Schedule to subsection (1);”;

(ii) by the substitution in paragraph (c) of that subsection, for the words and figures “after April 1, 2011.” of the words and figures “after April 1, 2011; and”;

(iii) by the insertion immediately after paragraph (c) of that subsection, of the following new paragraph;-

“(d) which is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.”.

8. Section 16D of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended by the substitution for the words “whichever occurs earlier.”, of the words “whichever occurs earlier where such undertaking is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.

Amendment of section 16D of the principal enactment.

For the purposes of this section “the investment” means the cost of any land, plant, machinery, equipment and other fixed assets.”.

9. The following new section is hereby inserted immediately after section 16D of the principal enactment and shall have effect as section 16E of that enactment :-

Insertion of new section 16E in the principal enactment.

“Exemption of profits and income from cultivation of any renewable energy crops and transactions connected with manufacturing, distribution and marketing of organic fertilizer.

16E. 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) of any person or partnership-

- (i) from any undertaking of cultivating any renewable energy crop in Sri Lanka, for a period of ten years;
- (ii) from all transactions connected with manufacturing, distribution and marketing of organic fertilizers,

commencing on or after April 1, 2013, shall be exempt from income tax.”.

10 *Inland Revenue (Amendment) Act, No. 18 of 2013*

Amendment of section 17A of the principal enactment.

10. Section 17A of the principal enactment, as last amended by Act, No. 8 of 2012 is hereby further amended in subsection (2) of that section as follows :-

- (1) by the substitution in sub-paragraph (ii) of paragraph (a) of that subsection, for the words “apparels,”, of the words “apparels and textile,”;
- (2) by the substitution in sub-paragraph (xxvii) of paragraph (a) of that subsection, for the words “national economy; and” , of the words “national economy;”;
- (3) by the substitution in paragraph (b) of that subsection, for the words and figures “on or after April 1, 2011.”, of the words and figures “on or after April 1, 2011; and”; and
- (4) by the insertion immediately after paragraph (b) of that subsection, of the following new paragraph:-

“(c) which is not formed by the splitting up or reconstruction or acquisition of any business which was previously in existence.

For the purpose of this section “the investment” means the cost of any land, plant, machinery, equipment and other fixed assets.”.

Amendment of section 25 of the principal enactment.

11. Section 25 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended in subsection (1) of that section as follows :-

- (1) by the substitution in paragraph (d) of the proviso to paragraph (a) of that subsection for the words “the rate shall be fifty *per centum* of the cost of acquisition;”, of the words “the rate shall be fifty *per centum* of the cost of acquisition”:

Provided that where such high tech plant, machinery or equipment acquired on or after April

1, 2013 and used in any trade or business meets more than thirty *per centum* of the total requirement of the power generation of that trade or business out of alternative energy sources, the rate shall be one hundred *per centum* on the cost of acquisition;

For the purpose of this proviso “alternative energy source” means any source other than the National Grid, that generates power.”;

(2) by the addition immediately after paragraph (d) of the proviso to paragraph (a) of that subsection, of the following new paragraphs:-

“(e) where any plant or machinery or equipment is acquired and used in any business on or after April 1, 2013 for technology upgrading purposes or introducing any new technology, the rate shall be fifty *per centum* of the cost of acquisition;

(f) where any plant, machinery or equipment is acquired and used on or after April 1, 2013 in any Stock Broker Company for the upgrading of information technology infrastructure to be in compliance with the requirements of the Colombo Stock Exchange licensed by the Securities and Exchange Commission, in relation to the Risk Management System, the rate shall be one hundred *per centum* of the cost of acquisition;

(g) where any plant, machinery or equipment acquired and used on or after April 1, 2013, in any trade or business and where at least sixty *per centum* of the turnover of such trade or business is from export, the rate shall be fifty *per centum* of the cost of acquisition;”;

12 *Inland Revenue (Amendment) Act, No. 18 of 2013*

- (3) by the substitution in paragraph (i) of that subsection, for all the words from “upgrading of any trade or business carried on” to the words “carried out through any Government institution;”, of the following words and figures:-

“upgrading of any trade or business carried on by such person:

Provided that-

- (A) where such expenditure is incurred on or after April 1, 2012 but prior to April 1, 2013 and such research is carried out through any Government institution;
- (B) where such expenditure is incurred on or after April 1, 2013 and such research is carried out through any institution in Sri Lanka,

the deduction shall be an amount equal to three hundred *per centum* of such expenditure incurred by such person”; and

- (4) by the addition immediately after paragraph (t) of that subsection, of the following new paragraph :-

“(u) any sum paid by a Public Corporation or Government Owned Business Undertaking as a special levy, to the Government.”.

Amendment of section 26 of the principal enactment.

12. Section 26 of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended in paragraph (v) of subsection (1) of that section, by the substitution for the words “carried on or exercised by him other than”, of the words and figures “carried on or exercised by him other than the cost of advertisement incurred on or after August 1, 2012, on sponsorship of international sport events approved by the Minister to whom the subject of Sports has been assigned; or”.

13. Section 34 of the principal enactment as last amended by Act, No.8 of 2012 is hereby further amended as follows:-

Amendment of section 34 of the principal enactment.

- (1) in subsection (2) of that section, by the insertion immediately after paragraph (t) of that subsection, of the following new paragraphs:-

“(u) where the profits from employment of any individual who is a citizen of Sri Lanka or resident in Sri Lanka other than profits referred to in paragraph (c) of subsection (1) of section 4, exceeds five hundred thousand rupees, for any year of assessment commencing on or after April 1, 2013, then-

(i) such part of such profits in excess of five hundred thousand rupees; or

(ii) one hundred thousand rupees,

whichever is lower;

(v) such part of official emoluments as does not exceed one hundred thousand rupees for any year of assessment commencing on or after April 1, 2013, arising in Sri Lanka to any individual who is not a citizen of Sri Lanka and not resident in Sri Lanka.”; and

- (2) in subsection (4) of that section, by the substitution in sub-paragraph (i) of paragraph (a) of that subsection for the words and figures “other than those referred to in paragraphs (a), (b), (c), (e), (g), (gg), (h), (i), (j), (k), (n), (o), (q),(r), (s) and (t) of subsection (2)”, of the words and figures “other than those referred to in paragraphs (a), (b), (c), (e), (g), (gg), (h), (i), (j), (k), (n), (o), (q),(r), (s), (t),(u) and (v) of subsection (2)”.

14 *Inland Revenue (Amendment) Act, No. 18 of 2013*

Amendment of section 40A of the principal enactment.

14. Section 40A of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended by the substitution for the words “twenty *per centum*” wherever such words occur in that section, of the words “sixteen *per centum*”.

Amendment of section 40B of the principal enactment.

15. Section 40B of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended by the substitution for the words “twenty *per centum*” wherever such words occur in that section, of the words “sixteen *per centum*”.

Insertion of new section 46A in the principal enactment.

16. The following new section is hereby inserted immediately after section 46 of the principal enactment and shall have effect as section 46A of that enactment:-

“Rates of income tax on profits from poultry farming.

46A. Where the taxable income of any person for any year of assessment includes any 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) from poultry farming, such part of such taxable income as consists of such profits and income shall, notwithstanding anything to the contrary in other provisions, be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

For the purposes of this section “profits and income from poultry farming” means such profits and income from the sale of produce by such person without subjecting such produce to any process of production or manufacture.”.

Insertion of new section 48c in the principal enactment.

17. The following new section is hereby inserted immediately after section 48B of the principal enactment and shall have effect as section 48c of that enactment:-

“Rate of income tax applicable to BOI registered undertakings after the expiry of the period of tax exemption.

48c. Where any undertaking 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, which provides for tax concessions, and the taxation under such agreement after the expiry of the tax exemption

period provided thereunder is more burdensome than the taxation under the Inland Revenue Act, the profits and income of such undertaking after the expiry of such tax exemption period shall be chargeable with income tax in accordance with the provisions of the Inland Revenue Act, provided such undertaking shall not seek any further tax concession in respect of such agreement through any supplementary agreement.”.

18. Section 56 of the principal enactment is hereby amended as follows:-

Amendment of section 56 of the principal enactment.

- (1) in subsection (2) of that section, by the substitution for the words “fifteen *per centum*”, of the words “twelve *per centum*”; and
- (2) in subsection (3) of that section, by the substitution for the words “fifteen *per centum*” wherever such words occur in that subsection, of the words “twelve *per centum*”.

19. The following new sections are inserted immediately after section 56 of the principal enactment and shall have effect as sections 56A, 56B, 56C and 56D respectively, of that enactment:-

Insertion of new sections 56A, 56B, 56C, and 56D in the principal enactment.

“Rate of income tax on the profits and income from the sale of goods by an export oriented company.

56A. Such part of the profits and income of an export oriented 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, for any year of assessment commencing on or after April 1, 2013, from the sale of goods manufactured in Sri Lanka, up to the quantity approved by the Board of Investment as import replacement, to-

- (a) 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, enjoying tax holiday under section 16c, 16D or 17A of this Act or under the Strategic Development Projects Act, No.14 of 2008 and which is permitted to import project related goods or raw materials on duty free basis under the provisions of such agreement, during the project implementation period; or

- (b) any person eligible to import specific goods on duty free basis under any Government Authority,

shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on the profits and income from the supply of goods or services to foreign ships.

56B. Such part of the profits and income of any person for any year of assessment commencing on or after April 1, 2013 from the supply of any goods manufactured in Sri Lanka or the provision of services, to foreign ships for payments in foreign currency, shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on the profits and income from the sale of products manufactured in Sri Lanka for payment in foreign currency.

56c. Such part of the profits and income of any person for any year of assessment commencing on or after April 1, 2013 from the sale of any product manufactured in Sri Lanka for payment in foreign currency through foreign exchange earning account authorized by the Central Bank of Sri Lanka, shall notwithstanding anything to the contrary in any other provisions of this Act, be deemed to

be profits and income from exports and be chargeable with income tax at the appropriate rate specified in the Fifth Schedule to this Act.

Rate of income tax on the profits and income from the sale of locally manufactured goods in local market by export oriented companies.

56D. For any year of assessment commencing on or after April 1, 2013 such part of the profits and income from the sale in the local market, of locally manufactured garments, bags made out of fabric, linen, curtains or any other goods, of any export oriented company which exports not less than sixty *per centum* of its products shall be chargeable with income tax at the rate of twelve *per centum*:

Provided however, where the local value addition of such garments, bags, linen, curtains or other goods, as the case may be, is greater than sixty five *per centum* with Sri Lankan brand name, such part of the profits and income of such export oriented company from the sale in the local market, of such garments, bags, linen, curtains, or other goods shall be chargeable with income tax at the rate of ten *per centum*.”.

20. Section 59B of the principal enactment as last amended by Act, No. 8 of 2012 is hereby further amended as follows:-

Amendment of section 59B of the principal enactment.

(1) in subsection (2) of that section, by the substitution for paragraph (b) of that subsection, of the following new paragraph:-

“(b) the turnover of such undertaking (other than from the sale of any capital asset) for that year of assessment-

(i) being any year of assessment commencing on or after April 1, 2011 but prior to April 1, 2013, does not exceed three hundred million rupees;

18 *Inland Revenue (Amendment) Act, No. 18 of 2013*

(ii) being any year of assessment commencing on or after April 1, 2013, does not exceed five hundred million rupees.”;and

(2) by the substitution for the marginal note to that section, of the following marginal note:-

“Rate of income tax applicable to the profits and income of any person from any undertaking with annual turnover not exceeding certain amount. ”.

Insertion of new sections 59D and 59E in the principal enactment.

21. The following new sections are hereby inserted immediately after section 59C of the principal enactment and shall have effect as sections 59D and 59E respectively, of that enactment:-

“Rate of income tax applicable to companies listing its shares in the Colombo Stock Exchange and issuing its shares to the general public.

59D. (1) The tax rate applicable on the profits and income within the meaning of paragraph (a) of section 3 (other than any profits and income from the sale of any capital asset), of any company which lists its shares on or after April 1, 2013 but prior to April 1, 2014, in the Colombo Stock Exchange licensed by the Securities and Exchange Commission of Sri Lanka and issues by way of Initial Public Offering not less than twenty *per centum* of its shares to the general public, shall be reduced by fifty *per centum* for the year of assessment in which such shares are listed and for another two years of assessment immediately succeeding that year of assessment subject where such company after listing continues to maintain not less than twenty *per centum* of holding of its shares by the general public.

(2) Where the company referred to in subsection (1) fails to maintain in any subsequent year of assessment after listing its shares, not less than twenty *per centum* of

holding of shares by the general public in the opinion of an Assessor, the tax reduced under subsection (1) shall notwithstanding to the contrary in any other provisions of this Act, be re-assessable, payable and recoverable.

For the purposes of this section “shares held by the general public” in relation to a listed company means shares of such company held by any person other than those directly or indirectly held by :-

- (a) its parent, subsidiary or associate companies or any subsidiaries or associates of its parent company;
- (b) its directors who are holding office as directors of such company, their spouses and children under 18 years of age;
- (c) its Chief Executive Officer, his spouse and children under 18 years of age; and
- (d) any single shareholder who holds ten *per centum* or more of the shares of such company.

Rate of income tax on the profits and income from operating any alternative power generation project.

59E. Such part of the profits and income of any person or partnership from operating any project for producing any alternative energy including operating any mini hydro power project shall notwithstanding anything to the contrary in any other provisions of this Act, be taxable at the appropriate rate specified in the Fifth Schedule to this Act.

For the purposes of this section “mini hydro power project” means any hydro power project which generates less than ten Mega Watts electricity.”.

20 *Inland Revenue (Amendment) Act, No. 18 of 2013*

Amendment of section 60 of the principal enactment.

22. Section 60 of the principal enactment as last amended by Act, No.19 of 2009 is hereby further amended as follows:-

- (1) in sub-paragraph (ii) of paragraph (a) of that section, by the substitution for the words “black tea in bulk, crepe rubber,”, of the words “black tea not in packet or package form and each packet or package weighing not more than one kilogram, crepe rubber,”; and
- (2) by the substitution for the words and figures “any other produce referred to in section 16.”, of the words and figures “any other produce referred to in section 16, but include organic tea in bulk.”.

Amendment of section 78 of principal enactment.

23. Section 78 of the principal enactment as last amended by Act, No.22 of 2011 is hereby further amended in subsection (1) as follows:-

- (1) by the substitution in paragraph (a) of that subsection for the words “and other income; and” , of the words “and other income;”; and
- (2) by the substitution for paragraph (b) of that subsection, of the following paragraphs:-
 - “(b) for any year of assessment commencing on or after April 1, 2007, but prior to April 1, 2013, on the excess, if any, of the aggregate of the divisible profits referred to in section 76 and other income over six hundred thousand rupees”; and
 - (c) for any year of assessment commencing on or after April 1, 2013, on the excess, if any, of the aggregate of the divisible profits referred to in section 76 and other income over one million rupees.”.

Amendment of section 79 of the principal enactment.

24. Section 79 of the principal enactment as last amended by Act, No. 9 of 2008 is hereby further amended as follows:-

- (1) in subsection (3) of that section, by the substitution for the words “be deemed to be non-resident from

the commencement of the year of assessment in which such absence commences.”, of the words and figures “be deemed to be non-resident from the commencement of the year of assessment in which such absence commences being a year of assessment prior to April 1, 2013.”; and

- (2) in subsection (4) of that section, by the substitution for the words “the aggregate of thirty days shall”, of the words and figures “the aggregate of thirty days for any year of assessment prior to April 1, 2013, shall”.

25. Section 104 of the principal enactment as last amended by Act, No. 9 of 2008 is hereby further amended as follows :-

Amendment of section 104 of the principal enactment.

- (1) in subsection (1) of that section, by the substitution for the words “any transaction entered into between”, of the words “any international transaction entered into between”;
- (2) by the repeal of subsection (2) of that section, and the substitution therefor, of the following subsection:—

“(2) Where it appears to an Assessor that the profits and income or the loss referred to in subsection (1), has not been as ascertained having regard to the arm’s length price, he may refer the computation of the arm’s length price in relation to such international transaction to a Transfer Pricing Officer. The Transfer Pricing Officer may, in writing addressed to the person who carries on either the one or the other or both of the two associated undertakings referred to in subsection (1), require him to prove to the satisfaction of the Transfer pricing Officer, that such profits and income or such loss, as the case may be, has in fact been ascertained having regard to the arm’s length price. Where such person fails to so prove, the Transfer Pricing Officer may determin the arm’s length price and inform it to the Assessor. Thereupon the Assessor may estimate the amount of the profit and income or the

22 *Inland Revenue (Amendment) Act, No. 18 of 2013*

loss, as the case may be, referred to in subsection (1), and make an assessment accordingly.”;

- (3) by the insertion immediately after subsection (3) of that section, of the following new subsection:-

“(3A) An advance pricing agreement may be entered into between any person and the Commissioner-General in respect of arm’s length price for the purposes of this section on the basis of a prescribed manner.”;

- (4) in subsection (4) of that section-

(a) by the substitution in paragraph (b) of that subsection for the words “other than associated undertakings.”, of the words “other than associated undertakings;”; and

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

“international transaction” means a transaction between two or more associated undertakings, either one or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money or any other transaction having a bearing on the profits, income, losses or assets of such undertakings, and includes any allocation or apportionment of, or any contribution to any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such undertakings under any mutual agreement or arrangement between two or more such associated undertakings. Any transaction entered into by an undertaking with a person, either one is non-resident, other than an associated undertaking shall, for the purposes of subsection (1) be deemed to be an

international transaction entered into between two associated undertakings, if there exists a prior agreement between such undertaking and other person and, by which the terms of such transaction are determined in substance between such undertaking and other person which results in the reduction of or would have the effect of reducing the amount of tax payable.

Without prejudice to the generality of the provision of this subsection, the allowance for any expense or interest arising from an international transaction shall also be determined having regard to the arm's length price;

“Transfer Pricing Officer” means any officer of Inland Revenue prescribed by the Commissioner - General as a Transfer Pricing Officer.”; and

- (5) in the marginal note to that section, by the substitution for the words “from transactions between”, of the words “from international transactions between”.

26. The following new section is hereby inserted immediately after section 104 of the principal enactment and shall have effect as section 104A of that enactment:-

Insertion of new section 104A in the principal enactment.

“Profits and income or loss from transactions between associated undertakings to be determined having regard to the arm's length price.

104A. (1) Any profits and income arising, derived or accruing from, or any loss incurred in any transaction, other than transactions referred to in subsection (1) of section 104, entered into between two associated undertakings shall be ascertained having regard to the arm's length price.

(2) Where it appears to an Assessor that the profits and income or the loss referred to in subsection (1), has not been ascertained having

regard to the arm's length price, he may, in writing addressed to the person who carries on either the one or the other or both of the two associated undertakings referred to in subsection (1), require him to prove to the satisfaction of the Assessor, that such profits and income or such loss, as the case may be, has in fact been ascertained having regard to the arm's length price. Where such person fails to so prove, the Assessor may estimate the amount of the profit and income or the loss, as the case may be, referred to in subsection (1), and make an assessment accordingly.

(3) The arm's length price referred to in subsection (1) shall be determined on the basis of any one or more of the methods, prescribed for that purpose.

(4) For the purposes of this section-

- (a) an undertaking shall be deemed to be an associated undertaking of another undertaking, if the first-mentioned undertaking participates directly or indirectly or through one or more intermediaries, in the control of the second-mentioned undertaking in such manner or to such extent as may be prescribed;
- (b) "arm's length price" means a price which is applied in uncontrolled conditions in a transaction between persons other than associated undertakings."

27. Section 113 of the principal enactment as last amended by Act, No.8 of 2012 is hereby further amended by the addition immediately after subsection (5) of that section, of the following new subsection:-

Amendment of section 113 of the principal enactment.

“(6) Where any bank or financial institution which is required to invest in the investment fund referred to in subsection (5), has not utilized in accordance with the guidelines issued by the Central Bank of Sri Lanka, any part of the funds lying to the credit of the fund as at July 1, 2013, such balance shall be deemed to be a debt due to the Government by such bank or financial institution as the case may be, and transferred to the Consolidated Fund.”.

28. Section 121 of the principal enactment is hereby amended by the addition immediately after subsection (2) of that section, of the following new subsection:-

Amendment of section 121 of the principal enactment.

“(3) Where during any year of assessment an employer has deducted income tax from the remuneration of any employee for any pay period any sum in excess of the amount deductible in respect of such remuneration for such pay period, such employer may reduce such excess from the amount of income tax deductible in respect of the remuneration of such employee for any pay period in such year of assessment or in the immediately succeeding year of assessment and notify the Commissioner-General accordingly within two weeks from the date of such adjustment.”.

29. Section 135 of the principal enactment as last amended by Act, No.22 of 2011 is hereby further amended in subsection (1), by the substitution for the words and figures “at the time of the issue of such corporate debt security.”, of the words and figures “at the time of the issue of such corporate debt security:

Amendment of section 135 of the principal enactment.

Provided that-

- (a) where such corporate debt security is issued with floating rate of interest payable for reviewing periods, such deduction shall be made at the time of beginning of each such reviewing period of interest rate;

26 *Inland Revenue (Amendment) Act, No. 18 of 2013*

- (b) where any corporate debt security issued prior to April 1, 2011 and to which interest is payable on or after April 1, 2011 and in respect of which no deduction of income tax on interest has been made, such deduction shall be made at the time such interest is paid or credited;
- (c) no deduction of income tax under this section shall be made from any interest or discount referred to in paragraph (o) of section 9.”.

Amendment of section 140 of the principal enactment.

30. Section 140 of the principal enactment is hereby amended as follows:-

- (1) by the substitution for all the words from “Every bank” to the words “such payment,” , of the words “Every bank or financial institution or company issuing corporate debt security, which is required to deduct income tax from the interest paid or credited or discount allowed, as the case may be, by it in any year of assessment to any person chargeable with income tax under this Act, shall deduct such income tax at the time when such interest is paid or when such security is issued or where such corporate debt security is issued with floating rate of interest, at the beginning of each reviewing period, as the case may be, to such person in accordance with any agreement entered into between such bank or financial institution or company and such person with respect to such payment,”; and
- (2) in the marginal note to that section, by the substitution for the words “Duties of bank and financial institution”, of the words “Duties of banks, financial institutions and companies”.

Amendment of section 141 of the principal enactment.

31. Section 141 of the principal enactment is hereby amended by the substitution for all the words and figures from “any bank or financial institution” to the words “a penalty of a sum”, of the words and figures “any bank or financial institution which pays interest or issues any debt

security, or a company which issues corporate debt security, not deducting tax in accordance with the provisions of section 133 or section 135, as the case may be, he shall after affording such bank, financial institution or any such company, which pays interest or issues debt security or corporate debt security, as the case may be, an opportunity to show cause and where he is satisfied that there has been a contravention of the provisions of section 133 or section 135, impose on such bank or financial institution or the company, which pays interest or issues such debt security or corporate debt security, as the case may be, a penalty of a sum”.

32. Section 142 of the principal enactment is hereby amended by the substitution for the words “bank or financial institution” wherever such words occur in subsections (1), (2) and (3) of that section, of the words “bank or financial institution or company”, respectively.

Amendment of section 142 of the principal enactment.

33. Section 163 of the principal enactment, as last amended by Act, No.22 of 2011 is hereby further amended as follows:-

Amendment of section 163 of the principal enactment.

- (1) in subsection (1) of that section:-
 - (a) by the substitution in the proviso to that subsection, for the word “September”, of the word “November”;
 - (b) by the substitution in the further proviso to that subsection for the words and figures “paragraph (b) of subsection (1) of section 65 or paragraph (c) of subsection (2) of section 62”, of the words and figures “sub-paragraph (i) of paragraph (b) of subsection (1) of section 61 or paragraph (c) of subsection (1) of section 61 or paragraph (b) of subsection (1) of section 62”;
- (2) in paragraph (b) of subsection (3), of that section by the substitution for the word “assemble income”, of the words “assessable income”;

- (3) by the substitution for paragraph (a) of subsection (5) of that section, of the following paragraph:-

“(a) who or which has made a return of his or its income on or before the thirtieth day of November of the year of assessment immediately succeeding that year of assessment,

(i) where such year of assessment is any year of assessment commencing prior to April 1, 2013, shall be made after the expiry of a period of two years from the thirtieth day of November of the immediately succeeding year of assessment; and

(ii) where such year of assessment is any year of assessment commencing on or after April 1, 2013, shall be made after the expiry of a period of eighteen months from the thirtieth day of November of the immediately succeeding year of assessment:”;

- (4) by the addition immediately after subsection (9) of that section, of the following new subsection:-

“(10) Notwithstanding anything to the contrary in any other provisions of this Act, where the annual total turnover of any person other than a company for any year of assessment commencing prior to April 1, 2011 from every trade or business did not exceed rupees three hundred million and such person has not complied with the provisions of any tax law administered by the Commissioner - General, invests earnings so made by such person prior to April 1, 2011, in any trade or business, on or before March 31, 2014, and furnishes the return of income for any year of assessment commencing prior to April 1, 2014 together with an undertaking

in writing that he shall comply with the requirements of this Act for any subsequent period, such return shall be accepted and no assessment or additional assessment shall be made on such person in respect of such year of assessment for which a return of income is so furnished and for five years of assessment immediately succeeding that year of assessment.”.

34. Section 172 of the principal enactment is hereby amended as follows:-

Amendment of section 172 of the principal enactment.

- (1) in subsection (2) of that section, by the substitution for the words “to the Board of Review.”, of the words and figures “to the Board of Review prior to April 1, 2011 or on or after April 1, 2011, to the Tax Appeals Commission.”; and
- (2) in subsection (3) of that section, by the substitution for the words “apply to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review may”, of the words and figures “apply prior to April 1, 2011, to the hearing and disposal of any appeal under the preceding provisions of this section. The Board of Review prior to April 1, 2011 or after April 1, 2011, the Tax Appeals Commission, as the case may be, may”.

35. Section 204_A of the principal enactment as last amended by Act No.22 of 2011 is hereby further amended as follows:-

Amendment of section 204_A of the principal enactment.

- (1) by the substitution for the words “provision of this Act or regulation, rule or order made thereunder”, of the words “provisions of this Act or any other Act administered by the Commissioner- General, or regulation, rule or order made thereunder”; and
- (2) in the marginal note to that section, by the substitution for the words “the Act”, of the words “this Act or any other Act administered by the Commissioner-General”.

30 *Inland Revenue (Amendment) Act, No. 18 of 2013*

Amendment of section 208A of the principal enactment.

36. Section 208A of the principal enactment is hereby amended by the addition at the end of that section, of the following words:-

“The committee shall determine any request made to it for interpretation within six months from the date of receipt of such request.”.

Amendment of section 217 of the principal enactment.

37. Section 217 of the principal enactment as last amended by Act No. 8 of 2012 is hereby further amended in the definition of the expression “dividend” by the substitution in sub-paragraph (iv) of paragraph (a) for the words “dividend in specie; and”, of the following words:-

“dividend in species; or

(v) where a company buys back shares from its shareholders, the excess, if any, paid to any shareholder over the market price of such share quoted in the Colombo Stock Exchange or the market value of such share as the case may be, as at the date on which the shareholders of such company at a meeting approved such share buyback; and”.

Amendment of the First Schedule to the principal enactment.

38. The First Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended by the substitution for PART V of that Schedule, of the following Part:-

“PART V

The rate of income tax applicable to any sum referred to in the proviso to subsection (2) of section 35-

- | | |
|---|---|
| (a) for any year of assessment commencing prior to April 1, 2013 | as per PART I, PART 1A or PART IB, but subject to a maximum of <i>20 per centum</i> |
| (b) for any year of assessment commencing on or after April 1, 2013 | as per PART IB, but subject to a maximum of <i>16 per centum.</i> ”. |

39. The Second Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended by the addition, immediately after item 2 in PART A of that Schedule, of the following new item:-

Amendment of the Second Schedule to the principal enactment.

“3. Any unit trust management company on the taxable income-

(a) for any year of assessment commencing prior to April 1, 2013 as per PART B

(b) for any year of assessment commencing on or after April 1, 2013 *10 per centum*”;

40. The Fifth Schedule to the principal enactment, as last amended by Act, No. 8 of 2012, is hereby further amended as follows :-

Amendment of the Fifth Schedule to the principal enactment.

(1) by the substitution for item 22 of that Schedule, of the following item :-

“22. The rate of income tax on profits and income referred to in section 58-

(a) for any year of assessment commencing prior to April 1, 2011 *15 per centum*

(b) for any year of assessment commencing on or after April 1, 2011 *12 per centum*”;

(2) by the substitution for item 23 of that Schedule, of the following item :-

“23. The rate of income tax on profits and income from transshipment agency fees referred to in section 59-

(a) for any year of assessment commencing prior to April 1, 2011 *15 per centum*

32 *Inland Revenue (Amendment) Act, No. 18 of 2013*

(b) for any year of assessment
commencing on or after
April 1, 2011 *12 per centum*".

(3) by the addition immediately after item 40 of that Schedule, of the following new items:-

- "41. The rate of income tax applicable to such part of the profits and income of any person engaged in an undertaking for poultry farming referred to in section 46A – As per the First Schedule, but subject to a maximum of 10 *per centum* for an individual, and 10 *per centum* for a company.
42. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56A- As per the First Schedule, but subject to a maximum of 12 *per centum* for an individual, and 12 *per centum* for a company.
43. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56B- As per the First Schedule, but subject to a maximum of 12 *per centum* for an individual, and 12 *per centum* for a company.
44. The rate of income tax applicable to such part of the profits and income of any person from any undertaking referred to in section 56c – As per the First Schedule, but subject to a maximum of 12 *per centum* for an individual, and 12 *per centum* for a company.
45. The rate of income tax applicable to such part of the profits and income of any person or partnership from any undertaking referred to in section 59E- As per the First Schedule, but subject to a maximum of 12 *per centum* for an individual, and 12 *per centum* for a company.".

41. The amount of tax charged or collected from any person by or on behalf of the Commissioner - General, by virtue of the application of any provision of this Act, during the period commencing on April 1, 2013 and ending on the date on which the certificate of the Speaker is endorsed in respect of this Act, shall be deemed to have been validly and lawfully charged or collected under this Act by the Commissioner - General or by such person who charged or collected such tax on behalf of the Commissioner - General:

Validation.

Provided that the aforesaid provisions shall not affect any decision or order made by any Court or any proceedings pending in any Court in respect of any tax charged or collected during such period.

42. 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 an inconsistency.

Annual subscription of English Bills and Acts of the Parliament Rs. 885 (Local), Rs. 1,180 (Foreign), Payable to the SUPERINTENDENT, GOVERNMENT PUBLICATIONS BUREAU, DEPARTMENT OF GOVERNMENT INFORMATION, No. 163, KIRULAPONA MAWATHA, POLHENGODA, COLOMBO 05 before 15th December each year in respect of the year following.