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CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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DRAFT ORDINANCES.

MINUTE.

J 1526/28

The following Draft of a proposed Ordinance is published for general information:—

An Ordinance for the taxing of betting on horse-racing, for the registration of racecourses, and for exempting taxable bets from the provisions of the Gaming Ordinance, 1889.

No. 17 of 1889,
II. 17.

BE it enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

1 This Ordinance may be cited as the Betting on Horse-racing (Taxation) Ordinance, 1930.

Short title.

Interpretation.

2 In this Ordinance, unless the context otherwise requires,—

- (1) "Authorized bookmaker" means a bookmaker to whom a permit has been issued by a certificate-holder for the purpose of receiving and negotiating bets.
- (2) "Backer" includes any person who bets at a totalisator or with a bookmaker.
- (3) "Bookmaker" means a person who, whether on his own account or as servant or agent of any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets on horse-races, or who in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates such bets.
- (4) "Certificate-holder" means any person to whom a certificate of registration is issued under this Ordinance, and in the case of a certificate issued to the stewards of a racing club, the stewards of the club functioning as such during the continuance of the certificate.
- (5) "Prescribed" means prescribed by this Ordinance or by regulations made thereunder.
- (6) "Race-meeting" means a meeting at which one or more horse-races are held, whether exclusively or in conjunction with any other event or events.
- (7) "Racing club" includes a club, association, society, or body of persons, corporate or unincorporate—
 - (a) formed for the purpose of promoting horse-races or for holding race-meetings; or
 - (b) conducting or controlling such meetings.
- (8) "Registered racecourse" means a racecourse registered under the provisions of this Ordinance.
- (9) "Totalisator" means the contrivance for betting known as a totalisator or pari-mutuel or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

Taxable bets.

3 (1) There shall be charged and levied, at the rate and in the manner provided by this Ordinance, a tax on bets on any horse-race which is run or proposed to be run at a race-meeting held on a registered racecourse, made by a person acting on his own behalf, on the day on which the race is run, and either at a totalisator worked by the certificate-holder for the racecourse, or by or with an authorized bookmaker, within an enclosure, room or place set apart for the purpose under section 6 of this Ordinance.

(2) All such bets are referred to in this Ordinance as "taxable bets".

Declarations as to prosecutions and exemptions under the Gaming Ordinance, 1889. No. 17 of 1889, II. 17.

4 Notwithstanding anything contained in the Gaming Ordinance, 1889, it is hereby declared that—

- (1) No prosecution under that Ordinance shall be instituted or maintained in respect of any taxable bet; and
- (2) The exemptions given by sections 23 of that Ordinance shall not be construed so as to apply in the case of any bet made on a horse-race.

Registration of racecourse

5 (1) The stewards of any racing club, or any other person, may apply to the prescribed officer for the registration of any racecourse under their or his control, for the purpose of holding a race-meeting or race-meetings thereon.

(2) Every such application shall be made in the prescribed form, and the prescribed officer shall, upon receipt of the application together with the prescribed fee, if any, duly register the racecourse or racecourses in respect of which application for registration has been made, and shall issue to the stewards or to the other person making the application a certificate of registration in the prescribed form in respect of each racecourse so registered.

(3) Every application under this section by the stewards of a racing club may be made by the secretary of the club for the time being.

6 Where a certificate-holder intends to work one or more totalisators or to issue permits to one or more bookmakers for the purpose of receiving or negotiating bets, at any race-meeting to be held on the racecourse in respect of which his certificate has been issued, he shall inform the prescribed officer of his intention at least seven days prior to the said race-meeting, and shall set apart one or more special enclosures, rooms or places for the purpose of such totalisator or totalisators, or bookmaker or bookmakers within the said racecourse.

Information to prescribed officer of totalisators and bookmakers on registered racecourses.

7 Every certificate-holder shall keep accounts containing such particulars as the prescribed officer may require, and showing all sums paid or agreed to be paid by way of taxable bets into any totalisator worked by him at every race-meeting held on the registered racecourse in respect of which his certificate has been issued, and shall, when required in writing by the prescribed officer, permit him, or any person deputed in writing by him for that purpose, to enter and inspect any such racecourse, and to inspect and take copies of such accounts.

Certificate-holder to keep accounts, and to permit inspection, &c.

8 (1) On all sums referred to in section 7, there shall be charged and levied a tax payable by the backers, hereinafter referred to as the totalisator tax, at the rate of two and a half per cent. of every such sum, or at such other rate as may be authorized by resolution of the Legislative Council.

Totalisator tax.

(2) The totalisator tax shall be deducted and collected by the certificate-holder from such sums and shall be retained by him on behalf of the Government, and the certificate-holder shall, at the prescribed time and in the prescribed manner, forward to the prescribed officer a return showing the totals of all such sums and make over to him the amount of the totalisator tax payable thereon, and the prescribed officer shall receive the same on behalf of the Government.

9 Where a certificate-holder issues a permit to a bookmaker for the purpose of receiving or negotiating bets at any race-meeting to be held on the racecourse in respect of which his certificate has been issued,—

Bookmakers' permits, and betting tax.

(1) Such permit shall be issued subject to such conditions as to the payment of fees or otherwise as the certificate-holder may think fit to impose therein, and shall specify the race-meeting or race-meetings for which it is valid.

(2) Every such bookmaker shall keep accounts containing such particulars as the prescribed officer may require, and showing all sums paid or agreed to be paid to him by way of taxable bets at every race-meeting specified in his permit, and all sums paid or agreed to be paid by him to backers in satisfaction of such bets, and shall, when required in writing by the prescribed officer or by the certificate-holder by whom his permit was issued, permit either of them, or any person deputed in writing by either of them, to inspect and take copies of such accounts.

(3) On all sums paid or agreed to be paid by an authorized bookmaker to backers in consequence of the winning by the backers of taxable bets made with him at every race-meeting specified in his permit, there shall be charged and levied a tax payable by the backers, hereinafter referred to as the betting tax, at the rate of two and a half per cent. of every such sum, or at such other rate as may be authorized by resolution of the Legislative Council.

- (4) The betting tax shall be deducted and collected by the said bookmaker from such sums and shall be retained by him on behalf of the Government.
- (5) All sums so retained by the said bookmaker shall, at the prescribed time and in the prescribed manner, be made over by him to the certificate-holder by whom his permit was issued.
- (6) The certificate-holder shall satisfy himself that the said sums represent the correct amount due as the betting tax and shall, at the prescribed time and in the prescribed manner, make over the said sums to the prescribed officer who shall receive the same on behalf of the Government.

Exhibition of certificate of registration and book-makers' permits.

10 (1) Every certificate of registration issued under this Ordinance in respect of any racecourse shall be exhibited by the certificate-holder in a prominent place on the racecourse in respect of which it has been issued during the whole of every race-meeting held thereon.

(2) Every permit issued to a bookmaker by a certificate-holder for the purpose of receiving or negotiating bets at any race-meeting shall be exhibited by the bookmaker during the whole of every race-meeting specified therein in a prominent position in the enclosure, room or other place set apart for the use of the bookmaker under section 6.

Settlement of credit bets.

11 (1) All taxable bets made on credit may, if not settled on the day on which they are made, be settled not later than seven days after that day at any office or other place, appointed prior to that day, in the case of bets made at a totalisator, by the certificate-holder who works the totalisator, and in the case of bets made by or with an authorized bookmaker, by the certificate-holder who issued his permit.

(2) Notice of the appointment of any such office or other place shall be given in each case by the certificate-holder to the prescribed officer within seven days of the appointment, and the prescribed officer or any other person deputed in writing by him for that purpose may at all reasonable times enter and inspect any such office or other place.

Penalty for offences by certificate-holders, and others.

12 Every certificate-holder or other person who contravenes or fails to comply with any of the provisions of this Ordinance or of any regulation made thereunder shall be guilty of an offence and shall, unless some other penalty is expressly provided for such offence, be liable, on summary trial and conviction by a Police Magistrate, to a fine not exceeding one thousand rupees, and for a second or subsequent offence to a fine of the like amount or to imprisonment of either description for any term not exceeding six months, or to both such fine and imprisonment.

Recovery of totalisator tax and betting tax.

13 When any certificate-holder or authorized bookmaker is convicted of an offence by reason of failure to make over any sum due and payable as totalisator or betting tax, the Police Magistrate shall, in addition to any penalty imposed by him, order that the sum so due and payable, or any amount thereof which is outstanding shall be recoverable from the certificate-holder or bookmaker who has been convicted as if it were a fine imposed upon him by a Police Court, and the same may be recovered accordingly.

Cancellation of certificates and permit on conviction.

14 Where a certificate-holder or an authorized bookmaker is convicted of an offence against this Ordinance or any regulation made thereunder, or where any such bookmaker contravenes or fails to comply with any of the conditions of the permit issued to him, the certificate or the permit, as the case may be, may be forthwith cancelled by the prescribed officer or by the certificate-holder respectively, but such cancellation shall not be deemed to be a penalty within the meaning of section 12.

Offences and other acts by stewards of racing club.

15 (1) When any offence against this Ordinance or any regulation made thereunder is committed by the stewards of a racing club in their capacity as a certificate-holder, the President or Chairman of the club, and every officer or steward of the club, shall be guilty of the like offence, unless the act or omission constituting the offence took place without his knowledge or consent.

(2) All acts which, and all sums of money which, by this Ordinance or by any regulation made thereunder, are required respectively to be done by, and to be made over to, a certificate-holder may, when the certificate is held by the stewards of a racing club, be respectively done by, and made over to, the secretary of the club for the time being, on behalf of the stewards.

16 (1) It shall be lawful for the Governor in Council to make regulations for all or any of the following matters or purposes :—

Regulations.

- (a) for prescribing forms to be used for the purposes of this Ordinance ;
- (b) for securing the payment of the totalisator tax and the betting tax ;
- (c) for the production and inspection of accounts required to be kept under this Ordinance ; and
- (d) generally for carrying into effect the provisions of this Ordinance, and for prescribing all matters which may or are to be prescribed.

(2) All regulations made under this Ordinance shall be laid, as soon as conveniently may be, on the table of the Legislative Council at two successive meetings of the Council, and shall be brought before the Council at the next subsequent meeting held thereafter by a motion that the said regulations shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said regulations are disapproved by the Council, such regulations shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder ; and such regulations, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

17 (1) Where a Police Magistrate is satisfied by information on oath that there is reason to suspect that any offence against this Ordinance or any regulation made thereunder is being or has been committed, or that there is any document or thing directly or indirectly connected with any such offence, in any place or premises, he may grant a search warrant authorizing any person named therein to enter at any time, with or without assistants, if need be by force, the said place or premises and to search the same and any person found therein and to seize and detain any such document or thing and if he thinks fit to arrest any person found in the place or premises whom he has reason to suspect is guilty of any such offence.

Search warrants.

(2) Where the prescribed officer has reason to suspect that any such offence is being or has been committed, or that there is any such document or thing, in any place or premises, and that a search warrant cannot be obtained under sub-section (1) without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his suspicion, either by himself or by some person deputed in writing by him for that purpose, exercise all or any of the powers which could have been conferred on him by sub-section (1).

By His Excellency's command,

Colonial Secretary's Office,
Colombo, February 18, 1930.

B. H. BOURDILLON,
Colonial Secretary.

Objects and Reasons.

1. The object of this Bill is twofold—
 - (1) To authorize the levy of a tax on what are described in the Bill as "taxable bets" ; and
 - (2) To prevent betting on horse-racing otherwise than by such bets.

2. With the first object in view, clause 3 of the Bill contains a general power to levy the proposed tax and explains the expression "taxable bets" as bets on a horse-race made by an individual acting on his own behalf, either at a totalisator or with an authorized bookmaker, on the registered racecourse on which, and on the day on which, the race is run.

3. With the second object in view, clause 4 exempts taxable bets from prosecution under the Gaming Ordinance, and removes, so far as betting on horse-racing is concerned, the exemption given by section 23 of that Ordinance to clubs, resthouses and hotels; the effect will be that bets on a horse-race other than taxable bets will continue to be offences under the Gaming Ordinance, and no protection will in future be given to clubs, resthouses and hotels in respect of racing betting.

4. Clauses 5 and 6 deal with the registration of racecourses, and provide that the holders of certificates of registration ("certificate-holders") shall supply information of totalisators and bookmakers proposed or authorized by them and shall set apart places for their operation. Clause 7 requires certificate-holders to permit inspection of registered racecourses and to keep accounts and to permit the inspection and the taking of copies of their accounts. A similar provision with regard to the accounts to be kept by authorized bookmakers appears in clause 9 (2).

5. Clauses 8 and 9 are directly concerned with the imposition and collection of the tax which will be incurred in the case of all taxable bets, whether made at a totalisator or with an authorized bookmaker. In both these cases, the tax will be at the rate of 2½ per cent., or at such other rate as may be authorized by resolution of the Legislative Council. But in the first case the tax will be known as the *totalisator tax* and will be calculated on the amount of the stake paid in, whereas in the second case it will be known as the *betting tax*, and will be calculated on the amount of the backer's winnings. The totalisator tax will be collected and made over to Government by the certificate-holder, but the betting tax will in the first place be collected and made over by the bookmaker to the certificate-holder, who will make it over to Government after satisfying himself that it represents the correct amount due.

6. Clause 10 requires the exhibition during race-meetings of the certificate of registration of the racecourse and of bookmakers' permits.

7. Clause 11 permits the settlement of credit bets within seven days at a place appointed by the certificate-holder and notice of the appointment is to be given to the prescribed officer, who may enter and inspect any such place.

8. Clause 12 provides a general penalty of Rs. 1,000 for all offences created by the Bill or by regulations made under it.

9. By clause 13, totalisator tax and betting tax may, on the conviction of the certificate-holder or authorized bookmaker for failure to make it over, be recovered as if it were a fine imposed by a magistrate; and clause 14 gives the power to cancel a certificate of registration or a bookmaker's permit on conviction of the holder for an offence under the Bill or regulations, or, in the case of the bookmaker, for breach of conditions of his permit.

10. Clause 15 contains a provision with regard to cases where the stewards of a racing club are a "certificate-holder". In such cases, every officer of the club will be equally guilty of an offence committed by the stewards, unless it was committed without his knowledge or consent, and acts required to be done by, and monies required to be paid to, the stewards may be done by, and paid to, the secretary of the club.

11. Clauses 16 and 17 relate to the making of regulations and the issue of search warrants.

Colombo, February 11, 1930.

E. ST. J. JACKSON,
Attorney-General.

MINUTE.

The following Draft of a proposed Ordinance is published for general information:—

An Ordinance to impose a Tax upon Incomes and to regulate the Collection thereof.

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An Ordinance to impose a Tax upon Incomes and to regulate the Collection thereof.

BE it enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:—

CHAPTER I.

PRELIMINARY.

1 This Ordinance may be cited as the Income Tax Ordinance, 1930, and shall come into operation on the first day of April, 1931. Short title and commencement.

2 In this Ordinance, unless the context otherwise requires— Interpretation.

“ Agent,” in relation to a non-resident person or to a partnership in which any partner is a non-resident person, means any person in Ceylon who, whether as agent, attorney, factor, receiver, manager or otherwise, has any business connection with such person or partnership, or through whom such person or partnership, is in receipt of any profits or income arising in or derived from Ceylon.

“ Assessable income ” means the residue of the total statutory income of any person after deducting the amount of the deductions provided for in Chapter V.

“ Assessor ” means an Income Tax Assessor appointed under this Ordinance.

“ Assistant Commissioner ” means an Assistant Commissioner of Income Tax appointed under this Ordinance.

“ Authorized representative ” means an individual authorized in writing by any person or partnership to act on his or its behalf for any purpose under this Ordinance who is—

- (a) in any case, an accountant approved by the Commissioner, or any advocate or proctor, or an employee regularly employed by the person concerned;
- (b) in the case of an individual, a relative;
- (c) in the case of a company, a director;
- (d) in the case of a partnership, a partner;
- (e) in the case of a body of persons, a member.

“ Body of persons ” means any body politic, corporate, or collegiate, and any fraternity, fellowship, association, or society of persons, whether corporate or unincorporate, but does not include a company or a partnership.

“ Business ” includes agricultural undertaking.

“ Collector ” means an Income Tax Collector appointed under this Ordinance.

“ Commissioner ” includes the Commissioner of Income Tax appointed under this Ordinance, and the Deputy Commissioner, and an Assistant Commissioner specially authorized either generally or for some specific purpose to act on behalf of the Commissioner or Deputy Commissioner.

“ Company ” means any company incorporated or registered under any law in force in Ceylon or elsewhere.

“ Deputy Commissioner ” means the Deputy Commissioner of Income Tax appointed under this Ordinance.

“ Dividend ” includes any distribution of profit by a company to its shareholders whether in the form of money, bonus shares, debentures or otherwise, but does not include a distribution made wholly out of profits derived from the sale of capital assets where such profits are not chargeable to tax under the provisions of this Ordinance.

“ Executor ” includes any executor, administrator, or other person administering the estate of a deceased person.

“ Government institution ” means the Office of the Public Trustee, the Ceylon Government Railway, the Government Electrical Undertakings, the Colombo Port Commission and other Port and Harbour Authorities, the Post Office, and any other Department or undertaking of the Government of Ceylon.

“ Incapacitated person ” means any minor, lunatic, idiot, or person of unsound mind.

“ Local authority ” means any Municipal Council, District Council, Local Board, Sanitary Board, Board of Improvement, or Village Committee in Ceylon.

“ Non-resident ” means not resident in Ceylon within the meaning of section 30.

“ Ordinance ” includes any Ordinance amending or substituted for the Ordinance referred to, and any rules, regulations or by-laws made under any of such Ordinances.

“ Owner ”, in-relation to land and improvements thereon, includes a person who holds such land and improvements subject to a ground rent or other annual charge.

“ Person ” includes a company or body of persons.

“ Precedent partner ” means the partner who, of the acting partners resident in Ceylon,—

- (a) is first named in the agreement of partnership; or
- (b) if there is no agreement, is specified by name or initials singly or with precedence to the other partners in the usual name of the partnership.

“ Prescribed ” means prescribed by or in pursuance of this Ordinance.

“ Profits ” or “ income ” means the profits or income from any source for any period calculated in accordance with the provisions of Chapter III.

“ Rates ” means any taxation imposed by a local authority.

“ Receiver ” includes any receiver, assignee, liquidator, trustee, or other person having the possession or control of the assets of any person by reason of insolvency or bankruptcy, and a receiver appointed under Chapter L. of the Civil Procedure Code, 1889.

“ Resident ” or “ resident in Ceylon ” means resident in Ceylon within the meaning of section 30.

“ Shareholder ” includes any member of a company having a share or interest in the capital or profits or income thereof, whether the capital of such company is divided into shares or not; and “ share ” includes any interest in the capital or profits or income of a company.

“ Statutory income ” means income from any source computed in accordance with Chapter IV.

“ Tax ” means the income tax imposed by this Ordinance.

“ Taxable income ” means the residue of assessable income after deducting the amount of the allowances provided for in Chapter VI.

“ Trade ” includes every trade and manufacture, and every adventure and concern in the nature of trade.

“ Trustee,” in relation to an incapacitated person, means any trustee, guardian, curator, manager, receiver, or other person having the direction, control, or management of any property or concern on behalf of such incapacitated person.

“ Written-down value ” means the residue of the cost to the owner thereof of any plant and machinery after deducting a sum representing the total depreciation which has occurred in such plant and machinery since the date of its purchase by him.

“ Year of assessment ” means the period of twelve months commencing on the first day of April, 1931, or any subsequent period of twelve months commencing on the first day of April.

“ Year preceding a year of assessment ” means the period of twelve months ending on the thirty-first day of March immediately prior to such year of assessment.

3 (1) For the purposes of this Ordinance, the Governor Administration may appoint a Commissioner, a Deputy Commissioner, Assistant Commissioners, and Assessors.

(2) An Assistant Commissioner exercising or performing any power, duty, or function of the Commissioner under this Ordinance shall be deemed for all purposes to be authorized to exercise or perform the same until the contrary is proved.

(3) Any powers conferred upon an Assessor by this Ordinance may be exercised by an Assistant Commissioner.

4 (1) Except in the performance of his duties under this Ordinance, every person who has been appointed under or who is or has been employed in carrying out the provisions of this Ordinance shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Ordinance, and shall not communicate any such matter to any person other than the person to whom such matter relates or his authorized representative, nor suffer or permit any person to have access to any records in the possession or custody of the Commissioner. Official secrecy.

(2) Every person appointed under or employed in carrying out the provisions of this Ordinance shall before acting under this Ordinance take and subscribe before a Justice of the Peace an oath of secrecy in the prescribed form.

(3) No person appointed under or employed in carrying out the provisions of this Ordinance shall be required to produce in any court any return, document, or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance, except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance.

(4) Notwithstanding anything contained in this section, the Commissioner may communicate to the Commissioner of Stamps any matter which comes to his knowledge in the performance of his official duties, and may communicate to the income tax authority of any part of His Majesty's Dominions or of any place under His Majesty's protection such information as may be necessary to enable any relief to be given which may be due from income tax in that part or place in respect of the payment of income tax in Ceylon.

CHAPTER II.

IMPOSITION OF INCOME TAX.

5 (1) Income tax shall, subject to the provisions of this Ordinance and notwithstanding anything contained in any written law or in any convention, grant, or agreement, be charged at the rate or rates specified hereinafter for the year of assessment commencing on the first day of April, 1931, and for each subsequent year of assessment, in respect of the profits and income of any person resident in Ceylon wherever arising, and in respect of the profits and income of any person not so resident arising in or derived from Ceylon. Incidence of income tax.

(2) For the purposes of this Ordinance, without in any way limiting the meaning of the term, “ profits and income arising in or derived from Ceylon ” includes all profits and income derived from services rendered in Ceylon, or from property in Ceylon, or from business transacted in Ceylon whether directly or through an agent.

Income chargeable
with tax.

6 (1) For the purposes of this Ordinance, " profits and income " includes—

- (a) the profits from any trade, business, profession, or vocation for however short a period carried on or exercised;
- (b) the profits from any employment;
- (c) the nett annual value of any land and improvements thereon used by or on behalf of the owner in so far as it is not included in paragraph (a) of this sub-section;
- (d) the nett annual value of any land and improvements thereon used rent-free by the occupier which is not included in paragraphs (a), (b), or (c) of this sub-section, or, where the rent paid for such land and improvements is less than the nett annual value, the excess of such nett annual value over the rent, to be deemed in each case the income of the occupier;
- (e) dividends, interest, or discounts;
- (f) any charge or annuity;
- (g) rents, royalties, and premiums; and
- (h) income from any other source whatsoever.

(2) For the purposes of this section—

(a) " Profits from any employment " includes—

- (i) any wages, salary, fee, pension, commission, bonus, gratuity, or perquisite, whether derived from the employer or others;
- (ii) the rental value of any place of residence provided rent-free by the employer;
- (iii) where a place of residence is provided by an employer at a rent less than the rental value, the excess of the rental value over such rent; and
- (iv) any other allowance granted in respect of employment whether in money or otherwise.

- (b) The nett annual value of land and improvements thereon or of any place of residence shall be deemed to be such sum not exceeding five per cent. of the capital value thereof as the Commissioner in his discretion thinks reasonable, but shall not be less than the amount of the annual value assessed for any rating or taxation purpose, adjusted by an allowance for rates borne by the owner and an allowance of twenty per cent. of the balance for repairs and other expenses where no such allowances or different allowances have been made in arriving at the said annual value.
- (c) The rental value of any place of residence shall be the nett annual value as defined in paragraph (b) of this sub-section with the addition of such sum as the Commissioner in his discretion thinks reasonable on account of the average cost to the owner of rates, repairs, and other expenses in connection with such place of residence: Provided that for the purposes of sub-section (2) (a) (ii) and (iii), any excess of rental value over fifteen per cent. of the profits described in sub-section (2) (a) (i) shall be disregarded.
- (d) The income or profits arising from rents of land and improvements thereon shall be the gross rent which is receivable and can be recovered after deducting rates borne by the owner and, where the owner undertakes to bear the cost of repairs, twenty per cent. of the balance, but shall not be less than the nett annual value after deducting therefrom any sum deemed to be the income of the occupier under sub-section (1) (d), due provision being made for any period in respect of which no rent is receivable or can be recovered.

- 7 There shall be exempt from the tax—
- Exemptions.
- (a) the official emoluments of the Governor;
 - (b) the income of any local authority or Government institution, exclusive of the income of any trust or other matter vested in or administered by such authority or institution to which such authority or institution is not beneficially entitled;
 - (c) the income of any statutory or registered building or mutual provident society resident in Ceylon, and of the Widows' and Orphans' Pension Fund of Public Officers of Ceylon and of any other Fund which the Commissioner in his discretion may consider equivalent thereto;
 - (d) the income of any ecclesiastical, charitable, or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution;
 - (e) the official emoluments of consuls or vice-consuls who are citizens or subjects of the states which they represent and who do not carry on or exercise in Ceylon any other employment or any trade, business, profession, or vocation;
 - (f) the emoluments payable from Imperial Funds to members of His Majesty's Forces on the active list, and, in respect of their offices under the Imperial Government, to persons in the service of the Imperial Government employed in or visiting Ceylon;
 - (g) wound and disability pensions granted to members of His Majesty's Forces;
 - (h) the income arising from a scholarship, exhibition, bursary, or similar educational endowment for the benefit of a person receiving full time instruction at a university, college, school, or other educational establishment;
 - (i) any capital sum received in commutation of pension rights or by way of retiring or death gratuity or as consolidated compensation for death or injuries;
 - (j) the accumulated interest payable to an individual in respect of any Ceylon Government Post Office Cash Certificate or in respect of any War or National Savings Certificate of the United Kingdom of Great Britain and Northern Ireland, so so long as the amount of the certificates held by the individual who is for the time being the holder of such certificate does not exceed the amount which an individual is for the time being authorized to hold under the written law, rules, or regulations relating to such certificates; and
 - (k) interest paid or credited to any individual by the Ceylon Savings Bank and the Ceylon Post Office Savings Bank.

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, annuities, salaries, wages, bonuses, perquisites, pensions, or other profits paid or arising wholly or in part out of the income so exempted.

8 The Governor may, by proclamation published in the Gazette, provide that, subject to such conditions as he may specify, the interest payable on any loan charged on the public revenue of Ceylon to which persons not resident in Ceylon are beneficially entitled shall be exempted from the tax; and such interest shall be exempt accordingly.

Exemption of
interest on
Government loans.

CHAPTER III.

ASCERTAINMENT OF PROFITS OR INCOME.

Deductions
allowed.

9 For the purpose of ascertaining the profits or income of any person from any source, there shall be deducted all outgoings and expenses wholly and exclusively incurred by such person in the production thereof, including—

- (a) such sum as the Commissioner in his discretion considers reasonable for the depreciation by wear and tear of plant and machinery arising out of its use by the owner thereof in a trade, business, profession, vocation, or employment carried on or exercised by him, such sum being calculated normally at a fixed rate per cent. per annum on the written-down value;
- (b) where any person who carries on or exercises a trade, business, profession, vocation, or employment has replaced any plant or machinery which was used in producing the income therefrom, the loss attributable to the excess of the written-down value over any sum realized by the sale thereof: Provided that—
 - (i) any corresponding profit shall be treated as a receipt of the trade, business, profession, vocation, or employment; and
 - (ii) where such plant and machinery was only partly used or employed in such trade, business, profession, vocation, or employment, the deduction or addition under this sub-section shall be proportionately reduced;
- (c) any sum expended for repair of plant and machinery employed in producing the income or for the renewal or repair of any premises, implement, utensil, or article so employed;
- (d) such sum as the Commissioner in his discretion considers reasonable for debts incurred in any trade, business, profession, vocation, or employment which have become bad during the period of which the profits are being ascertained, and for doubtful debts to the extent that they are estimated to have become bad during the said period, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period: Provided that all sums recovered during the said period on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession, vocation, or employment for that period;
- (e) any sum payable by way of interest on a fluctuating advance from a bank or other institution or person carrying on the business of banking, where such advance is employed in producing the income; and
- (f) any payment to the Widows' and Orphans' Pension Fund of Public Officers of Ceylon, or to any other fund which the Commissioner in his discretion may consider equivalent thereto.

Deductions
not allowed.

10 For the purpose of ascertaining the profits or income of any person from any source, no deduction shall be allowed in respect of—

- (a) domestic or private expenses, including the cost of travelling between residence and place of business or employment;
- (b) any disbursements or expenses not being money wholly and exclusively expended for the purpose of producing the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital;
- (d) the cost of any improvements;

- (e) any sum recoverable under an insurance or contract of indemnity;
- (f) rent of, or expenses in connection with, any premises or part of premises not occupied or used for the purpose of producing the income;
- (g) any amounts paid or payable by way of United Kingdom income tax or super tax or surtax or Ceylon income tax;
- (h) any interest paid or payable other than that allowed under section 9 (e);
- (i) any annuity, ground rent, or royalty; or
- (j) any payment to any provident, savings, widows' and orphans', or other fund, except such payments as are allowed under section 9 (f).

CHAPTER IV.

ASCERTAINMENT OF STATUTORY INCOME.

11 (1) For the purpose of computing the tax, there shall be ascertained the statutory income of each year of assessment from each source of profits and income in respect of which tax is charged under this Ordinance. Basis for computing statutory income.

(2) Except in the cases specified in the following subsections, the statutory income of each year of assessment shall be computed on the full amount of the profits or income of the year preceding such year of assessment.

(3) Where the Commissioner is satisfied that any person usually makes up the accounts of a trade, business, profession, vocation, or employment carried on or exercised by him to some day other than the thirty-first day of March, the Commissioner may permit the statutory income from that source to be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment. Where, however, the statutory income of any person from a trade, business, profession, vocation, or employment has been computed by reference to an account made up to a certain day, and such person fails to make up an account to the corresponding day in the year following, the statutory income from that source both of the year of assessment in which such failure occurs and of the two years of assessment following shall be computed on such basis as the Commissioner in his discretion thinks fit.

(4) Where any person commences to carry on or exercise a trade, business, profession, vocation, or employment on a day within a year of assessment, his statutory income therefrom for that year of assessment shall be computed on the amount of the profits of the period beginning on that day and ending on the thirty-first day of March following.

(5) Where any person has commenced to carry on or exercise a trade, business, profession, vocation, or employment on a day within the year preceding a year of assessment, his statutory income therefrom for that year of assessment shall be computed on the amount of the profits of one year from such day.

(6) The statutory income of any person from any trade, business, profession, vocation, or employment which he has commenced to carry on or exercise within the two years preceding a year of assessment, shall, on application being made by him to the Commissioner within twelve months after the end of that year of assessment, be re-computed on the amount of the profits of the year of assessment.

(7) Where a person ceases to carry on or exercise a trade, business, profession, vocation, or employment, his statutory income therefrom shall be computed or re-computed, as the case may be,—

- (a) as regards the year of assessment in which the cessation occurs, on the amount of the profits of the period beginning on the first day of April in that year and ending on the date of cessation; and

(b) as regards the year of assessment preceding that in which the cessation occurs, where the profits of such year exceed the statutory income as computed in accordance with sub-sections (2), (3), or (5), on the amount of such profits.

(8) The statutory income of any person becoming resident in Ceylon from any source not being a trade, business, profession, vocation, or employment to which sub-sections (4) or (5) apply, shall be computed for the year of assessment in which such person becomes resident on the amount of profits or income of the period beginning on the date of his arrival and ending on the thirty-first day of March following, and for the following year of assessment on the amount of the profits or income arising during the year commencing on the date of the arrival of such person.

(9) The statutory income of any person ceasing to be resident in Ceylon from any source not being a trade, business, profession, vocation, or employment to which sub-section (7) applies, shall, for the year of assessment in which he ceases to be resident, be computed on the profits or income of the period beginning on the first day of April in that year and ending on the date on which he ceases to be resident in Ceylon.

Provided that the provisions of this sub-section shall not apply to the computation of statutory income from any source in respect of which such person continues to be liable to assessment notwithstanding the fact that he has ceased to be resident in Ceylon.

(10) Where any person dies in any year of assessment, his statutory income for such year shall be computed on the amount of profits and income of the period beginning on the first day of April in that year and ending on the date of death, and the statutory income of his executor from the estate shall be computed for the year of assessment in which the death occurs on the profits and income of the period beginning on the date of death and ending on the thirty-first day of March following, and for the following year of assessment on the profits and income of one year from such date.

(11) Where in any year of assessment a beneficiary of the estate of a deceased person receives the capital amount of his interest in such estate, his statutory income from sources which formed part of such estate shall be computed for that year of assessment on the profits or income of the period beginning on the date of such receipt and ending on the thirty-first day of March following, and for the following year of assessment on the amount of profits and income of the year beginning on such date of receipt.

Apportionment of profits.

12. Where, in the case of any trade, business, profession, vocation, or employment it is necessary in order to arrive at the profits or losses of any year of assessment or other period to divide and apportion to specific periods the profits or losses for any period for which accounts have been made up, or to aggregate any such profits or losses or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods.

CHAPTER V.

ASCERTAINMENT OF ASSESSABLE INCOME.

Deductions from statutory income in arriving at assessable income.

13 (1) The assessable income of a person for any year of assessment shall be his total statutory income for that year subject to the following deductions:—

(a) Sums payable by him for the year preceding the year of assessment by way of annual interest, annuity, ground rent, or royalty not allowed in ascertaining profits or income: Provided that—

(i) where, under section 11 the statutory income arising from any source has been computed by reference to the profits or income of any period

other than the year preceding the year of assessment, the interest, annuity, ground rent, or royalty payable in respect of such source shall be computed on the like basis; and

(ii) no deduction shall be allowed in respect of annual interest payable on loans, mortgages, and debentures by a non-resident person to another non-resident person.

(b) The amount of a loss incurred by him during the year of assessment in any trade, business, profession, or vocation, which, if it had been a profit, would have been assessable under the Ordinance. Provided that no such deduction shall be made unless it is claimed by notice in writing within six months of the end of the year of assessment.

(c) The amount of a loss similarly incurred by him in any such trade, business, profession, or vocation during any of the three years of assessment preceding the year of assessment which has not been allowed against his statutory income of a prior year: Provided that—

(i) in no circumstances shall the aggregate deduction from statutory income in respect of any loss exceed the amount of such loss; and

(ii) a deduction under this paragraph shall be made as far as possible from the statutory income of the first year of assessment after that in which the loss was incurred, and, so far as it cannot be so made then from the statutory income of the next year of assessment, and so on.

(2) For the purposes of sub-section (1) (b) and (c), the loss incurred during any year of assessment may be computed where the Commissioner so decides by reference to the year ending on the day in such year of assessment which would have been adopted under section 11 (3) for the computation of statutory income of the following year of assessment if a profit had arisen.

(3) In the case of an individual resident in Ceylon any loss deducted under this section shall, in the first instance, be deducted from statutory income which is computed on earned income within the meaning of section 16, and any balance of loss to be deducted from other statutory income shall be reduced by an amount similar to the allowance which would have been due under that section in respect of earned income if the loss in question had been a profit.

(4) Where any person has been declared bankrupt or adjudged insolvent by a competent court, no loss incurred prior to the date of bankruptcy or insolvency shall be set off against income arising after such date.

(5) As regards losses incurred prior to the first day of April, 1931, the provisions of this section shall extend only to the year ending on the thirty-first day of March, 1931, or to such other period not exceeding twelve months as would, if a profit had arisen, have been adopted under section 11 (3) for the computation of statutory income for the year of assessment commencing on the first day of April, 1931.

(6) The amount of a loss for the purposes of this section shall be ascertained in the manner provided in Chapter III for the ascertainment of profits.

(7) No deduction under this section shall be allowable except on a claim made in writing by the person assessable, containing such particulars and supported by such proof as the Commissioner may require.

CHAPTER VI.

ASCERTAINMENT OF TAXABLE INCOME.

14 Save as hereinafter provided in this Chapter, the taxable income of any person for any year of assessment shall be his assessable income for that year of assessment. Taxable income.

Exemption from tax of certain resident individuals.

15 Where the assessable income of an individual resident in Ceylon for any year of assessment does not exceed two thousand four hundred rupees, such income shall not be taxable:

Provided that for the three years of assessment commencing on the first day of April, 1931, 1932, and 1933, respectively, the words "two thousand four hundred" in this section shall be read as "four thousand eight hundred".

Allowances to resident individuals.

16 (1) An individual resident in Ceylon shall be entitled to claim for any year of assessment that the following allowances be deducted from his assessable income in arriving at his taxable income:—

- (a) an allowance of two thousand rupees;
- (b) where any part of his statutory income is computed on earned income, an allowance of either one-fifth of the amount of such part of his statutory income after deducting therefrom any loss allowed under section 13, or one-fifth of his assessable income, whichever is the less, provided that such allowance shall not exceed four thousand rupees;
- (c) an allowance of one thousand rupees, if, during the year preceding the year of assessment, he had a wife;
- (d) an allowance of one thousand rupees, if he had living at any time during the year preceding the year of assessment an unmarried child who was either under the age of fifteen years or who, if over the age of fifteen years and under the age of twenty-two years, was receiving full time instruction at a university, college, school, or other educational establishment, and where he had more than one such child an allowance of two hundred and fifty rupees for each such child in excess of one:

Provided that—

- (i) no such allowance shall be made in respect of a child whose assessable income for the year preceding the year of assessment exceeded one thousand rupees; and
- (ii) the total allowances under this paragraph shall not exceed two thousand rupees.

(2) For the purposes of this section—

- (a) "earned income" means any profits immediately derived by the individual through his personal exertions from any trade, business, profession, vocation, or employment carried on or exercised by him either as an individual or, in the case of a partnership, as a partner personally acting therein, or any pension, superannuation, or other allowance given in respect of past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation, or other allowance or not: Provided that the profits of an individual from an agricultural undertaking carried on by him solely or in partnership on land of which he is the owner or joint owner shall not be regarded as earned income to an extent greater than one-half thereof;
- (b) "wife" does not include a wife who is living apart from her husband under the decree of a competent court or duly executed deed of separation;
- (c) "child" does not include an adopted or illegitimate child.

Proportionate allowances.

17 An individual who is resident in Ceylon for a part only of a year of assessment shall be entitled for that year to the same proportion only of the allowances under section 16 as the number of days during which he is resident bears to the number of days in that year of assessment.

18 Where in any year of assessment an individual visits Ceylon without becoming resident, and his assessable income, being earned income within the meaning of section 16, does not exceed five hundred rupees, such income shall not be taxable.

Exemption of earned income of certain non-resident persons.

19 Every individual who claims an allowance under this chapter shall make his claim on the prescribed form. Such allowance shall be granted if the claim contains such particulars and is supported by such proof as the Commissioner may require.

Proof of claims.

CHAPTER VII.

CHARGE AND RATES OF TAX.

20 (1) Tax shall be charged for each year of assessment upon the taxable income for that year of every individual resident in Ceylon at the following rates:—

Charge of tax and rates thereof.

Upon the first Rs. 6,000	...	Half the standard rate.
Upon the next Rs. 30,000	...	The standard rate.
Upon the remainder	...	One and a half times the standard rate.

Provided that—

- (i) where, in the case of an individual whose assessable income for any year of assessment exceeds two thousand four hundred rupees, the amount of tax so charged would amount to less than one per cent. of his assessable income, tax shall be charged in respect of the income of such individual at the rate of one per cent. upon his assessable income;
- (ii) where an individual is resident in Ceylon for a part only of any year of assessment, the sums chargeable at half the standard rate and at the standard rate shall be reduced in the proportion which the number of days during which he is resident bears to the number of days in that year of assessment.

(2) Tax shall be charged for each year of assessment upon all other taxable income for that year at the standard rate.

(3) In the first proviso to sub-section (1) the words "two thousand four hundred" shall for the three years of assessment commencing on the first day of April, 1931, 1932, and 1933, respectively, be read as "four thousand eight hundred".

(4) The standard rate for the year of assessment commencing on the first day of April, 1931, shall be the rate specified in the Schedule to this Ordinance, and may be amended for any subsequent year of assessment by a resolution of the Legislative Council passed before the first day of September in such year of assessment and sanctioned by the Governor. In the absence of any such amendment, the standard rate for any year of assessment shall be that in force for the preceding year.

Schedule.

CHAPTER VIII.

PROVISIONS RELATING TO SPECIAL CASES.

A.—Husband and Wife.

21 The income of a married woman who is not living apart from her husband under the decree of a competent court or duly executed deed of separation shall, for the purposes of this Ordinance, be deemed to be the income of her husband, and shall be charged accordingly:

Wife's income.

Provided that such part of the total amount of the tax charged to the husband as appears to the Commissioner to be charged in respect of the income of the wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her, and the provisions of this Ordinance as to collection and recovery of tax shall apply accordingly.

Separate assessment of husband and wife.

22 Notwithstanding the provisions of section 21, any husband or wife may give notice in writing to the Commissioner before the first day of June in any year of assessment requiring that tax for that year shall be assessed, charged, and recovered separately on the income of the husband and on the income of the wife as if they were not married, and all the provisions of this Ordinance shall thereupon apply to each of them accordingly:

Provided that the incomes of the husband and the wife shall be aggregated for the purpose of the allowances from assessable income under Chapter VI and for the purpose of calculating the sums chargeable at half the standard rate and at the standard rate, so that the total tax payable in respect of the incomes of husband and wife shall not be less than the amount which would have been payable if no notice had been given under this section.

The allowances from assessable income and the amounts chargeable at half the standard rate and at the standard rate shall be apportioned between the husband and the wife by the Commissioner in his discretion, the allowance in respect of earned income being apportioned by reference to the amount of the earned income of each, the other allowances from assessable income in proportion to the assessable income of each, and the amounts chargeable at half the standard rate and at the standard rate in proportion to the taxable income of each: Provided that where an assessment is reduced or increased after such apportionment has been made, the Commissioner shall make a fresh apportionment, and any consequent adjustment shall be made by additional assessment or reduction or repayment of tax, as the case may require.

B.—Trustees, Executors, &c.

Chargeability of receiver and trustee.

23 (1) An Assessor may give notice in writing to a receiver or to the trustee of a trust created otherwise than under the will of a deceased person requiring him to furnish within the time limited by such notice a return of the income of the estate or trust, and such receiver or trustee shall be chargeable with tax at the standard rate on the whole of such income:

Provided that where it is shown that a beneficiary of the estate or trust is entitled to any part of the income thereof, that part of the income may be deducted from the amount on which the trustee is assessable and treated for the purposes of this Ordinance as the income of the beneficiary.

(2) The trustee of an incapacitated person shall be chargeable with tax in like manner and to the like amount as such person would be chargeable: Provided that nothing in this section shall prevent the direct assessment of an incapacitated person in his own name.

(3) For the purposes of this section, where there are more trustees than one they may be assessed jointly or severally in respect of the income of the trust, and shall be jointly and severally liable for tax thereon.

Chargeability of executor.

24 An Assessor may give notice in writing to the executor of a deceased person requiring him to furnish, within the time limited by such notice, a return of the income arising from the estate of such deceased person, and such executor shall be chargeable with tax at the standard rate on the whole of such income after deducting therefrom any sums proved to have been distributed to, or applied to the benefit of, beneficiaries as income from such estate during the year preceding the year of assessment. Where there are more executors than one, they may be assessed jointly or severally in respect of the income of the estate, and shall be jointly and severally liable for tax thereon.

Statutory income of a beneficiary of an estate.

25 Notwithstanding the provisions of section 11, the statutory income of an individual for any year of assessment arising from the estate of a deceased person administered by an executor shall in every case be the amount of income received therefrom by him or applied to his benefit during the year preceding the year of assessment.

26 Whenever a beneficiary has received the capital amount of his interest in the estate of a deceased person administered by an executor, notice may be given either by the Commissioner to the beneficiary or by the beneficiary to the Commissioner within three years of the end of the year of assessment in which the capital amount was received, of his intention to claim an adjustment of the tax charged both to the beneficiary and to the executor in respect of the beneficiary's share of the income of the estate, and such adjustment shall be made accordingly by repayment or additional assessment, as the case may require, for the whole period extending from the date of death to the date on which the beneficiary received the capital amount of his interest. The basis of such adjustment shall be the aggregate difference for the whole of such period between—

Adjustment of tax on the shares of the beneficiaries when an estate is distributed.

- (a) the tax (apportioned as the Commissioner in his discretion thinks reasonable) paid by the executor in respect of the beneficiary's share of the income of the estate for the said period added to the excess of the tax paid by the beneficiary over the amount which would have been payable by him if no income from the estate had been included in his assessable income; and
- (b) the excess of the total tax which would have been payable by the beneficiary for the said period if his assessable income for each year of assessment during such period had included his full apportioned share of the income of the estate as it arose over the amount which would have been payable by him if no income from the estate had been included in his assessable income.

27 When any person dies and no assessment or an insufficient assessment has been made upon him for the year of assessment in which the death occurs or for any of the three preceding years of assessment, the executor administering the estate of such deceased person shall be chargeable with the tax with which such deceased person would have been chargeable for those years or any of them, and shall be answerable for doing all such acts, matters, and things as the deceased person if he were alive would be liable to do under this Ordinance.

Executor chargeable with tax for periods prior to date of death.

C.—Partnerships.

28 Where a trade, business, profession, vocation, or employment is carried on by two or more persons in partnership—

Assessment of partnership income.

(1) (a) An Assessor may give notice in writing to the precedent partner of such partnership requiring him to furnish within the time limited by such notice a return showing the profits or losses of the partnership from such trade, business, profession, vocation, or employment during the period of twelve months immediately preceding the year of assessment or during any other period in respect of which statutory income may be computed under section 11, ascertained in accordance with the provisions of Chapter III, and showing also any annual interest, annuity, ground rent, or royalty payable by the partnership in respect of such trade, business, profession, vocation, or employment for the said period. The amount of such interest, annuity, ground rent, or royalty shall be deducted from the profits or added to the losses ascertained as above, and the figure thus arrived at shall be known as the divisible profit or loss for that period. The precedent partner shall further in such return declare any other income of the partnership for the said period together with the names and addresses of all the partners, and shall apportion among them the divisible profit or loss and other income in accordance with their shares in the partnership during the period in which the said profit or loss or income arose.

Where no acting partner is resident in Ceylon, the return shall be furnished by the attorney, agent, manager, branch, or factor of the partnership in Ceylon.

(b) In computing the profits or losses of the partnership, nothing shall be deducted for salaries or other remuneration of partners or for interest on partners' capital, but such sums shall be taken into account in apportioning among the partners the divisible profit or loss and other income.

(2) The statutory income of any partner from the partnership shall be computed in accordance with the provisions of section 11 by treating his share of the divisible profit of the partnership as though it were profits of a trade, business, profession, vocation, or employment carried on or exercised by him, and his share of other income as though it accrued to him solely: Provided that where no return has been made as required by sub-section (1) or a return made under that sub-section has not been accepted, the Assessor may estimate the statutory income of any partner from the partnership to the best of his judgment.

(3) The share of any partner of a divisible loss shall be a loss incurred by him within the meaning of section 13. The amount of such divisible loss and the partner's share thereof shall be determined by the Assessor subject to appeal as provided by Chapter XI.

(4) Where a return has been made by the precedent partner in accordance with sub-section (1) and has been accepted by the Assessor, the income of each partner resident in Ceylon derived from the partnership shall be assessed upon him individually.

(5) The income of any non-resident partner or partners from a partnership shall be assessable in the name of the partnership or of any resident partner or of any agent of the partnership in Ceylon, and the tax charged thereon shall be recoverable by all means provided in this Ordinance out of the assets of the partnership, or from any partner, or from any such agent.

(6) Where no return has been made in accordance with sub-section (1) or the return has not been accepted by the Assessor, either as regards the amount of the profits or income or the allocation thereof among the partners, it shall be lawful for an assessment to be made in the name of the partnership on the estimated amount of the profits and income of the partnership arrived at in accordance with the provisions of this Ordinance relating to the ascertainment of the assessable income of a person, and tax thereon may be charged at the standard rate and shall be recoverable out of the assets of the partnership, or from any partner, or from any agent of the partnership; such assessment shall be subject to appeal by any person aggrieved thereby in the manner provided by Chapter XI, and the Commissioner or the Board of Review, as the case may be, may upon such appeal determine the profits and income and allocate the same among the partners and compute their statutory incomes from the partnership as provided in sub-section (2) and the tax payable in respect thereof, which may be re-assessed on the individual partners or may be recovered as tax on the assessment appealed against without any new assessment.

(7) Where under this section income has been assessed in the name of a partnership, and a change occurs in such partnership by reason of retirement or death, or the dissolution of the partnership as to one or more of the partners, or the admission of a new partner, in such circumstances that one or more of the persons who were joint owners of the assets of such partnership continues to be owner or joint owner of such assets, the person or partnership becoming owner of such assets in consequence of such change shall be charged with the said tax or any part of it which remains unpaid, and the provisions of Chapter XIII shall apply to such person or partnership accordingly.

D.—Agriculture.

29 (1) In this section—

(a) "permanent cultivation" means the cultivation of land for the purpose of producing coconuts, rubber, tea, cocoa, and other products from palms, trees, or bushes of a more or less permanent character, all of which are hereinafter referred to as trees;

Ascertainment of profits from certain agricultural undertakings.

- (b) "estate" means any land used mainly for the purpose of permanent cultivation;
- (c) "immature area" means any portion of an estate, planted in a particular year, in which the trees are not fully mature.

(2) For the purpose of ascertaining the profits from an estate, the provisions of this section shall apply in addition to, and shall be read with, Chapter III.

(3) The income and expenditure in connection with any immature area shall be separately considered, and it shall be lawful for the Assessor to require production of such particulars as may be necessary for that purpose.

(4) No deduction shall be allowed for any expenditure incurred in connection with any immature area in which the trees are not yet in bearing.

(5) Where the expenditure (other than capital expenditure) on any immature area exceeds the receipts therefrom, and such excess is mainly due to the fact that a substantial proportion of the trees in that area is not yet in bearing, such excess shall not be deducted from the profits of the remainder of the estate and shall not be allowable as a loss for the purposes of section 13.

(6) Where an estate or part of an estate has been purchased, any part of the expenditure for any period ending within five years of the date of purchase on manuring, draining, weeding, or other processes of cultivation which produces a definite improvement and is not merely directed to the maintenance of the estate or part of the estate in substantially the same condition as at the date of purchase, shall be treated as the cost of an improvement under section 10 (d) and shall not be allowed in arriving at the profits of the estate.

E.—Residence.

30 (1) Where a company or body of persons has its registered or principal office in Ceylon, or where the control and management of its business is exercised in Ceylon, such company or body of persons shall be deemed to be resident in Ceylon for the purposes of this Ordinance.

What constitutes residence.

(2) An individual shall be deemed to be resident in Ceylon for the purposes of this Ordinance from the date of his arrival to the date of his departure (other than a departure for a temporary purpose)—

- (a) where he comes to Ceylon intending to stay more than six months; or
- (b) where he is present in Ceylon for a period or periods amounting in all to six months or more during the year of assessment; or
- (c) where he is absent from Ceylon for some temporary purpose for a period or periods amounting in all to more than six months during the year of assessment but was deemed to be resident in Ceylon during the year preceding the year of assessment, or would have been so deemed to be resident if this Ordinance had always been in force.

(3) For the purposes of this section, a temporary purpose is one which at the time of the departure from Ceylon is not expected to result in an absence from Ceylon of more than two years.

F.—Liability of Non-resident Persons.

31 (1) Where the agent of a non-resident person sells or disposes of, or is instrumental in selling or disposing of, any property for such non-resident person, whether such property is in Ceylon or is to be brought into Ceylon and whether the sale or disposal is effected by the agent in Ceylon or by or on behalf of the non-resident person outside Ceylon and whether the monies arising therefrom are paid to or received by the non-resident person directly or otherwise, the profits arising from such sale or disposal shall be deemed to be derived by the non-resident person from business transacted by him in Ceylon.

Non-resident employees.

(2) The profits of a non-resident person from employment by a resident person shall be chargeable with tax except for any year of assessment in which no services are rendered in Ceylon.

Person assessable on behalf of a non-resident person.

32 A non-resident person shall be assessable either directly or in the name of his agent in respect of all his profits and income arising in or derived from Ceylon, whether such agent has the receipt of the income or not, and the tax so assessed whether directly or in the name of the agent shall be recoverable by all means provided in this Ordinance out of the assets of the non-resident person or from the agent.

Chargeability of profits of certain non-resident persons.

33 (1) For the purposes of this section—

- (a) a person is closely connected with another person where the Commissioner in his discretion considers that such persons are substantially identical or that the ultimate controlling interest of each is owned or deemed under this section to be owned by the same person or persons;
- (b) the controlling interest of a company shall be deemed to be owned by the beneficial owners of its shares, whether held directly or through nominees, and shares in one company held by or on behalf of another company shall be deemed to be held by the shareholders of the last-mentioned company.

(2) Where a non-resident person carries on business with a resident person with whom he is closely connected and the course of such business is so arranged that it produces to the resident person either no profits or less than the ordinary profits which might be expected to arise, the business done by the non-resident person in pursuance of his connection with the resident person shall be deemed to be carried on in Ceylon, and such non-resident person shall be assessable and chargeable with tax in respect of his profits from such business in the name of the resident person as if the resident person were his agent, and all the provisions of this Ordinance shall apply accordingly.

(3) Where tax is chargeable in respect of the profits arising from the sale of goods or produce manufactured or produced outside Ceylon by a non-resident person or by a person or persons with whom he is closely connected, the profits of such non-resident person for the purposes of this Ordinance from the sale of such goods or produce shall be deemed to be not less than the profits which might reasonably be expected to have been made by a merchant, or, where the goods or produce are retailed by or on behalf of the non-resident person, by a retailer of the goods or produce sold, who had bought the same direct from a manufacturer or producer with whom he was not connected.

Profits of certain businesses to be computed on a percentage of the turnover.

34 Where the Commissioner in his discretion considers that the true amount of the profits of a non-resident person arising in or derived from Ceylon in respect of a trade or business cannot be readily ascertained, such profits may be computed on a fair percentage of the turnover of that trade or business in Ceylon: Provided that the amount of such percentage shall be subject to appeal in accordance with the provisions of Chapter XI.

Profits of non-resident persons from sale of exported produce.

35 Where a non-resident person carries on in Ceylon an agricultural, manufacturing, or other productive undertaking, and sells any product of such undertaking outside Ceylon or for delivery outside Ceylon, whether the contract is made within or without Ceylon, the full profit arising from the sale in a wholesale market shall be deemed to be income arising in or derived from Ceylon: Provided that, if it is shown that the profit has been increased through treatment of the product outside Ceylon other than handling, blending, sorting, packing, and disposal, such increase of profit shall not be deemed to be income arising in or derived from Ceylon. Where any such produce is not sold in a wholesale market, the profit arising in Ceylon shall be deemed to be not less than the profit which might have been obtained if such person had sold such produce wholesale to the best advantage.

G.—Shipping.

36 (1) Where a non-resident person carries on the business of shipowner or charterer and any ship owned or chartered by him calls at a port in Ceylon, he shall be deemed to carry on business in Ceylon, and his profits therefrom may be computed on a fair percentage of the full amount paid or payable to such person or to any person on his behalf on account of the carriage of all passengers, mails, live stock, or goods shipped in Ceylon.

Profits of
non-resident
shipowners.

(2) Where such person renders a statement which, in the opinion of the Assessor, satisfactorily discloses the full profits arising from the carriage of passengers, mails, live stock, or goods shipped in Ceylon, the profits from his shipping business in Ceylon may be computed by reference to such statement. Such statement may be in the form of a certificate issued by or on behalf of any income tax authority which assesses the full profits of the non-resident person from his shipping business, setting out the total sum received for the period covered by the certificate on account of the carriage of passengers, mails, live stock, and goods and the total profits arising out of the same assessable to income tax by that authority, and where the Assessor is satisfied that such profits are computed substantially in accordance with the provisions of this Ordinance, the ratio of total profits to total receipts shall be applied in lieu of the percentage referred to in sub-section (1).

(3) Notwithstanding anything contained in this Ordinance, any person charged for any year of assessment under the provisions of sub-section (1) may, within three years of the end of such year, claim an adjustment of the assessment by way of repayment on the basis provided by sub-section (2).

(4) Where the Commissioner decides that the call of a ship belonging to a particular non-resident shipowner or charterer at a port in Ceylon is casual and that further calls by that ship or others in the same ownership are improbable, the provisions of this section shall not apply to the profits of such ship and no tax shall be chargeable thereon.

37 The master of any ship owned or chartered by a non-resident person who is chargeable under the provisions of section 36 shall (though not to the exclusion of any other agent) be deemed the agent of such non-resident person for all the purposes of this Ordinance.

Master of ship to
be an agent.

38 (1) In addition to any other powers of collection and recovery provided in this Ordinance, the Commissioner may, where the tax charged on the income of any person who carries on the business of shipowner or charterer has been in default for more than three months (whether such person is assessed directly or in the name of some other person), issue to the Principal Collector of Customs or other authority by whom clearance may be granted a certificate containing the name or names of the said person and particulars of the tax in default. On receipt of such certificate, the Principal Collector of Customs or other authority shall be empowered and is hereby required to refuse clearance from any port in Ceylon to any ship owned wholly or partly or chartered by such person until the said tax has been paid.

Refusal of
clearance where
tax is in arrear.

(2) No civil or criminal proceedings shall be instituted or maintained against the Principal Collector of Customs or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

H.—Insurance.

39 (1) The profits of a company, whether mutual or proprietary, from the business of life insurance shall be the investment income of the Life Insurance Fund less the management expenses (excluding commission) attributable to that business: Provided that where such a company which is not resident in Ceylon transacts life insurance business in Ceylon whether directly or through an agent,

Ascertainment of
profits of insurance
companies.

the profits therefrom shall be the same proportion of the total investment income of the Life Insurance Fund of the company as the premiums from life insurance business in Ceylon bear to the total life insurance premiums received by it, subject to a deduction of agency expenses in Ceylon (excluding commission) and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses of any income or profits other than life insurance premiums or investment income.

(2) The profits of a non-resident company, whether mutual or proprietary, from the business of insurance (other than life insurance) shall be ascertained by taking the gross premiums from insurance business in Ceylon (less any premiums returned to the insured and premiums paid on re-insurance) and deducting therefrom a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period of which the profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, and from the nett amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Ceylon, and a fair proportion of the expenses of the head office of the company, due account being taken in each case by set-off against such expenses of any income or profits other than premiums.

(3) For the purposes of this section "investment income of the Life Insurance Fund" means, in the case of a company whose sole business is life insurance, the whole of its income from investments, and, in the case of any other company, such part of its income from investments as appears fairly attributable to its life insurance business.

I.—Dividends, &c.

Deduction of tax
from dividends.

40 (1) Every resident company shall be entitled to deduct from the amount of any dividend paid in money to any shareholder tax at the standard rate in force for the year preceding the year of assessment in which such dividend becomes payable: Provided that all such dividends which become payable during the year of assessment commencing on the first day of April, 1931, shall be subject to deduction of tax at the standard rate for that year.

(2) Every person who issues a warrant or cheque or other order drawn or made in payment of any dividend which becomes payable in money by a resident company after the thirty-first day of March, 1931, shall annex thereto a statement in writing showing—

- (a) the gross amount which after deduction of the tax appropriate thereto corresponds to the nett amount actually paid;
- (b) the rate and the amount of tax appropriate to such gross amount; and
- (c) the nett amount actually paid.

(3) Any person who proves that a company has deducted tax in accordance with the provisions of this section from a dividend which is included in his assessable income shall be entitled to a set-off of the amount of tax so deducted against the tax charged in respect of his assessable income.

(4) Where the assessable income of a person includes a dividend from a company which, although not resident in Ceylon, has paid Ceylon income tax on any part of its profits, he may claim a set-off of tax in respect of a similar part of the dividend, and such relief shall be granted as the Commissioner in his discretion considers reasonable.

(5) In the year of assessment commencing on the first day of April, 1931, the assessable income of any person from any dividend or part of a dividend to which sub-sections (3) and (4) would have applied if this Ordinance had been in force at the time when such dividend became payable shall be deemed to have borne tax at the standard

rate in force for the year of assessment commencing on the first day of April, 1931, and he shall be entitled to the set-off provided in those sub-sections; but so, however, that the total tax chargeable to such person for such year of assessment shall not be less than the tax which would be chargeable if such dividend or part of a dividend were omitted from his assessable income and no set-off under this sub-section were allowed.

(6) Where a dividend which is paid otherwise than in money wholly or partly out of profits which have borne tax is included in the assessable income of a person, such person may claim a set-off of tax in respect of such dividend, and such relief shall be granted as the Commissioner in his discretion considers reasonable.

(7) The provisions of this section shall apply, as far as may be, to sums distributed by a body of persons out of income assessed under this Ordinance in the same way as they apply to dividends paid by a company.

J.—Interest, &c., payable to Non-resident Persons.

41 Where after the thirty-first day of March, 1931, any resident person or agent in Ceylon of any non-resident person pays to a non-resident person—

Deduction of tax from interest, &c.

- (a) interest on debentures, mortgages, or loans (other than fluctuating advances made by a bank or other institution or person carrying on the business of banking), such debentures, mortgages, or loans not being expressly secured upon property outside Ceylon; or
- (b) rent, ground rent, royalty, annuity or other annual payment payable either in respect of property in Ceylon or out of income arising in Ceylon,

the resident person or agent making such payment shall be entitled to deduct tax therefrom at the standard rate in force for the year preceding the year of assessment in which the payment is made, and the amount of tax so deductible shall be a debt due from the resident person or agent to the Government of Ceylon and shall be recoverable forthwith as such, or may be assessed and charged upon the resident person or agent in addition to any tax otherwise payable by him under this Ordinance:

Provided that in the year of assessment commencing on the first day of April, 1931, the rate of tax at which deductions under this section are to be made shall be the standard rate in force for that year.

K.—Miscellaneous.

42 The income of a resident person arising from interest on loans, mortgages, and debentures shall be the full amount of interest falling due, whether paid or not. Where however such person proves to the satisfaction of the Commissioner that such interest is unpaid and cannot be recovered, he shall be entitled to relief to the extent that its inclusion in his assessable income has increased the tax payable.

Income from interest to be the amount falling due.

43 The profits of a company from transactions with its shareholders which would be assessable if such transactions were with persons other than its shareholders shall be profits within the meaning of this Ordinance.

Profits of a company from transactions with its shareholders.

44 (1) Where a body of persons, whether corporate or unincorporate, carries on a club or similar institution and receives from its members not less than three-fourths of its gross receipts on revenue account (including entrance fees and subscriptions), it shall not be deemed to carry on a business; but where less than three-fourths of its gross receipts are received from members, the whole of the income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable either in respect of the profits therefrom, or in respect of the income which would be assessable if it were not deemed to carry on a business, whichever is the greater.

Ascertainment of income of clubs, trade associations, &c.

(2) Where a body of persons, whether corporate or unincorporate, carries on a trade association, chamber of commerce, or similar institution in such circumstances that more than half its receipts (including entrance fees and subscriptions) are from persons who claim or would be entitled to claim that such sums were allowable deductions for the purposes of section 9, such body of persons shall be deemed to carry on a business, and the whole of its income from transactions both with members and others (including entrance fees and subscriptions) shall be deemed to be receipts from a business, and the body of persons shall be chargeable either in respect of the profits therefrom or in respect of the income which would be assessable if it were not deemed to carry on a business, whichever is the greater.

(3) In this section, "members", in relation to a body of persons, means those persons who are entitled to vote at a general meeting of the body at which effective control is exercised over its affairs.

(4) Nothing in this section shall operate to annul or reduce any exemption granted in section 7 of this Ordinance.

Certain dispositions and transactions to be disregarded and certain undistributed profits to be treated as distributed.

45 (1) Where it appears to an Assessor that—

- (a) property or income has been transferred to any person by means of a disposition revocable by the donor; or
- (b) property or income has been transferred to any person for other than valuable and sufficient consideration for a period less than the life of such person; or
- (c) a company controlled by not more than five persons has not distributed to its shareholders as dividend profits made in any period ending after the thirty-first day of March, 1930, which could be distributed without detriment to the company's business,

in each case with a view to the avoidance or reduction of tax, the Assessor may treat any such transfer as void and any such undistributed profits as distributed and the persons concerned shall be assessable accordingly.

(2) Where an Assessor is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the persons concerned shall be assessable accordingly.

(3) Any increase of tax under this section shall be subject to appeal as provided in Chapter XI.

(4) In this section—

- (a) "disposition" includes any trust, grant, covenant, agreement, or arrangement;
- (b) "company controlled by not more than five persons" means a company in which—
 - (i) the number of shareholders is not more than fifty; and
 - (ii) more than half the total shares issued are held by not more than five persons, their wives, or minor children, either directly or through nominees.

Indemnification of representative.

46 Every person chargeable with tax under this Ordinance as trustee, executor, or agent or from whom tax is recoverable in respect of the income of another person, may retain out of any money coming into his hands on behalf of such other person or in his capacity as trustee, executor, or agent so much thereof as shall be sufficient to pay such tax; and he shall be and is hereby indemnified against any person whatsoever for all such payments made by him in pursuance and by virtue of this Ordinance.

CHAPTER IX.

RETURNS, &c.

47 (1) An Assessor may give notice in writing to any person requiring him to furnish within the time limited by such notice a return of his income containing such particulars and in such form as may be prescribed.

Returns and information to be furnished.

(2) Every person chargeable with tax for any year of assessment who has not been required within a period of three months after the commencement of such year of assessment to make a return of his income for that year as provided in sub-section (1) shall within fourteen days after the expiration of such period give notice to the Commissioner that he is so chargeable.

(3) An Assessor may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within the time limited by such notice fuller or further returns respecting any matter of which a return is required or prescribed by this Ordinance.

(4) For the purpose of obtaining full information in respect of income chargeable with tax, an Assessor may give notice in writing to any person requiring him to produce for examination within the time limited by such notice any deeds, plans, instruments, books, accounts, trade lists, stock lists, or documents which the Assessor may deem necessary.

(5) An Assessor may give notice in writing to any person entitled to or in receipt of any income (whether on his own behalf or on behalf of any other person), or to any person whom he may deem able to furnish information in respect of such income, requiring him to attend at a time and place to be named by the Assessor for the purpose of being examined respecting such income or any transactions or matters affecting the same. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(6) A return, statement, or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement, or form shall be deemed to be cognizant of all matters therein.

48 (1) The Commissioner may give notice in writing to any officer in the employment of the Government or of any local authority or other public body requiring him to furnish within the time limited by such notice any particulars which he may require for the purposes of this Ordinance which may be in the possession of such officer: Provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any express statutory obligation to observe secrecy.

Information to be furnished by officials and employers.

(2) Every person who is an employer shall, when required to do so by notice in writing given by an Assessor, furnish within the time limited by such notice a return containing the names and places of residence and the full amount of the remuneration, whether in cash or otherwise, for the period specified in the notice, of—

- (a) all persons employed by him in receipt of remuneration in excess of a minimum figure to be fixed by the Assessor; and
- (b) any other person employed by him named by the Assessor.

(3) Any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed by the company.

Returns to be furnished by persons in receipt of income belonging to others.

49 An Assessor may give notice in writing requiring any person who in any capacity whatever is in receipt of any money or value, or of profits to which this Ordinance applies, or of belonging to any other person who is or may be chargeable with tax (or who would be so chargeable if he were resident in Ceylon) to furnish within the time limited by such notice a return containing—

- (a) a true and correct statement of all such money, value or profits; and
- (b) the name and address of every person to whom the same belongs.

Occupiers to furnish returns of rent payable.

50 An Assessor may give notice in writing to any person who is the occupier of any land and improvements thereon requiring him to furnish within the time limited by such notice a return containing—

- (a) the name and address of the owner of such land and improvements; and
- (b) a true and correct statement of the rent payable and any other consideration passing therefor.

Return of lodgers and inmates.

51 An Assessor may give notice in writing to any person requiring him within the time limited by such notice to furnish a return containing the name of every lodger or inmate who is at the date of the notice resident in his house, hotel, or institution and has been so resident, except for temporary absences, throughout the preceding three months.

Duties of representative of incapacitated or non-resident person.

52 The trustee of an incapacitated person, or the agent of a non-resident person shall be answerable for doing all acts, matters, and things required to be done by virtue of this Ordinance for the assessment of the income of the person for whom he is trustee or agent, and for furnishing any returns, documents, particulars, or information which might be required under this Ordinance from such person.

Precedent partner to act on behalf of a partnership.

53 (1) Wherever two or more persons in partnership act in the capacity of trustee of an incapacitated person, or as agent of a non-resident person, or are employers, or are persons in receipt of money, value, or profits to whom section 49 applies, or act in any other capacity whatever, either on behalf of themselves or of any other person, the precedent partner of such partnership shall be answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Ordinance by an individual acting in such capacity:

Provided that any person to whom a notice has been given under the provisions of this Ordinance as precedent partner of a partnership shall be deemed to be the precedent partner thereof unless he proves that he is not a partner in such partnership, or that some other person resident in Ceylon is the precedent partner thereof.

(2) Where two or more persons who are not in partnership act jointly in any capacity mentioned in sub-section (1), they shall be jointly and severally answerable for doing all such acts, matters, and things as would be required to be done under the provisions of this Ordinance by an individual acting in such capacity.

Principal officer to act on behalf of a company or body of persons.

54 The secretary, manager, or other principal officer of every company or body of persons corporate or unincorporate shall be answerable for doing all such acts, matters, or things as are required to be done under the provisions of this Ordinance by such company or body of persons:

Provided that any person to whom a notice has been given under the provisions of this Ordinance on behalf of a company or body of persons shall be deemed to be the principal officer thereof unless he proves that he has no connection with the company or body of persons, or that some other person resident in Ceylon is the principal officer thereof.

Signature and service of notices.

55 (1) Every notice to be given by the Commissioner, an Assistant Commissioner, or an Assessor under this Ordinance shall bear the name of the Commissioner or Assistant Commissioner or Assessor, as the case may be, and every such notice shall be valid if the name of the Commissioner, Assistant Commissioner, or Assessor is duly printed or signed thereon.

(2) Every notice given by virtue of this Ordinance may be served on a person either personally or by being delivered at, or sent by post to, his last known place of abode or any place at which he is, or was during the year to which the notice relates, carrying on business, and if sent by post shall be deemed to have been served on the day succeeding the day on which it would have been received in the ordinary course by post. In proving service by post it shall be sufficient to prove that the letter containing the notice was duly addressed and posted.

(3) Every name printed or signed on any notice or signed on any certificate given or issued for the purposes of this Ordinance which purports to be the name of the person authorized to give or issue the same shall be judicially noticed.

CHAPTER X.

ASSESSMENTS.

56 (1) Every person who is in the opinion of an Assessor chargeable with tax shall be assessed by him as soon as may be after the expiration of the time limited by the notice requiring him to furnish a return of income under section 47 (1):

Assessor to make assessments.

Provided that the Assessor may assess any person at any time if he is of opinion that such person is about to leave Ceylon, or that for any other reason it is expedient to do so.

(2) Where a person has furnished a return of income, the Assessor may either—

- (a) accept the return and make an assessment accordingly; or
- (b) if he does not accept the return, estimate the amount of the assessable income of such person and assess him accordingly.

(3) Where a person has not furnished a return of income and the Assessor is of the opinion that such person is chargeable with tax, he may estimate the amount of the assessable income of such person and assess him accordingly, but such assessment shall not affect the liability of such person to a penalty by reason of his failure or neglect to deliver a return.

57 Where it appears to an Assessor that for any year of assessment any person chargeable with tax has not been assessed or has been assessed at less than the proper amount, the Assessor may, within the year of assessment or within three years after the expiration thereof, assess such person at the amount or additional amount at which according to his judgment such person ought to have been assessed, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder:

Additional assessments.

Provided that, where the non-assessment or under-assessment of any person for any year of assessment is due to fraud or wilful evasion, such assessment or additional assessment may be made at any time within ten years after the expiration of that year of assessment.

58 Every Assessor shall from time to time submit his assessments to an Assistant Commissioner, who shall scrutinize and amend the same as may appear necessary. When the Assistant Commissioner is satisfied that the assessments as made or amended charge the persons to whom they relate with the full tax with which they ought to be charged, he shall sign and allow them.

Assistant Commissioner to scrutinize, amend, and allow assessments.

59 The Assistant Commissioner shall give a notice of assessment to each person who has been assessed stating the amount of income assessed and the amount of tax charged.

Notices to be issued by Assistant Commissioner.

Validity of
assessments, &c.

60 (1) No notice, assessment, certificate, or other proceeding purporting to be in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) Without prejudice to the generality of sub-section (1), an assessment shall not be impeached or affected—

- (a) by reason of a mistake therein as to the name or surname of the person chargeable, the amount of income assessed, or the amount of tax charged; or
- (b) by reason of any variance between the assessment and the notice thereof,

provided that a notice of such assessment is duly served on the person intended to be charged and contains in substance and effect the particulars mentioned in paragraph (a) of this sub-section.

CHAPTER XI.

APPEALS.

Appeals to the Commissioner.

Procedure on
appeals to the
Commissioner.

61 (1) Any person aggrieved by an assessment made under this Ordinance may within twenty-one days from the date of the notice of such assessment appeal to the Commissioner by notice of objection in writing to review and revise such assessment. Any person so appealing (hereinafter referred to as the appellant) shall state precisely in his notice the grounds of his objection and the notice shall not be valid unless it contains such grounds and is made within the period above mentioned:

Provided that the Commissioner, upon being satisfied that owing to absence from Ceylon, sickness, or other reasonable cause the appellant was prevented from giving notice of objection within such period, may in his discretion grant an extension thereof:

Provided further that, where the assessment appealed against has been made in the absence of a return of income by the appellant, no notice of objection shall be valid unless and until such return has been duly made.

(2) On receipt of a valid notice of objection under sub-section (1), the Commissioner may cause further inquiry to be made by an Assessor, and if in the course of such inquiry an agreement is reached as to the amount at which the appellant is liable to be assessed, any necessary adjustment of the assessment shall be made.

(3) Where no agreement is reached between the appellant and the Assessor in the manner provided in sub-section (2), the Commissioner shall, subject to the provisions of section 64, fix a time and place for the hearing of the appeal.

(4) Every appellant shall attend before the Commissioner in person, with or without an authorized representative, at the time and place fixed for the hearing of the appeal:

Provided always that if from some cause which the Commissioner in his discretion considers reasonable any person is unable or unwilling to attend in person at the hearing of his appeal at the time and place fixed, the Commissioner may postpone the hearing of the appeal for such time as he thinks necessary for the attendance of the appellant, or may permit the appeal to be conducted by an authorized representative of the appellant in his absence.

(5) The Commissioner shall have power to summon any person whom he may consider able to give evidence respecting the appeal to attend before him at the hearing and may examine such person on oath or otherwise. Any person so attending may be allowed by the Commissioner any reasonable expenses necessarily incurred by such person in so attending.

(6) In disposing of an appeal the Commissioner may confirm, reduce, increase, or annul the assessment, and shall announce his determination orally.

Appeals to the Board of Review.

62 (1) For the purpose of hearing appeals in the manner hereinafter provided, there shall be a Board of Review (hereinafter referred to as the Board) consisting of not more than twenty members who shall be appointed from time to time by the Governor. The members of the Board shall hold office for a term of three years but shall be eligible for re-appointment.

Constitution of the Board of Review.

(2) There shall be a Clerk to the Board who shall be appointed by the Governor.

(3) There shall be a Legal Adviser to the Board who shall be appointed by the Board.

(4) Members of the Board shall be summoned by the Clerk to attend meetings at which appeals are to be heard, as and when necessary, as far as may be in rotation, but in such manner as to secure that a quorum is obtained. A quorum shall consist of two members.

(5) The remuneration of the members of the Board, the Clerk, and the Legal Adviser shall be fixed by the Governor.

63 (1) At the hearing of an appeal before the Commissioner under section 61 and immediately after the announcement by the Commissioner of his determination of such appeal as provided in section 61 (6), the appellant or his authorized representative may declare his dissatisfaction therewith: Provided always that the determination of the Commissioner of any appeal shall be final as regards any matter which under the provisions of this Ordinance is left to his decision or discretion.

Right of appeal to the Board of Review.

(2) Where the appellant has declared his dissatisfaction, the Commissioner shall, within one month of the determination of the appeal, unless such determination is final, transmit in writing to the appellant or his authorized representative his determination and reasons therefor.

(3) Within one month of the receipt of such written determination and reasons from the Commissioner, the appellant may give notice of appeal to the Board. Such notice shall be given in writing to the Clerk to the Board and shall be accompanied by a copy of the Commissioner's written determination, together with a statement of the grounds of appeal therefrom.

(4) Save with the consent in writing of the Commissioner the appellant may not at the hearing by the Board rely on any grounds of appeal other than the grounds stated in accordance with sub-section (3), and may not adduce any evidence other than evidence adduced at the hearing of the appeal before the Commissioner.

64 Notwithstanding the provisions of section 61, where the Commissioner is of opinion that no useful purpose would be served by his hearing an appeal, he may refer it to the Board of Review, and the Board shall hear and determine such appeal and the provisions of section 65 shall apply accordingly.

Commissioner may refer appeals to the Board of Review.

65 (1) As soon as may be after the receipt of a notice of appeal, the Clerk to the Board shall fix a time and place for the hearing of the appeal, and shall give seven clear days' notice thereof both to the appellant and to the Commissioner.

Hearing and disposal of appeals to the Board of Review.

(2) Every appellant shall attend in person at the meeting of the Board at which the appeal is heard with or without an authorized representative: Provided always that if from some cause which appears reasonable to the Board any person is unable or unwilling to attend in person at the hearing of his appeal at the time and place fixed, the Board may postpone the hearing of the appeal for such time as it thinks necessary for the attendance of the appellant, or may permit the appeal to be conducted by an authorized representative of the appellant in his absence.

(3) The Assessor who made the assessment appealed against or some other person authorized by the Commissioner shall attend the meeting of the Board in support of the assessment.

(4) The onus of proving that the assessment as determined by the Commissioner on appeal is excessive shall be on the appellant.

(5) All appeals shall be heard *in camera*.

(6) The Board shall have power to summon to attend at the hearing any person whom it may consider able to give evidence respecting the appeal and may examine him as a witness either on oath or otherwise. Any person so attending may be allowed by the Board any reasonable expenses necessarily incurred by him in so attending.

(7) At the hearing of the appeal the Board may, subject to the provisions of section 63 (4), admit or reject any evidence adduced, whether oral or documentary, and the provisions of the Ceylon Evidence Ordinance, 1895, relating to the admissibility of evidence shall not apply.

(8) After hearing the appeal, the Board shall confirm, reduce, increase, or annul the assessment as determined by the Commissioner on appeal, or make such orders thereon as to the members present may appear fit.

(9) Where under sub-section (8) the Board does not reduce or annul such assessment, the appellant shall, unless the Board orders otherwise, be charged a fee of one hundred rupees, which shall be added to the tax charged and recovered therewith.

Appeals to the Supreme Court.

Appeal on a question of law to the Supreme Court.

66 (1) The decision of the Board shall be final: Provided that the Board shall, on the application of the appellant or the Commissioner, state a case on a question of law for the opinion of the Supreme Court.

(2) Such application shall be made in writing within one month of the communication of its decision by the Board.

(3) The party requiring the stated case shall pay to the Clerk to the Board a fee of one hundred rupees in respect of the same before he is entitled to have the case stated.

(4) The stated case shall set forth the facts and the decision of the Board, and the party requiring it shall transmit the case, when stated and signed, to the Supreme Court within fourteen days after receiving the same.

(5) At or before the time when he transmits the stated case to the Supreme Court, the party requiring it shall send to the other party notice in writing of the fact that the case has been stated on his application and shall supply him with a copy of the stated case.

(6) The Supreme Court may cause a stated case to be sent back for amendment and thereupon the case shall be amended accordingly.

(7) The Supreme Court shall hear and determine any question of law arising on the stated case and may reverse, affirm, or amend accordingly the decision in respect of which the case has been stated, or may remit the matter to the Board with the opinion of the court thereon, and may make such order as to costs, as to the court may seem fit.

General.

Assessments or amended assessments to be final.

67 Where no valid objection or appeal has been lodged within the time limited by this Chapter against an assessment as regards the amount of the assessable income, assessed thereby, or where the amount of the assessable income has been agreed to under section 61 (2), or where the amount of such assessable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Ordinance as regards the amount of such assessable income: Provided that nothing in this Chapter shall prevent an Assessor from making an assessment or additional assessment for any year of assessment which does not involve re-opening any matter which has been determined on appeal for that year.

CHAPTER XII.

PAYMENT OF TAX.

68 (1) The tax charged by any assessment shall be paid in the manner directed in the notice of assessment on or before a date specified in such notice. Any tax not so paid shall be deemed to be in default, and the person by whom such tax is payable or, where any tax is payable by more than one person or by a partnership, then each of such persons and each partner in the partnership, shall be deemed to be a defaulter, for the purposes of this Ordinance.

Provisions
regarding payment
of tax.

(2) Tax shall be paid notwithstanding any notice of objection or appeal, unless the Commissioner orders that payment of the tax or any part thereof be held over pending the result of such objection or appeal.

(3) Where, upon the final determination of an appeal under Chapter XI, any tax which has been held over under sub-section (2) becomes payable or the tax charged by the original assessment is increased, the Commissioner shall give to the appellant a notice in writing containing particulars of the assessment as determined and fixing a date on or before which any tax or balance of tax shall be paid. Any tax not so paid shall be deemed to be in default.

(4) Where any tax is in default, the Commissioner may in his discretion order that a sum or sums not exceeding twenty per cent. in all of the amount in default shall be added to the tax and recovered therewith.

(5) Notwithstanding the foregoing provisions of this section, any person whose principal source of income is the profits of an employment may, by notice in writing sent to the Commissioner within twenty-one days of the date of the notice of an assessment which includes the income from such source, elect that the tax be recovered by way of deductions from his remuneration. Such deductions shall be made, as far as may be, by twelve equal instalments commencing in September in the year of assessment: Provided that where the notice of assessment is not issued, and the consequent election is not made, in time to permit of a deduction being made in September, the amounts which, if the election had been made in time, would have been deducted in any month prior to that in which the first deduction is made shall be added to such deduction and recovered therewith.

(6) Any person by whom remuneration is payable (hereinafter in this section referred to as an employer) shall, if required by the Commissioner to deduct tax from such remuneration, comply with such requisition, and shall pay over the tax so deducted as directed by the Commissioner. Where any person from whose remuneration tax is to be deducted by his employer is about to leave or leaves his employment, the employer shall deduct the whole amount of the tax or any balance thereof which he has been required to deduct from all or any payments made by him to such person after he becomes aware that such person is leaving his employment.

(7) Where any person from whom tax is to be deducted under sub-sections (5) or (6) has left the employment of the employer to whom a requisition under sub-section (6) is addressed, or where for any other reason the employer is unable to deduct the whole or any part of the tax included in any such requisition, he shall forthwith give notice in writing to the Commissioner acquainting him with the facts of the matter, and any tax which the employer has not deducted or cannot deduct shall immediately become payable by the employee and shall be deemed to be in default fourteen days after the date of a notice thereof given to him.

(8) Where any employer is unable to deduct any tax which he has been required to deduct from any remuneration and has failed to give notice to the Commissioner as provided in sub-section (7) within fourteen days of the date on which such deduction should have been made, or where he has deducted or could have deducted tax in any month from any remuneration in accordance with a requisition under sub-section (6) and has not paid over as directed by

the Commissioner the amount of such tax by the fifteenth day of the following month, such employer shall be personally liable for the whole of the tax which he has been required to deduct under this section, which may be recovered from him by all means provided in this Ordinance, and such tax shall be deemed to be in default for the purposes of sub-section (4).

(9) Every employer who deducts tax from remuneration in accordance with a requisition under sub-section (6) shall at the time of payment of such remuneration give to the employee a certificate of the amount of tax deducted in the prescribed form.

CHAPTER XIII.

RECOVERY OF TAX.

Tax to include fines, &c.

69 In this Chapter, "tax" includes any sum or sums added under section 68 (4) by reason of default, together with any fines, penalties, fees, or costs incurred.

Tax to be a first charge.

70 (1) Save as provided in sub-section (2), tax shall be a first charge upon all the assets of the person or persons by whom it is payable.

(2) A receiver shall pay out of the assets under his control the tax charged or chargeable for one complete year of assessment prior to the date of the insolvency, bankruptcy, or liquidation, to be selected by the Commissioner, as a first charge on such assets and any other tax charged or chargeable for periods prior to such date shall be an unsecured debt: Provided that where the receiver proves to the satisfaction of the Commissioner that any tax to which this sub-section applies is excessive, the Commissioner may notwithstanding the provisions of section 67, review the assessment in respect of which the tax is charged and make such adjustment as he may in his discretion think reasonable.

Recovery of tax by seizure and sale.

71 (1) The Commissioner may appoint persons to be Income Tax Collectors.

(2) (a) Where any tax is in default, the Commissioner may issue a certificate to a Government Agent, Assistant Government Agent, Fiscal, or Income Tax Collector containing particulars of such tax and the name of the defaulter, and the officer to whom such certificate is issued shall be empowered and is hereby required to recover the tax from the defaulter named in the certificate by seizure and sale of his movable property.

(b) Any property seized under this section shall be kept for five days at the costs and charges of the defaulter. If the defaulter does not pay the tax in default together with the costs and charges within the said five days, the Government Agent, Fiscal, or Income Tax Collector shall cause the goods to be sold by public auction. The sum realized by the sale shall be applied—

(i) firstly, in payment of the costs and charges of seizing, keeping, and selling the property; and

(ii) secondly, in satisfaction of the tax in default,

and any balance shall be restored to the owner of the property seized.

(3) Where any tax is in default, and the Commissioner is of opinion that recovery by the means provided in sub-section (1) is impracticable or inexpedient, he may issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of such tax and the name or names of the person or persons by whom the tax is payable, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all and any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for recovery of the tax, and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Whenever the Commissioner issues a certificate under this section, he shall at the same time issue to the defaulter, whether resident or non-resident, a notification thereof by personal service, registered post, or telegraph; but the non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

72 (1) Where the Commissioner is of opinion in any case that recovery of tax in default by seizure and sale is impracticable or inexpedient, or where the full amount of the tax has not been recovered by seizure and sale, he may issue a certificate containing particulars of such tax and the name and last known place of business or residence of the defaulter to a Police Magistrate having jurisdiction in the division in which such place is situated. The Police Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the tax should not be taken against him, and in default of sufficient cause being shown, the tax in default shall be deemed to be a fine imposed by a sentence of the magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of sub-section (1) of section 312 (except paragraphs (a), (c), and (h) thereof) of the Criminal Procedure Code, 1898, relating to default of payment of a fine imposed for such an offence shall thereupon apply, and the magistrate may make any direction which, by the provisions of that sub-section, he could have made at the time of imposing such sentence:

Proceedings for recovery before a Magistrate.

No. 15 of 1898, IV, p. 256.

Provided that nothing in this section shall authorize or require the magistrate in any proceeding thereunder to consider, examine, or decide the correctness of any statement in the certificate of the Commissioner.

Provided also that no further proceedings shall be taken either by way of appeal to or revision by the Supreme Court, in respect of any direction given by a magistrate under this section.

(2) In any proceeding under sub-section (1) the Commissioner's certificate shall be sufficient evidence that the tax has been duly assessed and is in default, and any plea that the tax is excessive, incorrect, or under appeal shall not be entertained, except that where any person proceeded against has not appealed within the proper time against the assessment in respect of which the tax is charged and alleges that the tax is in excess of the sum which would have been charged if he had so appealed, the court may adjourn the matter for not more than thirty days to enable such person to submit to the Commissioner his objection to the tax. The Commissioner shall consider such objection and give his decision thereon, which shall be final, and shall be certified by him to the magistrate, and proceedings under this section shall thereupon be resumed to enforce payment of the tax as reduced or confirmed under such decision.

73 (1) Where tax payable by any person is in default and it appears to the Commissioner to be probable that any person—

Recovery of tax out of debts, &c.

- (a) owes or is about to pay money to the defaulter; or
- (b) holds money for or on account of the defaulter; or
- (c) holds money on account of some other person for payment to the defaulter; or
- (d) has authority from some other person to pay money to the defaulter,

the Commissioner may give to such person notice in writing (a copy of which shall be sent by post to the defaulter) requiring him to pay any such monies not exceeding the amount of the tax in default to the officer named in such notice. The notice shall apply to all such monies which are in his hands or due from him or about to be paid by him at the date of receipt of such notice, or come into his hands or become due from him or are about to be paid by him at any time within a period of thirty days thereafter.

(2) Any person who has made any payment in pursuance of this section shall be deemed to have acted under the authority of the person by whom the tax was payable and of all other persons concerned, and is hereby indemnified in respect of such payment against all proceedings, civil or criminal, notwithstanding the provisions of any written law, contract, or agreement.

(3) Any person to whom a notice has been given under sub-section (1) who is unable to comply therewith owing to the fact that the monies in question do not come into his hands or become due to him within the period referred to in sub-section (1) shall within fourteen days of the expiration thereof give notice in writing to the Commissioner acquainting him with the facts.

(4) Where any person to whom a notice has been given under sub-section (1) is unable to comply therewith and has failed to give notice to the Commissioner as provided in sub-section (3), or where he has deducted or could have deducted the tax to which the notice relates or any part thereof and has not paid over as directed by the Commissioner the amount of such tax or part thereof within fourteen days after the expiration of the period referred to in sub-section (1) he shall be personally liable for the whole of the tax which he has been required to deduct, which may be recovered from him by all means provided in this Ordinance.

Recovery of tax
from persons
leaving Ceylon.

74 Where the Commissioner is of opinion that any person is about to or likely to leave Ceylon without paying all tax assessed upon him, he may issue a certificate containing particulars of such tax and the name of the defaulter to a Police Magistrate, who shall on receipt thereof issue a direction to the Inspector-General of Police to take such measures as may be necessary to prevent such person from leaving Ceylon without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof. At the time of issue of his certificate to the Police Magistrate, the Commissioner shall issue to the defaulter a notification thereof by personal service, registered post, or telegraph; but the non-receipt of any such notification by the defaulter shall not invalidate proceedings under this section. Production of a certificate signed by the Commissioner, Deputy Commissioner, or an Assistant Commissioner stating that the tax has been paid or that security has been furnished, or payment of the tax to a police officer in charge of a police station, shall be sufficient authority for allowing the defaulter to leave Ceylon.

Use of more than
one means of
recovery.

75 Where the Commissioner is of opinion that application of any of the provisions of this Chapter has failed or is likely to fail to secure payment of the whole of the tax due from any person it shall be lawful for him to proceed to recover any sum remaining unpaid by any other means of recovery provided in this chapter, save where an order has been made by a Police Magistrate under section 72 and carried into effect.

CHAPTER XIV.

REPAYMENT.

Tax paid in excess
to be refunded.

76 (1) If it is proved to the satisfaction of the Commissioner by claim duly made in writing within three years of the end of a year of assessment that any person has paid tax, by deduction or otherwise, in excess of the amount with which he was properly chargeable for that year, such person shall be entitled to have refunded the amount so paid in excess:

Provided that nothing in this section shall operate to extend or reduce any time limit for appeal or repayment specified in any other section or to validate any objection or appeal which is otherwise invalid, or to authorize the revision of any assessment or other matter which has become final and conclusive.

(2) Where through death, incapacity, bankruptcy, liquidation, or other cause a person who would but for such cause have been entitled to make a claim under sub-section (1) is unable to do so, his executor, trustee, or receiver, as the case may be, shall be entitled to have refunded to him for the benefit of such person or his estate any tax paid in excess within the meaning of sub-section (1).

CHAPTER XV.

PENALTIES AND OFFENCES.

77 (1) Every person who—

- (a) fails to comply with the requirements of a notice given to him under any of the following sections or sub-sections:—23 (1), 23 (3), 28 (1), 47 (1), 47 (3), 47 (4), 48 (1), 48 (2), 49, 50, or 51; or
- (b) fails to attend in answer to a notice or summons issued under sections 47 (5), 61 (5), or 65 (6), or having attended fails without sufficient cause to answer any questions lawfully put to him; or
- (c) fails to comply with the requirements of section 40 (2) or 47 (2); or
- (d) fails to comply with or contravenes any provision of this Ordinance in respect of which no penalty for failure or contravention is otherwise expressly provided,

Penalties for failure to make returns, making negligent returns, &c.

shall be liable for each such failure or contravention to a penalty not exceeding five hundred rupees.

(2) Every person who negligently—

- (a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make a return, either on his own behalf or on behalf of another person or a partnership; or
- (b) makes an incorrect statement in connection with a claim for a deduction or allowance under Chapter V or Chapter VI; or
- (c) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership,

shall be liable in each case to a penalty not exceeding the total of five hundred rupees and double the amount of tax which has been undercharged in consequence of such incorrect return, statement, or information, or would have been so undercharged if the return, statement, or information had been accepted as correct.

(3) Every penalty or additional penalty under this section shall be imposed in the first instance by an Assessor, and the provisions of sections 58, 59, 60, and 61 shall, *mutatis mutandis*, apply thereto as if it were an assessment.

A determination by the Commissioner of an appeal against a penalty or additional penalty imposed under this section shall be final.

(4) A notice of the imposition of a penalty under sub-section (1) for failure to comply with any requirement of a notice given under this Ordinance may require the person to whom it is given to comply with such requirement within a period of not less than twenty-one days. In the event of his continued failure to comply, an additional penalty not exceeding one hundred rupees may be imposed for every day of such continued failure after expiration of the time limited.

(5) No penalty imposed under this section shall be recoverable unless imposed in the year of assessment in respect of or during which such penalty was incurred or within three years after the expiration thereof.

78 Every person who—

- (1) acts under this Ordinance without taking an oath of secrecy as required by section 4 (2); or
- (2) acts contrary to the provisions of section 4 (1) or to an oath taken under section 4 (2); or

Breach of secrecy and other matters to be offences.

(3) insults, assaults, molests, obstructs, threatens, or hinders any person acting in the discharge of his duties, or the execution of his powers under this Ordinance; or

(4) aids, abets, or incites any other person to act contrary to the provisions of this Ordinance;

shall be guilty of an offence, and shall for each such offence be liable on summary trial and conviction by a Police Magistrate to a fine not exceeding one thousand rupees, or to simple imprisonment not exceeding six months, or to both such fine and imprisonment.

Penal provisions relating to fraud, &c.

79 (1) Any person who wilfully with intent to evade or to assist any other person to evade tax—

(a) omits from a return made under this Ordinance any income which should be included; or

(b) makes any false statement or entry in any return made under this Ordinance; or

(c) makes a false statement in connection with a claim for a deduction or allowance under Chapter V or Chapter VI; or

(d) signs any statement or return furnished under this Ordinance without reasonable grounds for believing the same to be true; or

(e) gives any false answer whether verbally or in writing to any question or request for information asked or made in accordance with the provisions of this Ordinance; or

(f) prepares or maintains or authorizes the preparation or maintenance of any false books of account or other records or falsifies or authorizes the falsification of any books of account or records; or

(g) makes use of any fraud, art, or contrivance whatsoever or authorizes the use of any such fraud, art, or contrivance,

shall be guilty of an offence, and shall for each such offence be liable on summary trial and conviction by a Police Magistrate to a fine not exceeding the total of five thousand rupees and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, or to imprisonment of either description for any term not exceeding six months, or to both such fine and imprisonment.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

(3) Where in any proceedings under this section the magistrate decides that the person proceeded against has not been proved guilty of wilful intent to evade tax but that he has been guilty of negligence with regard to any matter with which he is charged, he shall discharge the accused, but shall remit the matter to the Commissioner, who is hereby empowered to impose a penalty for such negligence not exceeding the penalty provided in section 77 (2).

Tax to be payable notwithstanding any proceedings for penalties, &c.

80 The institution of proceedings for, or the imposition of, a penalty, fine, or term of imprisonment under this Chapter shall not relieve any person from liability to assessment, or payment of any tax for which he is or may be liable.

Prosecution to be with the sanction of the Commissioner.

81 No prosecution in respect of an offence under this Chapter may be commenced except at the instance of or with the sanction of the Commissioner.

CHAPTER XVI.

GENERAL.

Power to make rules.

82 (1) The Governor in Council may from time to time make rules generally for carrying out the provisions of this Ordinance.

(2) All rules made under this section shall come into operation on publication in the Gazette, or at such other time as may be stated in such rules.

(3) Such rules may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding in each case a sum of five hundred rupees.

(4) All such rules shall be laid, as soon as conveniently may be, on the table of the Legislative Council at two successive meetings of the Council, and shall be brought before the Council at the next subsequent meeting held thereafter by a motion that the said rules shall not be disapproved, and if upon the introduction of any such motion, or upon any adjournment thereof, the said rules are disapproved by the Council, such rules shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything already done thereunder; and such rules, if not so disapproved, shall continue to be of full force and effect. Every such disapproval shall be published in the Gazette.

Commissioner to
prescribe forms.

83 The Commissioner may prescribe any forms which may be necessary for carrying this Ordinance into effect.

SCHEDULE.

Sec. 20 (4).

The standard rate of tax shall be ten per cent.

By His Excellency's command,

Colonial Secretary's Office, B. H. BOURDILLON.
Colombo, February 19, 1930. Colonial Secretary.

Statement of Objects and Reasons.

The Taxation Commission in its Third Interim Report dated March 8, 1928 (Sessional Paper IV.—1928), was practically unanimous as to the soundness of an Income Tax in Ceylon, provided that its reasonably equitable operation was possible.

In pursuance of the Commission's recommendation, an Income Tax Adviser was appointed by Government, and his Report dated January 27, 1930 (Sessional Paper IV.—1930), is to the effect that, given a suitable Ordinance and staff, Income Tax could be efficiently imposed in Ceylon.

Government has approved, with slight alterations, the Scheme and draft Ordinance appended to the Adviser's Report, and this Bill is the result.

The Bill provides for the imposition of an Income Tax as from April 1, 1931. The yield of the tax would commence in the Colony's financial year 1931-32.

The object of the Bill is to increase the probable revenue of the Colony to a figure which will balance the probable expenditure. As a result of obtaining the additional revenue required by means of this tax in lieu of increasing existing duties, it is anticipated that the total burden of taxation will be more fairly distributed.

The principles underlying the Bill are fully discussed in the report of the Income Tax Adviser and an explanation is given of the operation of its chief provisions. It is consequently unnecessary to discuss these further in the statement, but attention is drawn to the fact that by clause 16 (1) (d) of the Bill the allowance given in respect of children has been increased beyond that given by the corresponding clause in the draft Bill attached to the Income Tax Adviser's report. Such other alterations as have been made in that draft call for no special comment.

The reason for the introduction of the Bill at this date is that a period of some months must be allowed to elapse between the date of its passing and the date on which it is to come into effect in order that the necessary Department may be created and organized to carry out its provisions.

E. ST. J. JACKSON,
Attorney-General.

Attorney-General's Chambers,
Colombo, February 19, 1930.