

THE BURMA INCOME-TAX ACT AMENDING LAW, 1963.

[THE UNION OF BURMA REVOLUTIONARY COUNCIL LAW NO. 27 OF 1963.]

The Chairman of the Revolutionary Council of the Union of Burma makes the following Law:—

1. (1) This Law may be called the Burma Income-tax Act Amending Law, 1963.

(2) It shall come into force on the 1st day of October 1963.

2. In section 2 of the Burma Income-tax Act, hereinafter referred to as the Act—

(a) for clause (6), the following shall be substituted as clause (6), namely:—

“(6) ‘company’ means a company as defined in the Burma Companies Act and includes any Board or other body by whatever name it is called constituted under any Act of Parliament or any law for the time being in force or any order made thereunder, and any foreign association whether incorporated or not and whether its principal place of business is situated in the Union of Burma or not, which the Financial Commissioner may, by general or special order, declare to be a company for the purposes of this Act;”;

(b) for clause (6A), the following shall be substituted as clause (6A), namely:—

“(6A) ‘earned income’ means any income of an assessee not being a company—

- (a) which is chargeable under the head ‘Salaries,’ or ‘Professional earnings’; or
- (b) which is chargeable under the head ‘Business,’ where the business is carried on by the assessee; or
- (c) which is chargeable under the head ‘Other Sources’ if it is immediately derived from personal exertion or represents a pension or superannuation or other allowance given to the assessee in respect of his past services or the past services of any deceased person; and includes any such income which, though it is the income of another person, is included in the assessee’s income under the provisions of this Act, but does not include any such income which is exempt from tax under section 14 or under a notification issued under section 60;”;

(c) for clause (9), the following shall be substituted as clauses (9) and (9A), namely:—

“(9) ‘person’ includes—

- (i) an individual;
- (ii) an association of persons;

(9A) ‘association of persons’ includes a firm, a Hindu undivided family or a company;”;

(d) for clause (11), the following shall be substituted as clause (11), namely:—

“(11) ‘previous year’ means in respect of any separate source of income, profits and gains—

(a) the twelve months ending on the 30th day of September next preceding the year for which the assessment is to be made; or

(b) in the case of an assessee who used to make up his accounts to a date other than the said 30th day of September he may continue to adopt such accounting period as his ‘previous year’ in respect of all assessments up to and including the assessment for the year commencing on the 1st day of October 1962, and the period from the expiry of the last such previous year to the 30th day of September 1963 shall, notwithstanding that such period may exceed or fall short of twelve months, be the ‘previous year’ in respect of the assessment for the year commencing on the 1st day of October 1963; provided that the tax shall be payable on the total income of such previous year at the average rate applicable to the proportionate income for twelve months; or

(c) where a business or profession has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business or profession to the 30th day of September next following;”;

(e) in clause (13) after the semi-colon (;) at the end the word “and” shall be inserted;

(f) clause (14) shall be deleted;

(g) in clause (15) for the semi-colon (;) at the end a period (.) shall be substituted and the word “and” shall be deleted;

(h) clause (16) shall be deleted.

3. For section 3 of the Act, the following shall be substituted as section 3, namely:—

“Where any Act of the Union Parliament or any other law enacts that income-tax shall be charged for any year at any rate or rates, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of this Act in respect of the total income of the previous year of every person.”

4. In section 4 sub-section (1) of the Act—

(a) the second-proviso shall be deleted;

(b) Explanation (3) shall be deleted.

5. For section 4A of the Act, the following shall be substituted, as section 4A, namely:—

“4A. For the purposes of this Act—

Residence. (a) any individual is resident in the Union of Burma in any year if he is in the Union of Burma in that year for a period or periods amounting in all to three hundred days or more; and

(b) an association of persons is resident in the Union of Burma in any year—

- (i) if the control and management of its affairs is situated wholly in the Union of Burma in that year, or
- (ii) if its income arising in the Union of Burma in that year exceeds its income arising without the Union of Burma in that year, account not being taken in either case of income chargeable under the head 'Capital gains'."

6. Section 4B of the Act shall be deleted.

7. Section 5B of the Act shall be deleted.

8. In section 9 of the Act, sub-section (3) shall be deleted.

9. In section 10 of the Act, for the second proviso to clause (ix) of sub-section (2), the following shall be substituted as the second proviso, namely:—

" Provided further that nothing in clause (ix) shall be deemed to authorise any allowance in respect of any payment by way of interest, salary, commission or remuneration made by an association of persons, not being a Co-operative Society registered under the Co-operative Societies Act, 1956, to any member thereof:—"

10. In section 12A of the Act—

(a) in sub-section (1), for the first proviso, the following shall be substituted as the first proviso, namely:—

" Provided that any distribution of capital assets under a deed of gift, bequest or will shall not for the purposes of this section be treated as a sale, exchange, relinquishment or transfer of the capital assets:—"

(b) in sub-section (2), for the third proviso, the following shall be substituted as the third proviso, namely:—

" Provided further that where the capital asset became the property of the assessee, or of the previous owner where the cost of the capital asset to the previous owner is to be taken in accordance with sub-section (3), before the 1st day of July 1954, the Income-tax Officer shall substitute for the actual cost such fair market value on the said date which shall be deemed to be the actual cost to him of the asset, and which shall be reduced by the amount of depreciation if any, allowed to the assessee after the said date and increased or diminished, as the case may be, by any adjustment made under clause (vii) of sub-section (2) of section 10:—"

(c) in sub-section (3)—

(i) for the expression " on the total or partial partition of a Hindu undivided family or on the dissolution of a firm or other association of persons ", the expression " on the dissolution of an association of persons " shall be substituted;

(ii) the proviso shall be deleted.

(d) sub-section (4) shall be deleted.

11. For section 13 of the Act, the following shall be substituted as section 13, namely:—

" 13. (1) Income, profits and gains shall be computed for the purposes of sections 8, 9, 10, 11 and 12 in accordance with the prescribed books and statements of account maintained by the assessee :

Method of accounting.
 Provided that, if such books and statements of account are not maintained, or are not fully maintained, or if the Income-tax Officer is not satisfied as to the correctness or completeness of such books and statements of account then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

(2) Sub-section (1) shall not apply to income, profits and gains in respect of the assessment year commencing on the 1st day of October 1963 and section 13 as subsisting before the commencement of the Burma Income-tax Act Amending Law, 1963, shall continue to have effect in respect of the said income, profits and gains."

12. For section 14 of the Act, the following shall be substituted as section 14, namely:—

" 14. The tax shall not be payable by an assessee in respect of any sum which he receives as his share of profits or gains of an association of persons, where such profits or gains have been assessed to income-tax."

Exemption of a General Nature.

13. In section 15 of the Act, sub-section (2) shall be deleted.

14. In section 15A of the Act—

(a) in sub-section (1)—

(i) for the expression "the Act of the Union Parliament", the expression "the Act of the Union Parliament or any other law" shall be substituted;

(ii) the brackets and words "(but not super-tax)" shall be deleted;

(b) for sub-section (2), the following shall be substituted as sub-section (2), namely:—

" (2) Any assessee not being an association of persons who—

(a) is resident in the Union of Burma in the year of assessment, or
 (b) being a salary-earner is resident in the Union of Burma in the year in which income-tax falls

to be deducted under sub-section (2) of section 18 from the assessee's estimated income chargeable under the head 'Salaries',

proves to the satisfaction of the Income-tax Officer that the assessee—

(i) in the case of a man, had any wife living with him or maintained by him during the previous year shall be allowed, for purposes of determining the income-tax payable

by him, a deduction of one thousand kyats from his total income as defined in section 16, and

- (ii) maintained at any time within the previous year an unmarried child who was either under the age of eighteen years or was receiving full-time instruction at any university, college, school or other educational establishment, or was serving under articles or indentures with a view to qualifying in a trade or profession shall be allowed, for purposes of determining the income-tax payable by the assessee, a deduction of four hundred kyats from the assessee's total income as defined in section 16, in respect of each such child:

Provided that the provisions of sub-clause (i) shall not be given effect to in any case where the wife in her own right or by her personal exertion was in receipt during the relevant previous year, of a total income which exceeded the maximum amount not chargeable to income-tax.

Explanation.—The expression 'child' in sub-clause (ii) includes a step-child or a child adopted in accordance with any statutory provision:

Provided further that the provisions of this sub-section shall not be given effect to in any year earlier than for the year ending on the 30th day of September 1963."

15. In section 15B of the Act—

- (a) in sub-section (1), the second proviso shall be deleted ;
 (b) for sub-section (2) the following shall be substituted as sub-section (2), namely:—

"(2) The aggregate of any sums exempted under this section shall not exceed one-tenth of the assessee's total income as reduced by any portion thereof exempt from tax under any other provisions of this Act or two hundred and fifty thousand kyats whichever is less."

16. In section 15C of the Act, sub-section (4) shall be deleted.

17. For section 16 of the Act, the following shall be substituted as section 16, namely:—

" 16. (1) In computing the total income of an assessee—

<p>Exemptions and exclusions in determining the total income.</p>	<p>(a) any sums exempted under the first proviso to sub-section (1) of section 7, sections 14, 15, 15B and 15C shall be included and any sum exempted under sub-sections</p>
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(1) and (2) of section 15A shall also be included, except for the purpose of determining the rates at which income-tax is payable by the assessee to whom the exemption is given:

- (b) when the assessee is a member of an association of persons, then, whether the association has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken, to be interest, salary, commission or other remuneration payable to him by the association in respect of the previous

year increased or decreased respectively by his share in the balance of the profit or loss of the association after the deduction of any interest, salary, commission or other remuneration payable to any member in respect of the previous year.

- (2) For the purposes of inclusion in the total income of an assessee any dividend shall be deemed to be the income of the previous year in which it is paid, credited or distributed or deemed to have been paid, credited or distributed to him.
- (3) In computing the total income of any individual for the purpose of assessment, there shall be included—
 - (a) so much of the income of a wife or minor child of such individual as arises directly or indirectly—
 - (i) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ; or
 - (ii) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than for adequate consideration ; and
 - (b) so much of the income of any person as arises from assets transferred otherwise than for adequate consideration to the person by such individual for the benefit of his wife or a minor child or both”.

18. In section 17 of the Act—

- (a) the expression “excluding super-tax” in sub-section (1) shall be deleted ;
- (b) sub-section (2) shall be deleted ;
- (c) the brackets and the words “(but not super-tax)” in sub-section (3) shall be deleted ;
- (d) for sub-section (4), the following shall be substituted as sub-section (4), namely:—
 - “(4) Where the total income of an assessee includes any income chargeable under the head ‘Capital gains’, the income-tax payable by him on the income so included shall be in accordance with such rates as may be fixed by the annual Finance Act or Finance Law.”;
- (e) sub-section (5) shall be deleted.

19. For section 17A of the Act, the following shall be substituted as section 17A, namely:—

“ 17A. Where a person is not resident in the Union of Burma the tax payable by him or on his behalf on his total income shall be an amount equal to sixty-five per cent of his total income or the tax which would be payable on his total income if it were the total income of a person resident in the Union of Burma, whichever is greater.”

20. In section 18 of the Act—

- (a) the brackets and the words “(and super-tax)” in sub-section (2) shall be deleted ;

(b) for sub-section (2B), the following shall be substituted as sub-section (2B), namely:—

“(2B) Any person responsible for paying any income chargeable under the head ‘Salaries’ to a person not resident in the Union of Burma shall at the time of payment deduct income-tax on the estimated income of the assessee under this head in accordance with the provisions of section 17A.”;

(c) for sub-section (3), the following shall be substituted as sub-section (3), namely:—

“(3) The person responsible for paying any income chargeable under the head ‘Interest on Securities’ shall, unless otherwise prescribed in the case of any security of the Government of the Union of Burma at the time of payment deduct income-tax on the amount of interest payable at such rate as may be fixed by the annual Finance Act or Finance Law :

Provided that where the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total income or the total world income of a recipient will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than such rate as may be fixed by the annual Finance Act or Finance Law, the person responsible for paying any income referred to in this sub-section to such recipient shall, until such certificate is cancelled by the Income-tax Officer pay the income without deduction or deduct the tax at such less rate, as the case may be.”;

(d) for sub-section (3A) the following shall be substituted as sub-section (3A), namely:—

“(3A) The person responsible for paying any income chargeable under the head ‘Interest on Securities’ to a person whom he has no reason to believe to be resident in the Union of Burma, shall, at the time of payment, deduct income-tax on the amount of such interest in accordance with the provisions of section 17A.”;

(e) for sub-section (3B) the following shall be substituted as sub-section (3B), namely:—

“(3B) Any person responsible for paying to a person not resident in the Union of Burma any interest not being ‘Interest on Securities’ or any other sum chargeable under the provisions of this Act shall at the time of payment, unless he is himself liable to pay income-tax thereon as an agent, deduct income-tax in accordance with the provisions of section 17A:

Provided that nothing in this section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the first proviso to section 43 not to be an agent of the payee.” ;

(f) sub-section (3D) shall be deleted ;

(g) for sub-section (5), the following shall be substituted as sub-section (5), namely:—

“(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax

on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be, and credit shall be given therefor on the production of the certificate furnished under sub-section (9) of section 20, as the case may be, in the assessment, if any, made for the following year under this Act:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund:

Provided further that where such person or owner is a person whose income is included under the provisions of sub-section (3) of section 16 in the total income of another person that person shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year:

Provided further that where any security is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted may be given to each such person in the same proportion in which the interest on such security has been included in his total income.”;

(k) for sub-section (7), the following shall be substituted as sub-section (7), namely:—

“(7) If any such person does not deduct and pay the tax as required by or under this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax :

Provided that the Income-tax Officer shall not make a direction under sub-section (1) of section 46 for the recovery of any penalty from such person unless satisfied that such person has willfully failed to deduct and pay the tax:”;

(l) for sub-section (9), the following shall be substituted as sub-section (9), namely:—

“(9) Every person deducting income-tax in accordance with the provisions of sub-sections (3), (3A), (3B) or sub-section (3C) shall at the time of payment of interest furnish to the person to whom such payment is made a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

Explanation.—For the purposes of this section and section 20A the expression ‘person responsible for paying’ means—

- (i) in the case of payments of income chargeable under the head ‘Salaries’ other than payments by the Government, the employer himself or if the employer is a company, the company itself including the principal officer thereof;
- (ii) in the case of payments of income chargeable under the head ‘Interest on Securities’, other than payments made by or on behalf of the Government, the local authority or company including the principal officer thereof;

(iii) in the case of payment of interest not being 'Interest on Securities', the payer himself or if the payer is a company, the company itself including the principal officer thereof."

21. In section 12A of the Act—

(a) for sub-section (1) (a), the following shall be substituted as sub-section (1) (a), namely:—

"(1) (a) In the case of income in respect of which provision is not made under section 18 for deduction of income-tax at the time of Advance payment of tax, the Income-tax Officer shall on or after the 1st day of October in any financial year, by order in writing, require an assessee to pay quarterly to the credit of the Government on the 15th day of December, 15th day of March, 15th day of June and 15th day of September in that year respectively, an amount equal to one-quarter of the income-tax payable on so much of such income as is included in his total income of the latest previous year in respect of which he has been assessed, if that total income exceeded seven thousand kyats. Such income-tax shall be calculated at the rates in force for the financial year in which he is required to pay the tax, and shall bear to the total amount of income-tax so calculated on the said total income the same proportion as the amount of such inclusions bears to his total income:

Provided that, if after the making of an order by the Income-tax Officer and before the 15th day of August of the financial year an assessment of the assessee is completed in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date, or in equal instalments on the specified dates if more than one, falling after the date of the amended order, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original order; but if the amount already paid exceeds the tax determined on the revised basis, the excess shall be refunded."

(b) in sub-section (6), for the expression "the Finance Act" the expression "the Finance Act or Finance Law" shall be substituted.

22. In section 21 of the Act, the expression "and super-tax" in clause (c) shall be deleted.

23. In section 22 of the Act, for sub-sections (1), (2), (2A) and (3) the following shall be substituted as sub-sections (1), (2), (2A), (3) and (3A), namely:—

"(1) Every person if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax shall, on or

before the 31st day of December in each year, furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

- (2) In the case of any person who, in the Income-tax Officer's opinion, is assessable under this Act, whether on his own total income or on the total income of any other person during the previous year, the Income-tax Officer may serve a notice upon him requiring him to furnish on or before the 31st day of December of the assessment year a return of his income and total world income or the income and total world income of such other persons during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that where such notice is issued after the 1st day of December of that year, such return shall be delivered within 31 days of the receipt of such notice.

- (2A) If any person who has not been served with a notice under sub-section (2), has sustained a loss in any year under the head 'Business,' 'Professional Earnings' or 'Capital Gains' and such loss or any part thereof would ordinarily have been carried forward under sub-sections (2) and (2B) of section 24, he shall if he is to be entitled to the benefit of the carry-forward of loss in any subsequent assessment, furnish on or before the 31st day of December of the assessment year, all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1).
- (3) Any person who has not hitherto been assessed and who has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2A), may furnish a return at any time before the assessment is made.
- (3A) If any person having furnished a return under sub-section (1), (2), (2A) or sub-section (3), discovers any omission or wrong statement therein, he may furnish a revised return at any time before the assessment is made."

24. In section 23 of the Act—

- (a) for sub-section (4), the following shall be substituted as sub-section (4), namely :—

"(4) If any person—

- (a) fails to make the return as required by sub-section (1) of section 22, or as required by any notice given under sub-section (2) of that section, or has not made a return as provided by sub-section (3) of that section, or
- (b) fails to comply with all the terms of a notice issued under sub-section (4) of that section, or
- (c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section,

the Income-tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment :

Provided that in the case of a person who has not hitherto been assessed, the Income-tax Officer shall not pass an order under this sub-section without first giving such person an opportunity of being heard.”;

(b) sub-sections (5) and (6) shall be deleted.

25. In section 23A of the Act, for sub-section (1), the following shall be substituted as sub-section (1), namely :—

“(1) Where the Income-tax Officer is satisfied that in respect of any previous year the profits and gains distributed as dividends by any company within the twelve months immediately following the expiry of that previous year are less than the statutory percentage of the total income of the company of that previous year as reduced by—

- (a) the amount of income-tax payable by the company in respect of its total income ;
- (b) the amount of any other tax levied under any law for the time being in force on the company by the Government or by a local authority in excess of the amount, if any, which has been allowed in computing the total income ; and
- (c) in the case of a banking company, the amount actually transferred to a reserve fund under section 277K of Part XA of the Burma Companies Act relating to Banking Companies, the Income-tax Officer shall, unless he is satisfied that, having regard to the losses incurred by the company in earlier years or to the smallness of the profits made in the previous year, the payment of a dividend or a larger dividend than that declared would be unreasonable, make an order in writing that the undistributed balance of the total income of the previous year, that is to say, on the total income as reduced by the amounts, if any, referred to in clause (a), clause (b) or clause (c) and the dividends actually distributed, if any, shall be deemed to have been distributed as dividends amongst the shareholders within that previous year, and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purpose of assessing his total income.”.

26. In section 23B of the Act, sub-sections (2) and (3) shall be deleted.

27. In section 24 of the Act—

(a) for the fourth proviso to sub-section (1), the following shall be substituted as the fourth proviso, namely:—

“ Provided further that where the assessee is an association of persons any such loss shall be set-off only against the income, profits and gains of the association and not against the income, profits and gains of any of the members of the association.”;

(b) in the proviso to sub-section (2)—

(i) for clause (b), the following shall be substituted as clause (b), namely :—

“(b) nothing herein contained shall entitle any assessee being a member of an association of persons to have carried forward and set-off against his own income any loss sustained by the association;”;

(ii) for clause (c), the following shall be substituted as clause (c), namely:—

“(c) where a change has occurred in the constitution of the association, nothing in this section shall be deemed to entitle the association to have set off so much of the loss proportionate to the share of a retired or deceased member computed in accordance with the provisions of clause (b) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the association, or to entitle any member to the benefit of any portion of the said loss which is not apportionable to him under the said clause (b), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains.”;

(c) for the proviso to sub-section (2B), the following proviso shall be substituted, namely :—

“Provided that where the loss sustained by an assessee in any previous year is under the head ‘Capital Gains’ and the loss does not exceed five thousand rupees, it shall not be carried forward.”.

28. In section 24B of the Act, the expression “before the giving of the notice referred to in sub-section (1) of section 22, or” in sub-section (2) shall be deleted.

29. In section 25 of the Act, for the expression “in the case of a firm, on any person who was a member of such firm” in sub-section (3) the expression “in the case of an association of persons, on any person who was a member of such association” shall be substituted.

30. Section 25A of the Act shall be deleted.

31. In section 26 of the Act, for sub-section (1) the following shall be substituted as sub-section (1), namely:—

“(1) Where, at the time of making an assessment under section 23, it is found that a change has occurred in the constitution of an association of persons or that an association of persons has been newly constituted, the assessment shall be made on the association as constituted at the time of making the assessment;

Change in the constitution of an association of persons.

Provided that the income, profits and gains of the previous year shall, for the purpose of inclusion in the total incomes of the members be apportioned between the members who in such previous year were entitled to receive the same."

32. Section 26A of the Act shall be deleted.

33. For section 28 of the Act, the following shall be substituted as section 28, namely:—

"28. (1) If the Income-tax Officer, the Assistant Commissioner or the Appellate Tribunal, in the course of any proceedings under this Act, is satisfied that any person—
Penalty for failure to furnish return, or comply with notice or concealment of income.

- (a) has without reasonable cause failed to furnish the return of his total income which he was required to furnish under sub-section (1) of section 22, or by notice given under sub-section (2) of section 22 or section 34, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required by sub-section (1) of section 22, or by such notice as the case may be, or
 - (b) has without reasonable cause failed to comply with a notice under sub-section (4) of section 22 or sub-section (2) of section 23, or
 - (c) has concealed the particulars of his income or deliberately furnished inaccurate particulars of such income, or
 - (d) has produced or caused to be produced, books and statements of account or documents which are false and which he either knows or believes to be false or does not believe to be true.
- he or it shall direct that such person shall pay by way of penalty, in the cases referred to in clauses (a) and (b), in addition to the amount of tax payable by him, a sum equal to that amount, and in the cases referred to in clauses (c) and (d), in addition to the amount of tax payable by him, a sum equal to twice that amount:

Provided that—

- (a) no penalty for failure to furnish a return under sub-section (1) of section 22 shall be imposed on an assessee whose total income does not exceed the maximum amount not chargeable to income-tax by more than one thousand kyats;
- (b) where a person has failed to comply with a notice under sub-section (2) of section 22 or section 34 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a penalty not exceeding twenty-five kyats;
- (c) no penalty shall be imposed under this sub-section upon any person assessable under section 42 as the agent of a person not resident in the Union of Burma for failure to furnish the return under section 22 unless a notice under sub-section (2) of that section or under section 34 has been served on him;

- (d) where a person has produced books of account or documents other than those prescribed under section 13, and such books or documents contained all the particulars and information as would appear in the prescribed books, the penalty imposable under this sub-section shall be equal to half of the tax payable by him;
- (e) where a person liable to penalty in the case referred to in clause (d) of this sub-section proves that he has no income liable to tax, the penalty imposable under this sub-section shall be a sum not exceeding one hundred kyats.
- (2) No order shall be made under sub-section (1) unless the assessee has been heard, or has been given a reasonable opportunity of being heard.
- (3) An Assistant Commissioner or the Appellate Tribunal on making an order under sub-section (1), shall forthwith send a copy of the same to the Income-tax Officer."

34. For section 30 of the Act, the following shall be substituted as section 30, namely:—

" 30. (1) Any assessee—

- Appeal against assessment under this Act. (a) denying his liability to be assessed under this Act, or (b) objecting to—

- (i) any order under section 18A, or
 (ii) an order of assessment under section 23, or
 (iii) an order under sub-section (1) of section 23A, or
 (iv) the amount of loss computed under section 24, or
 (v) an order under sub-section (2) of section 25, or
 (vi) an order under sub-section (2) of section 26, or
 (vii) a refusal to make a fresh assessment under section 27, or
 (viii) an order under section 28, or
 (ix) any penalty imposed under sub-section (1) of section 46, or
 (x) a refusal to allow a claim to a refund under section 48, or the amount of the refund allowed under that section, made by the Income-tax Officer may appeal to the Assistant Commissioner against the assessment or against such refusal or order:

Provided that where the members of an association of persons are assessable on their shares in the total income of the association, any such member may appeal to the Assistant Commissioner against any order of an Income-tax Officer, determining the amount of the total income or the loss of the association or the apportionment thereof between the several members, but in respect of matters which are determined by such order may not appeal against the assessment of his own total income:

Provided further that a shareholder in a company in respect of which an order under section 23A has been passed by an Income-tax Officer, may not in respect of matters determined by such order appeal against the assessment of his own total income:

Provided further that no appeal shall lie against any order under this section unless the tax has been paid.

Explanation.—In the case of a firm registered under the provisions of section 26A prior to the coming into force of the Burma Income-tax Act Amending Law, 1963, the tax to be paid shall be the aggregate of the taxes payable by such firm as well as by all the partners thereof:

Provided further that notwithstanding anything hereinbefore contained, the Government or any person authorized in this behalf by the Government may permit an assessee to prefer an appeal, not being an appeal against an order under sub-section (1) of section 46, on payment of the tax admitted and on furnishing sufficient security for the due performance of the order that may be passed on appeal.

- (2) The appeal shall ordinarily be presented within thirty days of the following date, namely:—
 - (a) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the assessment or penalty, or
 - (b) in any other case, the date on which the person concerned is communicated of the order sought to be appealed against.
- (3) The Assistant Commissioner may admit an appeal after the expiration of the said period if he is satisfied that the appellant has sufficient cause for not presenting it within that period.
- (4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner."

35. In section 31 of the Act—

(a) for sub-section (3), the following shall be substituted as sub-section (3), namely:—

"(3) In disposing of an appeal, the Assistant Commissioner shall have the following powers, namely:—

- (a) in an appeal against an order of assessment, he may confirm, reduce, enhance or annul the assessment; or he may set aside the assessment and refer the case back together with his directions to the Income-tax Officer for making a fresh assessment;
- (b) in an appeal against an order imposing a penalty, he may confirm or cancel such order or vary it so as either to enhance or reduce the penalty;
- (c) in any other case, he may pass such orders in the appeal as he thinks fit;

Provided that the Assistant Commissioner shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement."

(b) sub-section (4) shall be deleted.

36. Section 32 of the Act shall be deleted.

37. For section 33 of the Act, the following shall be substituted as section 33, namely:—

“ 33. The Commissioner may of his own motion or on application by an assessee for revision of an order under this Act passed by any authority subordinate to him, within two years from the date of the order, call for the records of the proceeding in which such order was passed and on receipt of the same, may make such enquiry or cause such enquiry to be made and at any time thereafter, subject to the provisions of this Act, may pass such order thereon as he thinks fit:

Power of revision by Commissioner.

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

Explanation.—An order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee:

Provided further that the Commissioner shall not revise any order under this section if—

- (a) where an appeal against the order lies to the Assistant Commissioner or to the Appellate Tribunal the time within which such appeal may be made has not expired, or
- (b) the order is pending on an appeal before the Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal:

Provided further that where an application for revision is made by an assessee who has not previously preferred an appeal under section 30, the provisions of the third and fourth provisos to sub-section (1) of section 30 shall apply.”

38. In section 33A of the Act—

- (a) the provisos to sub-section (2) shall be deleted;
- (b) sub-section (6) shall be deleted.

39. In section 35 of the Act—

(a) for sub-section (5), the following shall be substituted as sub-section (5), namely:—

“ (5) Where in respect of any completed assessment of a member in an association of persons it is found on the assessment or re-assessment of the association or on any reduction or enhancement made in the income of the association under section 31, 33, 33A, 66 or section 66A that the share of the member in the profit or loss of the association has not been included in the assessment of the member or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed, to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the association.” ;

(b) sub-section (6) shall be deleted.

40. In section 38 of the Act—

(a) for clause (1), the following shall be substituted as clause (1), namely :—

“(1) require any association of persons to furnish him with a return of the names and addresses of the members thereof;”

(b) for clause (3), the following shall be substituted as clause (3), namely :—

“(3) require any person or association of persons whom he has reason to believe to be engaged in a business or profession to furnish him with a return containing particulars of the location and style of the principal place wherein he or it carries on the business or profession and of any branches thereof, the names and addresses of his or its members, if any, in such business or profession and the extent of the shares of all members in the profits of the business or profession and any branches thereof;”

41. In section 42 of the Act, the expression “or not ordinarily resident” wherever it occurs in sub-section (2) shall be deleted.

42. For section 44 of the Act, the following shall be substituted as section 44, namely :—

“44. Where any business, profession or vocation carried on by an association of persons has been discontinued or dissolved, every person who was at the time of such discontinuance or dissolution a member of such association shall, in respect of the income, profits and gains of the association be jointly and severally liable to assessment under Chapter IV and for the amount of tax or penalty payable and all the provisions of Chapter IV shall, so far as may be, apply to any such assessment.”

43. In section 44D of the Act, the expression “or under the Business Profits Tax Act, for the time being in force,” in sub-section (1) shall be deleted.

44. For section 45 of the Act, the following shall be substituted as section 45, namely :—

“45. Any amount specified as payable in a notice of demand under section 29 shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default.”

45. In section 46 of the Act—

(a) after sub-section (4), the following shall be inserted as sub-section (4A), namely :—

“(4A) Notwithstanding anything contained in any other law for the time being in force, the Collector or the authority referred

to in sub-sections (2) and (4) shall further have the following additional powers, namely :—

- (a) whenever any application for execution of a decree by appointing a receiver is made in respect of property of which the defaulter has partial interest, the Collector or the said authority may, if he thinks fit, after informing the co-owners or co-sharers of the said property whose interest would thereby be affected, appoint a receiver in respect of the entire property ;
- (b) whenever any application for execution of a decree by sale of part only of the property is made by reason of the existence of the co-owner or co-sharer besides the defaulter, and if it appears to such officer that by reason of the nature of the property to which application relates or of the number of co-owners or co-sharers therein or of any other special circumstances, a sale of part only of the property cannot reasonably or conveniently be made, such officer may, if he thinks fit, direct a sale of the entire property and a distribution of the proceeds after informing the persons whose interest would be affected thereby ; when the property sold is a share of undivided immoveable property, and two or more persons of whom one is co-owner or co-sharer respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-owner or co-sharer.”;

(b) clause (i) of the first proviso to sub-section (7) shall be deleted.

46. After section 46 of the Act, the following shall be inserted as section 46A, namely :—

“ 46A. Notwithstanding anything contained in any other law for the time being in force, no authority or Court shall be competent to make an interlocutory order staying recovery proceedings under this Act :

Provided that—

- (a) in the case of a proceeding instituted by a person other than the assessee, such authority or Court may make an interlocutory order restraining the sale of the property involved in the proceedings ; or
- (b) in the case of a proceeding instituted by an assessee, such authority or Court may make an interlocutory order restraining the sale of the property where an appeal or a revision preferred by the assessee under this Act is pending.”.

47. In section 48 of the Act, for sub-section (1) the following shall be substituted as sub-section (1), namely :—

“(1) If any assessee satisfies the Income-tax Officer or other authority appointed by the Government in this behalf that the amount of Refunds. the tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which he is properly chargeable under this Act for that year he shall be entitled to a refund of any such excess.”.

48. Section 49C of the Act shall be deleted.

49. In section 50 of the Act, the expression "or super-tax" shall be deleted.

50. For section 52 of the Act, the following shall be substituted as section 52, namely :—

- " 52. (1) If a person produces, or causes to be produced, the prescribed books and statements of account which are false and which he either knows or believes to be false or does not believe to be true, or makes a statement in a verification mentioned in section 19A, 20A, 21 or section 22, or sub-section (4) of section 30, or sub-section (4) of section 33A which is false, and which he either knows or believes to be false or does not believe to be true, he shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend from one to five years.
- (2) Whoever instigates, intentionally aids or abets any person to commit any of the offences mentioned in sub-section (1) shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to five years or with fine or with both."

51. For section 54 of the Act, the following shall be substituted as section 54, namely :—

- " 54. (1) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Evidence Act, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.
- (2) No public servant shall disclose any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record mentioned in sub-section (1).
- (3) Nothing in this section shall apply to the disclosure—
- (a) of any such particulars for the purposes of a prosecution under the Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act; or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary or desirable to disclose the same to him for the purposes of this Act; or

- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or
 - (d) of any such particulars to a Civil Court in any suit or proceeding to which Government or any Income-tax authority is a party, which relates to any matter arising out of any proceeding under this Act or under any other law for the time being in force authorizing any Income-tax authority to exercise any powers thereunder; or
 - (e) of any such particulars, relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a lawyer or registered accountant, to the authority referred to in sub-section (3) of section 61, when exercising the functions referred to in that sub-section; or
 - (f) of so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established; or
 - (g) of any such particulars for purposes of enabling an officer or a department of Government to exercise his or its powers and to discharge his or its lawful duties.
- (4) If any public servant contravenes the provisions of sub-section (2) he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.
- (5) No prosecution shall be instituted under this section except with the previous sanction of the Commissioner."

52. Chapter IX of the Act shall be deleted.

53. In section 58A of the Act, for clause (b) the following shall be substituted as clause (b), namely:—

- "(b) an 'employer' means an individual, association of persons or company engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11, maintaining a provident fund for the benefit of his or its employees;".

54. In section 58E of the Act, the expression "and super-tax" shall be deleted.

55. In section 58C of the Act—

- (a) the expression "and super-tax" in the marginal note shall be deleted;
- (b) sub-section (1) shall be deleted;
- (c) for the expression "income-tax and super-tax" wherever it occurs in sub-section (3), the word "taxes" shall be substituted.

56. In section 58H of the Act—

- (a) for the word "income-tax" in the marginal note, the word "taxes" shall be substituted;
- (b) for the expression "deduct therefrom any income-tax", the expression "deduct therefrom any taxes" shall be substituted;
- (c) for the expression "any income-tax and super-tax payable" the expression "any taxes payable" shall be substituted.

57. In section 58J of the Act, the expression "and super-tax" in sub-section (2) shall be deleted.

58. In section 58L of the Act, the expression "and super-tax" in clause (d) of sub-section (2) shall be deleted.

59. In section 63 of the Act, for sub-section (2), the following shall be substituted as sub-section (2), namely:—

"(2) Any such notice or requisition may, in the case of an association of persons, be addressed to any adult member of the association or to the manager or the principal officer thereof."

60. In section 64 of the Act, for the expression "made a return in response to the notice under sub-section (1) of section 22", the expression "made a return of his income" shall be substituted.

61. For section 67A of the Act, the following shall be substituted as section 67A, namely:—

"67A. In computing the period of limitation prescribed for an appeal under this Act or for an application under section 66, the day on which the order complained of was made and the time requisite for obtaining a copy of such order and the time requisite for obtaining permission to appeal under the fourth proviso to sub-section (1) of section 30 shall be excluded."

62. For section 68 of the Act, the following shall be substituted as section 68, namely:—

"68. If on the first day of October in any year provision has not yet been made by an Act of Parliament or by any other law for the charging of income-tax for that year this Act shall nevertheless have effect until such provision is so made as if the provision in force in the preceding year or the provision proposed by the Government whichever is more favourable to the assessee were actually in force."

63. In the Act, for the expression "President of the Union" wherever it occurs the word "Government" shall be substituted.

64. For the removal of doubts, it is hereby declared that—

- (a) this Law shall come into force from the assessment year 1963-64 ;
- (b) notwithstanding clause (a) or sub-section (2) of section 1, the provisions of sub-section (2) of section 13 of the Act as amended by this Law shall come into force from the assessment year 1964-65 ;
- (c) the third and the fourth provisos to sub-section (1) of section 30 of the Act as amended by this Law shall apply to all appeals and revisions instituted on or after the 1st day of October 1963.