



Personal Tax

Inland Revenue bill

Content

- Income from Employment
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Assessable income

Inland Revenue Bill does not define the terms statutory income and total statutory income.

assessable income of a person for a year of assessment from employment, business, investment or other source shall be equal to –

- (a) in the case of a resident person, the person's income from employment, business, investment or other source for that year, wherever the source arises; and
- (b) in the case of a non-resident person, the person's income from the employment, business, investment or other source for that year, to the extent that the income arises in or is derived from a source in Sri Lanka.

- Section 4

Taxable income

- (1) the taxable income of a person for a year of assessment shall be equal to the total of the person's assessable income for the year from each employment, business, investment and other sources.
- (2) In arriving at taxable income of a year of assessment qualifying payments and reliefs for that year under section 52 shall be deducted.
- (3) The taxable income of each person and from each source shall be determined separately.

Section 3

Income from employment includes -

- (a) payments of salary, wages, leave pay, overtime pay, fees, pensions, commissions, gratuities, bonuses and other similar payments;
- (b) (b) payments of personal allowance, including any cost of living, subsistence, rent, entertainment or travel allowance;
- (c) payments providing discharge or reimbursement of expenses incurred by the individual or an associate of the individual; **(if incurred on behalf of the employer excluded by Section 5(3)(b))**
- (d) payments for the individual's agreement to conditions of employment;
- (e) payments for redundancy or loss or termination of employment;
- (f) subject to subsection (3) retirement contributions made to a retirement fund on behalf of the employee and retirement payments received in respect of the employment; **(contributions made by an employer for a pension, approved provident or savings fund/society excluded by Section 5(3)(f))**
- (g) payments or transfers to another person for the benefit of the individual or an associate person of the individual;
- (h) the fair market value of benefits received or derived by virtue of the employment by an individual or an associate person of the individual;
- (i) other payments, including gifts received in respect of the employment; and
- (j) the market value of shares at the time allotted under an employee share scheme, including shares allotted as a result of the exercise of an option or right to acquire the shares, reduced by the employee's contribution for the shares. **(right or option excluded by Section 5(3)(e))**

Income from employment excludes -

- (a) exempt amounts and final withholding payments;
- (b) a discharge or reimbursement of expenses incurred by the individual on behalf of the employer;
- (c) a discharge or reimbursement of the person's dental, medical or health insurance expenses where the benefit is **available to all full-time employees on equal terms**;
- (d) payments made to or benefits accruing to employees **on a non-discriminatory basis** that, by reason of their size, type and frequency, are unreasonable or administratively impracticable for the employer to account for or to allocate to the individual;
- (e) the value of a right or option to acquire shares at the time granted to an employee under an employee share scheme (referred to in paragraph **(k)** (has to be (j)) of subsection (2)); and
- (f) subject to conditions as may be specified by the Commissioner-General, contributions made by an employer to an employee's account with a pension, provident or savings fund approved by the Minister or a provident or savings society approved by the Minister.

Terminal benefits

- (a) amount received in commutation of a pension;
- (b) amount received as a retiring gratuity;
- (c) amount received as compensation for loss of office or employment under a scheme which the Commissioner General considers to be uniformly applicable to all individuals employed by the employer;
- (d) amount paid to a person at or after the time of retirement from employment from a provident fund approved by the Commissioner-General that does not represent the person's contributions to that provident fund;
- (e) amount paid to a person from a regulated provident fund that does not represent the contributions made by the employer to that provident fund before April 1, 1968, and the interest which accrued on such contributions made by the employer, if tax has been paid **by the employer at 15%** on such contributions made and the interest accruing thereon; and
- (f) amount paid to a person at or after the time of retirement from employment from the Employees' Trust Fund, established by the Employees' Trust Fund Act, No. 46 of 1980.

(Contributions made by an employer for a pension, approved provident or savings fund/society excluded by Section 5(3)(f))

Qualifying payment and reliefs relevant to an individual

Section 52

- (1) In arriving at the taxable income of **an individual** or entity for a year of assessment under section 3, the aggregate **qualifying payments** referred to in the **Fifth Schedule** to this Act shall be deducted.

- (2) In arriving at the taxable income of **an individual** or entity who is **resident in Sri Lanka** for a year of assessment under section 3, the aggregate **reliefs** referred to in the **Fifth Schedule** to this Act shall be deducted.

- (3) In arriving at the taxable income of **an individual who is not resident in Sri Lanka for a year of assessment but is a citizen of Sri Lanka** under section 3, the **relief** referred to in paragraph **2(a) of the Fifth Schedule** to this Act shall be deducted.

1. The qualifying payments referred to in section 52

(a) a donation made by **an individual** or entity in money to an approved charitable institution that is:

(i) a charitable institution established for the provision of institutionalized care for the sick or the needy; and

(ii) declared by the Minister as an approved charitable institution for the purposes of this sub-paragraph, subject to a maximum of –

(iia) in the case of an individual, one-third of the taxable income of the individual or Rupees seventy five thousand, whichever is less;

(iib) in the case of an entity, one-fifth of the taxable income of the entity or Rupees five hundred thousand, whichever is less;

1. The qualifying payments referred to in section 52

(b) a donation made by **an individual** or entity in money or otherwise to the following:-

(i) the Government of Sri Lanka;

(ii) a local authority;

(iii) any Higher Education Institution established or deemed to be established under the Universities Act, No. 16 of 1978;

(iv) the Buddhist and Pali University or any Higher Educational Institution established by or under the Buddhist and Pali University Act, No. 74 of 1981;

(v) a fund established by the Government of Sri Lanka;

(vi) a fund established by a local authority and approved by the Minister;

(vii) the Sevana Fund created and administered by the National Housing Development Authority established by the National Housing Development Authority Act, No. 17 of 1979;

(viii) a fund established by a Provincial Council and approved by the Minister;

(ix) the ApiWenuwenApi Fund established by the ApiWenuwenApi Fund Act, No. 6 of 2008;

(x) National Kidney Fund established under the National Kidney Foundation of Sri Lanka (Incorporation)^{PwC} Act, No. 34 of 2006;

1. The qualifying payments referred to in section 52

(c) profits remitted to the President's Fund established by the President's Fund Act, No. 7 of 1978 **by a public corporation** as required by the law by or under which such corporation is established.

2. The relief referred to in section 52

- (a) **Rs. 500,000 for each year of assessment, except that an individual** who is a trustee, receiver, executor or liquidator shall not be entitled to deduct this personal relief as such trustee, receiver, executor or liquidator, and the relief is not available to be deducted against gains from the realisation of investment assets;
- (b) in the case of **an individual with income from employment, Rs. 700,000** for each year of assessment, up to the total of the individual's income from employment for the year;
- (c) in the case of **an individual with rental income from an investment asset, an amount equal to 25 percent of the total rental income** for the year of assessment, being a relief for the repair, maintenance, and depreciation relating to the investment asset, but shall only be allowed to the extent no deduction or cost is claimed for any actual expenditures incurred by the taxpayer for the repair, maintenance, and depreciation of the investment asset;
- (d) in the case of **an individual who is a senior citizen in a year with interest income derived from a financial institution, Rs. 1,500,000** for each year of assessment, up to the total of the individual's interest income for the year.

Exempt Amounts – Section 9 – Third Schedule

(a) the employment income of the President;

(b) amounts derived by –

(i) the Government of Sri Lanka or a local authority, including any Government department;

(ii) the Central Bank of Sri Lanka, including the Monetary Board;

(iii) a university, Government assisted school, cooperative society, approved by the Minister by order published in gazette;

(iv) the Government of a foreign country or foreign territory to the extent specified under a diplomatic immunities law or a similar law;

(v) an international organisation to the extent specified under a diplomatic immunities law or a similar law or an agreement between the organisation and the Government of Sri Lanka, provided that the exemption provided under the agreement shall be broader than that provided under diplomatic immunities law or a similar law;

(c) capital sums paid to a person as compensation or a gratuity in relation to –

(i) personal injuries suffered by the person; or

(ii) the death of another person;

Exempt Amounts – Section 9 – Third Schedule

- (d) the pension of a person where the pension income is paid by the Government of Sri Lanka or a department of the Government of Sri Lanka;
- (e) an amount paid to an employee at the time of retirement from any provident or pension fund or the Employees Trust Fund established by the Employees Trust Fund Act, No.46 of 1980, as represents income derived by that fund, for any period commencing on or after April 1, 1987, from investments made by it;
- (f) the income of an individual entitled to privileges to the extent provided for by –
 - (i) a diplomatic immunities law or a similar law;
 - (ii) an Act giving effect to the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialised Agencies of the United Nations; or
 - (iii) regulations made under this Act relating to an international organisation, or a law or Act referred to in subparagraph (i) or (ii);

Exempt Amounts – Section 9 – Third Schedule

(g) a gain made by a resident individual from the realisation of an investment asset that does not exceed Rs. 50,000 and where the total gains made by the resident individual from the realisation of investment assets in the year of assessment do not exceed Rs. 600,000, except –

- (i) where the Commissioner-General is satisfied that an investment asset has been realised in two or more parts for the purpose of taking advantage of this paragraph, any gain arising from the realisations shall be exempt under this paragraph only if the total gain from the realisation of all parts does not exceed Rs. 50,000 and the total gains made by the resident individual from the realisation of investment assets in the year of assessment do not exceed Rs. 600,000;
- (ii) in the case of the realisation of an investment asset that is jointly owned, this paragraph applies only if the total gain made by all owners of the investment asset on realisation of the asset does not exceed Rs. 50,000 and the total gains made by the resident individual in the year of assessment do not exceed Rs. 600,000;

(h) a gain made by a resident individual on the realisation of the individual's principal place of residence, provided it has been owned by the individual continuously for the three years before being realised and lived in by the individual for at least two of those three years (calculated on a daily basis);

Exempt Amounts – Section 9 – Third Schedule

(i) a gain made on realisation of an investment asset consisting of shares quoted in any official list published by any stock exchange licensed by the Securities and Exchange Commission of Sri Lanka

(j) the interest derived by a charitable institution, where it is proved to the satisfaction of the Commissioner-General that such interest is applied solely for the purpose of providing care to children, the elderly or the disabled in a home maintained by such charitable institution;

(k) any prize received by a person as an award made by the President of the Republic of Sri Lanka or by the Government in recognition of an invention created, or any research undertaken, by such person;

(l) any sum received by a person from the President's Fund established by the President's Fund Act, No. 7 of 1978 or National Defence Fund established by the National Defence Fund Act, No. 9 of 1985;

(m) an amount equal to the interest or the discount paid or allowed, as the case may be, to any non-resident person or to any licensed commercial bank in Sri Lanka, by the issuer of any sovereign bond denominated in foreign currency, issued on or after October 21, 2008, by or on behalf of the Government of Sri Lanka;

Exempt Amounts – Section 9 – Third Schedule

- (n) any amount derived by a senior citizen from an annuity for life for a period of not less than ten years purchased from a bank or an insurance company registered under the Regulation of Insurance Industry Act, No. 43 of 2000;
- (o) any winning from a lottery, the gross amount of which does not exceed Rs. 500,000;
- (p) a dividend paid by a resident company to a member to the extent that dividend payment is attributable to, or derived from, another dividend received by that resident company or another resident company that was subject to withholding under section 84; and
- (q) benefits received or derived by an employee of the government of Sri Lanka from a road vehicle permit issued to that employee.

Tax rates relevant to an individual

On the taxable income other than

- Gains from the realization of investment assets which is taxed at 10% and
- Income from a business consisting of betting and gaming, liquor and /or tobacco which is taxed at 40%
- Others excluding terminal benefits at the following rates

On the first LKR 600,000	4%	24,000
On the next LKR 600.000	8%	48,000
On the next LKR 600.000	12%	72,000
On the next LKR 600.000	16%	96,000
On the next LKR 600.000	20%	120,000
On the balance	24%	360,000 + 24% on the balance exceeding 3 mn

Tax rates relevant to an individual

On terminal benefits

i. Where the period of contribution is 20 years or less

On the first LKR 2,000,000	Nil	0
On the next LKR 1,000,000	5%	50,000
On the balance	10%	50,000 + 10% on the balance exceeding 3 mn

ii. Where the period of contribution is more than 20 years

On the first LKR 5,000,000	Nil	0
On the next LKR 1,000,000	5%	50,000
On the balance	10%	50,000 + 10% on the balance exceeding 6 mn

Withholding tax rates

(a) for payments by a resident employer (Section 83) –

(i) in the case of a resident withholdee - at the rates specified by the Commissioner General and

published in the Gazette; and

(ii) in the case of a non-resident withholdee - at the rates specified by the Commissioner General and published in the Gazette;

(b) for payments of dividend interest, discount, charge, natural resource payment, rent, royalty, premium or retirement payment or pays amounts as winnings from a lottery, reward, betting or gambling, (does not apply to payments made by individuals, unless made in conducting a business) (Section 84)

(i) in the case of interest paid to a resident individual in relation to a bank deposit account (other than to an individual who is a senior citizen) - 5%;

(ii) in the case of interest paid to a senior citizen - at the rate and in the manner prescribed in regulations;

(iii) in the case of rent paid to a resident person – 10%; and

^{PwC}(iv) in all other cases - 14%;

Withholding tax rates relevant to an individual

(c) for payments of service fees (Section 85) –

(i) in the case pays a service fee with a source in Sri Lanka to a resident individual

- for teaching, lecturing, examining, invigilating or supervising an examination;
- as a commission or brokerage to a resident insurance, sales or canvassing agent;
- as an endorsement fee;
- in relation to the supply of any article on a contract basis through tender or quotation; or
- for such other matters as may be prescribed by regulation

- 5% on amounts exceeding Rs. 50,000 per month;

(ii) in the case pays a service fee with a source in Sri Lanka to a non-resident person.- 14%; and

(iii) in the case pays an insurance premiums with a source in Sri Lanka to a non-resident person
- 14%.

Final Tax for individuals – Section 88

(a) dividends paid by a resident company to a resident person;

(b) interest paid to or treated as being derived by–

(i) a resident individual (other than such amount of interest paid to a senior citizen falling within the relief threshold in paragraph 2 (d) of the Fifth Schedule to this Act);

(ii) the Employees' Trust Fund, established by the Employees' Trust Fund Act, No. 46 of 1980;

(iii) a provident or pension fund approved by the Commissioner-General; and

(iv) an approved termination fund as defined in paragraph 8(2) of the First Schedule to this Act;

(c) amounts paid as winnings from a lottery, reward, betting or gambling, other than amounts received in conducting a business consisting of betting and gaming; and

(d) payments made to non-resident persons that are subject to withholding under this Division, or would be so subject if paragraph (b) of subsection (2) of section 84 and paragraph (b) of subsection (3) of section 85 were disregarded, other than payments derived through a Sri Lankan permanent establishment.

How to calculate your Taxable Income

Income from Employment	A
Income from Business	B
Income from Investment (Dividend, Interest, Rent, Royalties, Capital gains, Gifts, Lottery winnings-S7)	C
Other income (does not include profits of a casual and non-recurring nature-S8)	D
Assessable income (S4)	A+B+C+D
Less: qualifying payments and reliefs for that year (S52)	(X)
Taxable income (S3)	A+B+C+D-X

How to calculate your Taxable Income

			LKR '000	
Income from Employment -Total remuneration including allowances and fair market value of benefits			4,800,000	A
Income from Business (not from betting and gaming, liquor or tobacco)- teaching, lecturing, examining, invigilating, supervising examinations			600,000	B
Income from Investment (Dividend, Interest, Rent, Royalties, Capital gains, Gifts, Lottery winnings-S7)				
*Dividend net of WHT	86,000	-		
*Interest net of WHT (not a senior citizen)	475,000	-		
*Rent (no WHT as received from an individual)- not a final tax		2,400,000		
*Royalty net of WHT		50,000		
			2,450,000	C
Other income (does not include profits of a casual and non-recurring nature-S8)			-	D
Assessable income (S4)			7,850,000	A+B+C+D
Less: qualifying payments and reliefs for that year (S52) (one-third of the taxable income or Rupees seventy five thousand, whichever is less in respect of (a) of the fifth schedule. No limit in respect of (b))				
*Donation made in money to an approved charitable institution that provides institutionalized care for the sick or the needy of LKR 200,000		75,000		
*Tax free allowance		500,000		
*Additional tax free allowance for employees		700,000		
25% of the total rental income		600,000		
			(1,875,000)	(X)
Taxable income (S3)			5,975,000	A+B+C+D-X
Tax payable			750,000	
Less: WHT paid on service fee/business income/Investment income			(37,000)	
Balance tax payable			713,000	

Residence and Sources

69. (1) An individual shall be a resident in Sri Lanka for a year of assessment if the individual –

(a) resides in Sri Lanka;

(b) is domiciled in Sri Lanka unless the individual has a permanent home outside Sri Lanka for the whole of the year and does not have a permanent home in Sri Lanka;

(c) is present in Sri Lanka during the year and that presence falls within a period or periods amounting in aggregate to one hundred and eighty three days or more in any twelve month period that commences or ends during the year;

(d) is an employee or an official of the Government of Sri Lanka and his spouse is posted abroad during the year; or

(e) is an individual who is employed on a Sri Lanka ship, within the meaning of the Merchant Shipping Act, during the period the individual is so employed.

Residence and Sources

70. (1) An individual who is resident in Sri Lanka only by reason of paragraph (c) of subsection (1) of section 69, shall be so resident from the start of the one hundred and eighty three day period. Otherwise, a person who is resident in Sri Lanka during a year of assessment shall be treated as a resident for the whole of the year.

71. (1) Income of a person from an employment that has a source in Sri Lanka shall be calculated separately from income from that employment that has a foreign source.

Areas that need clarification or attention

- Remuneration earned by a Sri Lankan citizen in a non treaty partner country, if he/she returns to Sri Lanka during the first six months of the year of assessment
- Pension received by a Sri Lankan citizen/resident or his/her spouse from abroad for past services

be taxed in Sri Lanka in the absence of the exemption given under section 8(1)(j)????

(j) the emolument earned or the pension arising in any year of assessment, in foreign currency, by or to any individual resident in Sri Lanka in respect of–

(i) services rendered by him in that year of assessment; or

(ii) past services rendered by him or his spouse,

outside Sri Lanka in the course of any employment carried on, or exercised by him or his spouse, if such emoluments or pension are paid to him in Sri Lanka or such emoluments or pension (less such amount expended by such individual outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted by him to Sri Lanka;

- Expatriates who become residents in any year of assessment be taxed in Sri Lanka on their world wide income in the absence of the exemption given under section 13(zz)????

(zz) The profits and income of any individual who is not a citizen of Sri Lanka and who is employed in Sri Lanka in any undertaking, being profits and income arising or derived from outside Sri Lanka during the period commencing from April 1, 2008, and ending on the date of cessation of such employment;

Areas that need clarification or attention

- In the absence of the exemption given under section 8(1)(h) of the existing Act, will the passage granted to an expatriate and his immediate family be taxed? Or will it be excluded under section 5(3)(b) of the IR Bill?????

(h) the value of any travel warrant or passage granted to a person who is not a citizen of Sri Lanka, to enable him to come to Sri Lanka to assume duties or to visit his home abroad, or to return from Sri Lanka on the termination of his services, whether on retirement or otherwise, or of any travel warrant or passage granted to the spouse or any son or daughter of such person to come to Sri Lanka or to visit his or her home abroad or to return from Sri Lanka, on the termination of the services of such

- Exemption/reliefs given in respect of travelling allowance/vehicle benefit (section 8(1)(s)), housing, interest free or at a subsidized rate loans (section 8(1)(y)) no longer available??????

Areas that need clarification or attention

- Interest accruing to an individual from an NRFC, RFC account

be taxed in the absence of the exemption given under section 9(1)(d)

(d) the interest accruing to any person on moneys lying to his credit in foreign currency in any account opened by him or on his behalf , in any commercial bank or in any specialised bank, with the approval of the Central Bank of Sri Lanka;

- Net Annual value of not more than one place of residence, owned by and occupied by or on behalf of an individual;

be taxed in the absence of the exemption given under section 11(1)(a)

- The profits and income accruing to any person (including an individual) from the redemption of a unit of a Unit Trust or a Mutual Fund;

be taxed in the absence of the exemption given under section 13(tt)

Areas that need clarification or attention

- The following exemption given to individuals under section 13 of the existing IR Act will no longer be available
 - (dd)** the profits and income for any year of assessment earned in foreign currency by any resident company, **a resident individual** or any partnership from services rendered **outside Sri Lanka** in that year of assessment, **in carrying out any construction project** in the course of any trade, business or vocation, if such profits and income (less any such amount expended by that company, individual or partnership outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted to Sri Lanka through a bank;
 - (ddd)** the profits and income earned in foreign currency by any resident company, **any resident individual** or any partnership in Sri Lanka, from any **service rendered in or outside Sri Lanka** to any person or partnership outside Sri Lanka, other than any commission, discount or similar receipt for any such service rendered in Sri Lanka, if such profits and income (less such amount, if any, expended outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted to Sri Lanka through a bank,
 - (dddd)** any profits and income earned in foreign currency **from outside Sri Lanka**, by any resident individual who is a citizen of Sri Lanka, if such profits and income (less such amount, if any, expended outside Sri Lanka as is considered by the Commissioner-General to be reasonable expenses) are remitted to Sri Lanka through a bank;
 - (yyyyyy)** any royalty received in foreign currency by any person resident in Sri Lanka **from outside Sri Lanka**, if such royalty is remitted to Sri Lanka through a bank;

Areas that need clarification or attention

- The following exemptions applicable to individuals under section 13 of the existing IR Act will no longer be available. Accordingly will these be taxed as other income as they do not fall within the definition of employment, business and investment income? Or will they be excluded as profits of a casual and non-recurring nature-section 8 of IR Bill
 - (k) any prize received by a person as an award made by the President of the Republic of Sri Lanka;
 - (q) such part of any sum or the aggregate of sums as does not exceed one hundred thousand rupees received by any **individual**, as an award or awards in recognition of his excellence in the field of fine arts, literature or sports, being an award made with the prior written approval of the Minister in charge of the subject of fine arts, literature or sports, as the case may be;

Areas that need clarification or attention

- In terms of Section 14 of the IR Act the following profits and income of any **resident guest** are currently exempt from income tax.
 - (a) not being profits and income arising in or, derived from Sri Lanka; and
 - (b) accruing from moneys lying to his credit in any account opened by him in a commercial bank, for the deposit of sums remitted to him in foreign currency from any country outside Sri Lanka,

“resident guest” means a person to whom a tax exemption has been granted under the Resident Guest (Tax Exemption) Act, No. 6 of 1979.

Will they continue to be exempt????

Areas that need clarification or attention

- In terms of Section 15 of the IR Act the profits and income derived from outside Sri Lanka by **any individual** who has been a non-resident of Sri Lanka and who arrives and stays in Sri Lanka, shall be exempt from income tax-
if such individual is a citizen of Sri Lanka and—
 - (a) citizen of any other country; or
 - (b) has obtained permanent resident status or similar status in any other country under which such individual may obtain citizenship in such country,
at the time of such arrival and during the whole of such stay.

Will they continue to be exempt????

Areas that need clarification or attention

- The rationale for granting WHT exemptions in respect of dividend paid by a company to non-resident members and in respect of payments made by a company to expatriate employee (Second schedule – Investment Incentives – last two items incorrectly numbered)

Exemption of Certain Dividends from Withholding Tax

3. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a dividend paid by a company to a non-resident member shall be zero, if the company paying the dividend has incurred more than USD 2,000 million on depreciable assets (other than intangible assets) in Sri Lanka and that dividend is paid out of profits sheltered by enhanced depreciation allowances under this Schedule.

Exemption of Employment Income from Withholding Tax

4. Notwithstanding anything in the First Schedule, the rate of tax to be withheld from a payment made by an employer to an expatriate employee shall be zero, if the company paying the **dividend** has incurred more than USD 2,000 million on depreciable assets (other than intangible assets) in Sri Lanka and that dividend is paid out of profits sheltered by enhanced depreciation allowances under this Schedule, where the number of expatriate employees is not exceeding twenty.

Areas that need clarification or attention

Capital gain is calculated as the difference between the consideration received and the cost of the investment asset at the time of realization irrespective of the duration of ownership. The bill provides for the ascertainment of a deemed gain in circumstances other than death where a transfer has taken place for no tangible consideration. Even assets transferred by way of gifts would attract capital gains tax. Since there wouldn't be any money considerations people may be called up to pay taxes beyond their ability to pay such taxes.

The base date that was given in Section 106(4) of Part I of the March 2017 version under transitional provisions has been removed in the version presented in the parliament which makes capital gains liable with retrospective effect going back to over 100 years in some cases.

“The cost of an investment asset held by a person as at 1 April 2017 (should be the date certified by the speaker) is equal to the market value of the asset at that time.”

Gains from the realization of asset (Capital gains) - Sections 36-51

Gain / loss may arise from the change of the ownership of an asset or liability. A gain made by a person on the realization of an asset or liability, is the amount by which the sum of the consideration received for the asset or liability exceeds the cost of the asset or liability. If the cost exceeds the realized value, then the difference is the capital loss. As the actual gain occurs over the whole period of ownership, gain is taxed as income on the date of realization. (section 36)

Capital gain/(loss) = consideration received (section 38) – cost of the asset (section 37)

Applicable tax rate - 10%.

Where an individual realizes an asset on death by way of transfer of ownership of the asset to another person -

- The individual is treated as deriving an amount in respect of the realization equal to the net-cost of the asset at the time of realization and
- The person acquires ownership of the asset is treated as incurring expenditure of the amount equal to the net cost of the asset at the time of the death of the deceased.

Gains from the realization of asset (Capital gains) - Example

Mr Silva returned to Sri Lanka from Dubai with his employment earning. In the first year he bought a house in Battaramulla for LKR 35 million (stamp duty and notary fees paid LKR 1.75 million), an apartment in Bambalapitiya for LKR 60 million (stamp duty and notary fees paid LKR 3 million) and an apartment in Nawala for LKR 40 million (Stamp duty and notary fees paid LKR 2.00 million) In the third year Mr Silva passed away. As per his last will house and the apartments were passed on as follows.

Battaramulla house to his wife

Bambalapitiya apartment to his son and

Nawala apartment to his daughter

In the 4th year the son sold the Bambalapitiya apartment to a foreigner for LKR 80 million.

The wife lives at Battaramulla house and the daughter shifted to Nawala apartment after her father's death (in 3rd year) In the 7th year the daughter sold the Nawala property for LKR 55 million and shifted to her mother's place

Gains from the realization of asset (Capital gains) - Computation

(a) of Mr Silva

Asset	purchase price LKR	Expenses LKR	Market Value at the time of death LKR
Battaramulla	35 Million	1.75 Mn	40 Million
Bambalapitiya	60 million	3.0 Mn	65 Million
Nawala	40 million	2.0 Mn	40 Million

As per the section 45 of the act the cost of the asset is treated as the market value of such asset at the time of death accordingly

Asset	Cost LKR	value at the time of death LKR	capital gain
Battaramulla	36.75 MN	36.75 Mn	NIL
Bambalapitiya	63 MN	63 Mn	NIL
Nawala	42 MN	42Mn	NIL

There is no capital gain consequence for Mr Silva

Gains from the realization of asset (Capital gains) - Computation

For the son who sold the Bambalapitiya apartment within a year after his father death

	LKR	LKR
Sale price		80Mn
Cost LKR Father paid	60Mn	
Stamp duty and notary fees	3Mn	
Son paid		
Stamp duty and notary fees	3.5 Mn	
Notary fees 3.5 MN		
Total	66.5Mn	(66.5Mn)
Capital gain		13.5Mn
Taxes payable at 10%		1.35Mn

Son is required to file a capital gains tax return not later than one month after the realization.

Gains from the realization of asset (Capital gains) - Computation

For the daughter

Since the daughter has owned the Nawala property for more than 3 years and lived in it for more than 2 years, the gain made by her is exempt from tax.