

# **TRANSFER OF PROPERTY TAX** [Cap. 354

## **CHAPTER 354**

### **TRANSFER OF PROPERTY TAX**

**Act AN ACT TO PROVIDE FOR THE IMPOSITION OF A TRANSFER OF PROPERTY TAX FOR**

No. 11 of 1963.

(Part VI)

**ANY YEAR OF ASSESSMENT COMMENCING ON OR AFTER OCTOBER, 1963; AND  
TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

Short title. 1 . This Act may be cited as the Transfer of Property Tax Act\*.

Charge of the 2. (1) Subject to the provisions of Tax. subsection (4), where there is a transfer of ownership of any property in Sri Lanka to a person who is not a citizen of Sri Lanka, there shall be charged from the transferee of such property a tax of such amount as is equivalent to the value of that property.

(2) The tax referred to in subsection (1) is hereinafter referred to as “ the tax “.

(3) A person liable to the tax shall pay the tax-(

a) if the property consists of land, to the Registrar of Lands of the district, in which the land transferred is situated, before the instrument by which the transfer of that land was effected is presented for registration in accordance with the provisions of the Registration of Documents Ordinance, and

(6) if the property consists of any shares in any company, to the company before the transfer relating to the shares in respect of which the tax is payable is registered in the registers maintained by that company for the purposes of transfer of shares.

(4) The preceding provisions of this section shall not apply to-(

u) the transfer of any land or shares to any commercial bank (within the

**/21st December, 1963.1**

meaning of the Monetary Law Act) or body of persons carrying on the business of insurance which is not a citizen of Sri Lanka arising out of the sale of such land or shares to such bank or body of persons in execution of a decree of court to enforce the mortgage of such land or shares whether before or after the date of operation of this Act as security for a loan or advance given by such bank or body of persons ;

**(6)** the sale of any land to any person

who is not a citizen of Sri Lanka if it is proved to the satisfaction of the Registrar of Lands, who is responsible for the collection of the tax, that the negotiations for such sale had commenced before the date of operation of this Act, and the instrument for the transfer of ownership of such land was effected in consequence of such negotiations ;

(c) the transfer of any land, or shares in any company, to any commercial bank (within the meaning of the Monetary Law Act), or a company which is a nominee of such bank, in its capacity as trustee under any instrument whatsoever ;

(d) the sale of any shares in any company held by a director of such company who has retired or is retiring from the office of director or is going on leave out of the Island, to any person, who is not a citizen of

\* Sections 58 to 66 in Part VI of the Finance Act, No. II of 1963, have been renumbered and reproduced as sections 2 to 10 of this Act.

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Effect of the non-payment of the tax.

Conditions for the registration of instruments relating to transfers of property.

Sri Lanka and who is a director, or is succeeding him in office as director, of such company ;

(e) the transfer of shares in a company arising by reason of the investment of the funds in a blocked account (within the meaning of the Exchange Control Act) or by reason of the investment of the funds of any company which is not a citizen of Sri Lanka and which is carrying on the business of life insurance ;

v) the transfer of shares in any company to any commercial bank (within the meaning of the Monetary Law Act) in satisfaction or part satisfaction of any loan, overdraft or other financial accommodation given by such bank on the security of a mortgage of such shares ; or

(g) the transfer of property of any such class or description as is specified in any Order made by the Minister and published in the Gazette.

(5) The preceding provisions of this section shall be deemed to have come into operation on August 1, 1963.

3. Where a person liable to the tax in respect of any property does not pay the tax as required under this Act the tax shall be deemed to be in default, and the Commissioner-General of Inland Revenue shall, upon notification of such default by the Registrar of Lands or the company, as the case may be, take steps for the recovery of the tax deemed to be in default.

For the purposes of such recovery the provisions of the Inland Revenue Act, No. 4 of 1963, or the Inland Revenue Act (No. 28 of 1979), shall, *mutatis mutandis*, apply in like manner and to the same extent as such provisions apply for the recovery of any tax in default under those Acts.

4. (1) An instrument effecting a transfer of ownership of any land to a person shall not be registered in accordance with the provisions of the Registration of Documents Ordinance unless the Registrar of Lands to whom the instrument is presented for registration is satisfied that- -(

*a)* such person is a citizen of Sri Lanka ;  
or

(b) if such person is not a citizen of Sri Lanka, the tax in respect of that land has been paid.

(2) A transfer of shares in a company shall not be registered in the register maintained by that company for the purposes of the transfer of shares unless the company is satisfied that-(

*a)* the person to whom such shares were transferred is a citizen of Sri Lanka ; or

(b) if the person to whom such shares were transferred is not a citizen of Sri Lanka, the tax in respect of such shares has been paid.

(3) Where any question arises as to whether a person is or is not a citizen of Sri Lanka for the purposes of subsection (1) or subsection (2), a certificate under the hand of the Secretary to the Ministry charged with the subject of Defence that that person is a citizen of Sri Lanka shall be conclusive proof of the fact that he is a citizen of Sri

Lanka for the purposes only of subsection (1) or subsection (2).

5 . (I) Where a transfer of ownership of any property to a person who is not a citizen of Sri Lanka has been effected on any date during the period commencing on the first day of August, 1963, and ending on the date on which this Act becomes an Act of Parliament, and-(

*a)* where the instrument by which such transfer was effected has, if such property consists of land, been registered in accordance with the provisions of the Registration of Documents Ordinance, or

*(b)* where such property consists of shares in a company, such transfer has been registered in the registers maintained by that company for the purposes of the transfer of shares, before the expiration of such period, then the transferee of such property shall be liable to the tax.

Persons  
transferring  
Property between  
August 1, 1963,  
and the date of  
enactment of  
this Act to non-Sri  
Lankan  
liable to the  
tax.

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Sums paid or  
recovered as  
the tax to be  
credited to the  
Consolidated  
Fund.  
Proceedings  
for the  
recovery of tax  
due from  
persons liable  
under section 5.  
Offences.

(2) A person who is liable to the tax under subsection (1) shall, upon being requested by notice in writing sent to him by the Registrar of Lands, or the company, as the case may be, by registered letter through the post, pay to such Registrar or company, within the period specified in such notice, the amount of the tax specified in the notice, such amount being an amount equivalent to the value of the property transferred to the person who is not a citizen of Sri Lanka.

6. All sums paid to or recovered by a Registrar of Lands or a company as tax

under this Act shall be credited by such Registrar or company to the Consolidated Fund.

7. Where any person fails to pay the amount of the tax specified in a notice sent to him by a Registrar of Lands or a company under subsection (2) of section 5, such amount shall be deemed to be in default. and such Registrar or company may issue a certificate containing particulars of such amount and the name and address of the defaulter to a Magistrate having jurisdiction in the division in which such defaulter resides. The Magistrate shall thereupon summon the defaulter before him to show cause why proceedings for the recovery of the tax in default should not be taken against such defaulter, and if sufficient cause is not shown, the amount of the tax in default shall by order of the Magistrate be recovered as if it were a fine imposed by the Magistrate on such defaulter.

8 . (1) Where a company fails to comply with the provisions of subsection (2) of section 4, every director, manager, secretary or other officer of that company shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

Provided that a director, manager, secretary or other officer of such company shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Every person who is liable to the tax under subsection (1) of section 5 shall notify in writing, within fifteen days after the date on which this Act becomes an Act of Parliament,-(

a) if the property consists of land, the Registrar of Lands of the district in which the land transferred by an instrument referred to in that subsection is situated, of the fact of the execution of such instrument, or  
(b) if the property consists of shares in a company, the company in the registers of which the transfer of

such shares was registered, of the fact of the transfer of such shares.

(3) Any person who fails to comply with the provisions of subsection (2) shall be guilty of an offence under this Act, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.

9. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law.

10. In this Act, unless the context otherwise requires,-

citizen of Sri Lanka “-(

a) in the case of a person who is an individual, means an individual who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship,

(6) in the case of a person which is a company, means a company to which Part XI of the Companies Ordinance \* does not apply, and

\*Repealed and replaced by the Companies Act, No. 17 of 1982.

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(c) in the case of a person which is a firm consisting of two partners, means a firm where both partners are citizens of Sri Lanka, and in the case of a firm consisting of more than two partners, means a firm where the majority of the partners are citizens of Sri Lanka ;

“ c o m p a n y ” means a c o m p a n y incorporated or registered under any law in force in Sri Lanka or elsewhere ;

“ land ” includes-(

a) any land covered with water ;

(6) any house or building or any part thereof; and

(c) any undivided share of any land ;

“ market value “, with reference to the transfer of any property otherwise than by sale, means the price which that property could have fetched on the date of the transfer in an open market ;

“ property ” means-(

a) any land, or

(b) any shares in a company ;  
“ transfer of ownership “, with reference to any property, means the transfer of ownership of that property by sale, gift or in any other manner whatsoever other than a transfer of ownership arising-(

u) upon intestacy ;

(b ) b y g i f t o r t e s t a m e n t a r y disposition by any individual to his spouse, child, parent, brother or sister, and the issue of such child, brother or sister who is not a citizen of Sri Lanka ; or

(c) upon the succession of any person as trustee to a person appointed as trustee under a will or any instrument of trust or of any provident fund or any investment ;

“ transferee ” includes-(

a) in the case of a transfer of ownership by a deed of gift, the donee ; and

(6) in the case of a transfer of ownership by gift by a testamentary disposition, the person to whom it is so gifted ; and

“ value ” means-(

a) in the case of any property of w h i c h t h e t r a n s f e r o f ownership took place by sale, the price realized by such sale ;

(b) in the case of any property of w h i c h t h e t r a n s f e r o f o w n e r s h i p t o o k p l a c e otherwise than by sale, the amount equal to the market value of such property on the date of such transfer.