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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2064/59 - 2018 අප්‍රේල් මස 01 වැනි ඉරිදා - 2018.04.01

No. 2064/59 - SUNDAY, APRIL 01, 2018

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

INLAND REVENUE ACT, No. 24 OF 2017

Notice under Sections 93(4)

BY virtue of the powers vested in me under Subsection (4) of Section 93 of the Inland Revenue Act, No. 24 of 2017, I, Dissanayake Mudiyanselage Lalith Ivan Dissanayake, Commissioner General of Inland Revenue, do by this order specify the Capital gain tax return and schedules to be furnished by any person in respect of income consisting of a gain from the realization of an investment asset, as set out in the Schedule hereto.

D. M. L. I. DISSANAYAKE,
Commissioner General of Inland Revenue.

Department of Inland Renenue,
Colombo 02,
01st April 2018.

SCHEDULE

1. Every person who is liable to pay Capital Gain Tax on the gain from realization of an investment asset on or after April 1, 2018, is required to furnish a return and schedules in the format specified in annex I and annex II.

2. (I) Where the gain made from realization of investement asset exceeds Rs. 50,000 capital gain tax return and schedule should be filed with the Commissioner General of Inland Revenue not later than one month after the date of realization of investment asset.

   (II) Where the gain made from such realization of asset does not exceed Rs. 50,000, but the total gain made by resident invididual exceeds Rs. 600,000, during the year of assessment capital gain tax return and schedule should be filed with the Commissioner General of Inland Revenue not later than one month after the date of realization of nearest asset which causes to exceed total gain Rs. 600,000.

3. In case where the realized investment asset is jointly owned, each resident individual is required to file a return if the total gain made by all individual exceeds Rs. 50,000

4. The Commissioner General may amend the Capital Gain Tax return and schedules time to time as required.

Annex I - Capital Gain Tax return (*Form No. Asmt_CGT_001_E*)
Annex II - Schedules to Capital Gain Tax return (*Form No. Asmt_CGT_002_E*)

1A - PG 4002—457 (04/2018)
This Gazette Extraordinary can be downloaded from www.documents.gov.lk

Annex : I

Form No. - Asmt_CGT_001_E

For Office Use

RIN	
Date	

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Sri Lanka Inland Revenue

CAPITAL GAIN TAX RETURN

Period code: **Return Code:** **From :** **To:**

Taxpayer Identification Number (TIN)	
	Address
Date of Issue:	**Due Date:**

TRANSACTION STATUS *(Please tick the relevant boxes)* Single ☐ Multiple ☐ Jointly Owned ☐

In case of multiple transactions or disposal of jointly own assets use the schedule to fill Section 01.

SECTION 01 : CALCULATION OF CAPITAL GAIN TAX

Please indicate the Values only in LKR

Description	Code	Amount Rs.	Cents
Consideration received /receivable (Schedule 01 cage 10A)	10		.
Less: Cost of the Investment Asset			
Market value as at 30.09.2017 / Cost of acquisition (Schedule 01 cage 20A)	20		.
Cost of improvements/ maintenance/ repairs (Schedule 01 cage 30A)	30		
Incidental expenses in acquisition / realization (Schedule 01 cage 40A)	40		
Total cost of the Investment Asset (Cages 20+30+40) (Schedule 01 cage 50A)	50		
Total Capital Gain (10-50) (Schedule 01 cage 60A)	60		
Assessable / Taxable income on Capital Gain (Schedule 01 cage 70A)	70		
Capital Gain Tax Payable (Cage 70 X 10 %)	80		.
Tax Credit (Section 02 cage 90A)	90		.
Balance Tax Payable /(Over Payment) (Cage 80- 90)	100		.

SECTION 02 : TAX CREDIT

Payment Codes	Date of Payment	Code	Amount Rs.	Cents
	D D / M M / Y Y Y Y	91		.
	D D / M M / Y Y Y Y	92		.
	D D / M M / Y Y Y Y	93		.
Total Tax Payments (Cages 91+92+93)		90A		.



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TAXES - FOR A BETTER FUTURE

SECTION 03 : DETAILS OF TRANSACTION / GRANTEE

A Details of the Transaction *(Block letters only)*

Transaction Number	210		Land Registry(If applicable)	220	
Date of Acquisition	230	D D / M M / Y Y Y Y	Date of Realisation	240	D D / M M / Y Y Y Y
Type of Investment Asset	250				
Address of the realised Investment Asset	260				

B Details of Grantee (Mark "√" in relevant places)

Full Name of Grantee	270		
Address of Grantee (Permanent)	280		
Status of Grantee	290	Individual ☐	Entity ☐
National Identity Card Number or TIN	300		

SECTION 04 : DECLARATION

(Mark "✓" in relevant places)

Schedules Attached	310	Schedule 01 ☐	Schedule 02 ☐	Schedule 03 ☐

I declare to the best of my knowledge and belief that all particulars furnished in this return and schedules are true, correct and complete. I am aware that making an incorrect or false statement or giving false information in relation to a return is an offence.

Full name of the representative *(Applicable for an Entity only)*			
Full Name of the Declarant			
Designation		(Transferor / Managing Director / Director / Secretary / Principle Officer / Agent or Authorized Person)	
Telephone Number		Mobile	
E-Mail			
Signature of Declarant		OFFICIAL FRANK	
Date:	D D / M M / Y Y Y Y		
Full name of Agent / Authorized Person or Employee			
National Identity Card No/TIN			
Signature of Declarant Agent / Authorized Person or Employee			
Date:	D D / M M / Y Y Y Y		

Capital gain tax Return Form specified by the Commissioner General of Inland Revenue under Section 93(4) of the Inland Revenue Act No. 24 of 2017.
Please note that Interests and penalties are imposed on any person making an incorrect return, not submitting a return and accrue for non-payment of Taxes on due date.

Annex : II

Form No : Asset CGT 002 E

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Sri Lanka Inland Revenue

SCHEDULES TO CAPITAL GAIN TAX RETURN

PERIOD CODE: **Return Code:** **From :** **To:**

Taxpayer Identification Number (TIN)	
Name of the Taxpayer as shown in the Return	

Please indicate the Values only in LKR

SCHEDULE – 01: CALCULATION OF GAIN/LOSS ON THE REALISATION OF INVESTMENT ASSETS

A Calculation of Gain on the realisation of Investment Assets

Cage	Type of investment asset	Date of realization (DD/MM/YYYY)	Transaction Number	Consideration received / receivable (10)	Market value as at 30.09.2017 / Cost of Acquisition (20)	Cost of an Asset after 30th September 2017		Total cost the investment asset (50) (20+30+40)	Total Capital Gain (60) (10-50)	Joint ownership (Yes / No) (63)	Share of ownership % (65)	Taxable Income on Gain (70) (60*65)
						Cost of improvements / maintenance / repairs(30)	Incidental expenses in acquisition / realization(40)					
A1												
A2												
A3												
A4												
A5												
	Total -A			10	20	30	40	50	60		65	70

B Calculation of Loss on the realisation of Investment Assets

Cage	Type of investment asset	Date of realization (DD/MM/YYYY)	Transaction Number	Consideration received / receivable (10)	Market value as at 30.09.2017 / Cost of Acquisition (20)	Cost of an Asset after 30th September 2017		Total cost the investment asset (50) (20+30+40)	Total (Loss) of asset (60) (10-50)	Joint ownership (Yes / No) (63)	Share of ownership % (65)	Taxable Income on Gain (70) (60*65)
						Cost of improvements / maintenance / repairs(30)	Incidental expenses in acquisition / realization(40)					
B1												
B2												
B3												
B4												
B5												
	Total -B											

SCHEDULE – 02 : DETAILS OF TRANSACTIONS / GRANTEE

Cage	Type of Investment asset	Transaction Number	Date of Acquisition	Date of Realization	Address of realised Investment asset	Land registry (If applicable)	Full name of Grantee	Address of t Grantee	Status of Grantee	National Identity Card number/ TIN
C1										
C2										
C3										
C4										
C5										

SCHEDULE – 03 : CALCULATION OF GAIN ON THE REALIZATION OF INVESTMENT ASSETS - EXEMPTED/DEEMED EXEMPTED

A Calculation of gain/loss on the realisation of Investment Assets -Exempt

Cage	Type of investment asset	Date of realization (DD/MM/YYYY)	Transaction Number	Consideration received / receivable (10)	Market value as at 30.09.2017 / Cost of Acquisition (20)	Cost of an Asset after 30th September 2017		Total cost the Investment asset (50) (20+30+40)	Total Capital Gain/Loss (60) (10-50)	Joint ownership (Yes / No) (63)	Share of ownership % (65)	Exempted Gain/Loss (70) (60*65)
						Cost of improvements / malntenance / repairs(30)	Incidental expenses in acqulsition / realization (40)					
D1												
D2												
D3												
D4												
D5												
D	Total - D											

B Calculation of gain/loss on the realisation of Investment Assets –Deemed exempt

Cage	Type of investment asset	Date of realization (DD/MM/YYYY)	Transaction Number	Consideration received / receivable (10)	Market value as at 30.09.2017 / Cost of Acquisition (20)	Cost of an Asset after 30th September 2017		Total cost the Investment asset (50) (20+30+40)	Total Gain/Loss of the investment asset (60) (10-50)	Joint ownership (Yes / No) (63)	Share of ownership % (65)	Deemed exempt Gain/Loss (70) (60*65)
						Cost of improvements / maintenance / repairs (30)	Incidental expenses in acquisition / realization(40)					
E1												
E2												
E3												
E4												
E5												
E	Total - E											

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INLAND REVENUE DEPARTMENT

Implementation of Changes to Value Added Tax (VAT) Act as amended by the Value Added Tax (Amendment) Act, No. 25 of 2018

Value Added Tax Act, No. 14 of 2002 is amended by the Amendment Act, No. 25 of 2018 as certified by the Speaker on 16th August 2018. The changes are effective from August 16, 2018 (unless a specific date is mentioned).

According to the Amendment Act, the significant changes are as follows.

1. **Changing the Piece base for VAT on Certain Garments**
   The composite tax in lieu of VAT, NBT and other taxes imposed at the point of Customs collected under the VAT Act, will be Rs. 75/- for **six pieces** of panties, socks, briefs and boxer shorts.

2. **Introduction of VAT Refund Scheme for Tourist.**
   The refund scheme is effective from the date determined by the Minister of Finance and Mass Media by order published in the Gazette.

3. **Removal of Exemption**
   a. Exemption granted on **imports and supply** of following goods are terminated and made liable for VAT with effect August 16, 2018 (unless otherwise stated).

      i. Aircrafts or Helicopters;
      ii. Sunglasses;
      iii. Wood (sawn);
      iv. Fabric for domestic consumption subject to a cess at a specific rate in lieu of chargeability of any other tax payable on importation at the point of entry into the country, as specified in a *Gazette* Notification issued under the Sri Lanka Export Development Act, No. 40 of 1979.

   b. Exemption granted on the **supply of residential accommodation** other than lease or rent by any person is terminated and made **liable for VAT with effect from** August 16, 2018.

Note: **As instructed by the Ministry of Finance and Mass Media, a policy decision has been taken to continue the exemption on the supply of residential accommodation until 31st March 2019.**

c. Exemption granted on the **imports** of following goods are terminated and made liable for VAT with effect from August 16, 2018 (unless otherwise stated).

i. Aircraft engines or aircraft spare parts identified under specified Harmonized Commodity Description and Coding System Numbers for Custom purposes;
ii. Cinematographic cameras and projector parts and accessories;
iii. Aircraft stimulators and parts;
iv. Green houses, poly tunnels and materials for the construction of green houses, by any grower of agricultural products or plants of any type;
v. Fabric, specified under the Harmonized Commodity Description and Coding System Numbers for Custom purposes.

4. New Exemptions

a. **Imports or supply** of following goods are exempt from VAT with effect from the date stated.

i. Exemption for infant milk is being **continued as prevailed prior to November 01, 2016**;
ii. Electrical goods identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from **November 1, 2016**;
iii. Magazines, journals or periodicals with effect from **November 11, 2016** as identified under the Harmonized Commodity Description and Coding System Numbers for Custom purposes;
iv. Plants, machinery or accessories for renewable energy generation identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from **November 11, 2016**;
v. Medical machinery or medical equipment identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from **November 11, 2016**;
vi. Energy serving bulbs with effect from **January 01, 2017**;
vii. Hot air balloons identified under the Harmonized Commodity Description and Coding System Numbers for Custom Purposes with effect from **January 1, 2017**.

b. The **supply** of following goods or services are exempt from VAT with effect from the date stated.

i. Locally manufactured jewellery for any period from **November 22, 2016**;
ii. All healthcare services provided by medical institutions or professionally qualified persons providing such care other than hospital room charges (exemption applicable for any period from **July 02, 2018**);
iii. Geriatric services or child care services from **August 16, 2018**;
iv. International telecommunication services provided by "External Gateway Operators" to local telecommunication operators from **August 16, 2018**;

v. The supply of residential accommodation **on or after April 1, 2019**, other than any lease or rent by any person, and where such supply -
   - is not relating to a sale of any condominium housing unit; or
   - is a supply of a condominium housing unit of a condominium housing project and the maximum price or the market value (whichever is higher) of any single unit of that project does not exceed rupees fifteen million.

5. **Exemption from VAT on Financial Services (FS)**
   Sri Lanka Deposit Insurance Scheme established by regulation made under the Monetary Law Act is exempt from VAT on FS with effect from **April 1, 2018.**

Commissioner General of Inland Revenue



CHAPTER IV

ASSETS AND LIABILITIES

Division I: Calculation of Gains and Losses

Calculating gains and losses.

36. (1) A person's gain from the realisation of an asset or liability shall be the amount by which the sum of the consideration received for the asset or liability exceeds the cost of the asset or liability at the time of realisation.

(2) The loss of a person from the realisation of an asset or liability shall be the amount by which the cost of the asset or liability exceeds the sum of the consideration received for the asset or liability at the time of realisation.

(3) A gain made by a person on the realisation of an investment asset shall be reduced by any part of the gain that is included in calculating the person's income from an employment or business.

(4) Where an asset or liability owned by a person is used in the production of two or more sources of income, the cost of and consideration received for the asset shall be apportioned between each source according to the market value of the parts used to produce each source.

Cost of an asset.

37. (1) Subject to this Act, the cost of an asset of a person shall be the sum of –

(*a*) expenditure incurred by the person in acquiring the asset including, where relevant, expenditure on construction, manufacture or production of the asset;

(*b*) expenditure incurred by the person in altering, improving, maintaining or repairing the asset;

(*c*) incidental expenditure incurred by the person in acquiring and realising the asset; and

(*d*) income amounts referred to in subsection (2).

(2) An income amount shall be –

(*a*) an amount required by Division II of Chapter II to be directly included in calculating the person's income or that is an exempt amount or final withholding payment of the person;

(*b*) where the treatment in paragraph (*a*) results from the person acquiring the asset or another person incurring expenditure of the type mentioned in paragraph (*b*) or (*c*) of subsection (1) on behalf of the person.

(3) The cost of an asset shall not include consumption expenditure, excluded expenditure and expenditure to the extent to which it is deducted in calculating a person's income or included in the cost of another asset.

(4) In this section, "incidental expenditure" incurred by a person in acquiring or realising an asset shall include –

(*a*) advertising expenditure, transfer taxes, duties and other expenditure of transfer;

(*b*) expenditure of establishing, preserving or defending ownership of the asset; and

(*c*) remuneration for the services of an accountant, agent, auctioneer, broker, consultant, legal advisor, surveyor or valuer relating to expenditure referred to in paragraph (*a*) or (*b*).

Consideration received.

38. (1) Subject to this Act, consideration received for an asset of a person at a particular time shall be –

(*a*) amounts received or receivable by the person for the asset, including the fair market value of any

consideration in kind determined at the time of realisation;

(*b*) amounts derived by the person in respect of owning the asset including –

(i) amounts derived from altering or decreasing the value of the asset; and

(ii) amounts derived from the asset including by way of covenant to repair or otherwise; and

(*c*) amounts derived by the person or an entitlement for the person to derive an amount in the future in respect of realising the asset.

(2) The consideration received for the realisation of an asset shall include the consideration for the grant of an option in relation to the asset, only if the person has not been subject to tax in respect of any income or gain made on the grant of the option.

(3) The consideration received for an asset shall not include an exempt amount, a final withholding payment or, other than in the case of trading stock, an amount to be directly included in calculating the person's income under Division II of Chapter II.

Realisation.

39. Subject to this Act, a person who owns an asset shall be treated as realising the asset –

(*a*) when that person parts with ownership of the asset, including when the asset is sold, exchanged, transferred, distributed, cancelled, redeemed, destroyed, lost, expired, expropriated or surrendered;

(*b*) in the case of an asset of a person who ceases to exist, including by reason of the death of an

individual, immediately before the person ceases to exist;

(*c*) in the case of an asset other than trading stock or a depreciable asset, where the sum of consideration received from owning the asset exceeds the cost of the asset;

(*d*) in the case of an asset that is a debt claim owned by a person, the person reasonably believes the debt claim will not be satisfied, where the person has taken reasonable steps in pursuing the debt claim and the person writes the debt off as bad;

(*e*) in the case of trading stock, a depreciable asset, a capital asset of a business or an investment asset, immediately before the person begins to employ the asset in such a way that it ceases to be an asset of any of those types; and

(*f*) in the circumstances referred to in section 70 (change of residence).

Liabilities.

40. (1) The costs of and consideration received for a liability of a person shall be determined in accordance with sections 37 and 38 as though –

(*a*) a reference to an asset were a reference to a liability;

(*b*) expenditure incurred in realising the liability is included in the costs of the liability; and

(*c*) amounts derived in respect of incurring the liability are included in the consideration received for the liability.

(2) Subject to this Act, a person who owes a liability shall be treated as realising the liability –

(*a*) when the person ceases to owe the liability, including when the liability is transferred, satisfied, cancelled, released or expired;

(*b*) in the case of a liability of a person who ceases to exist, including by reason of the death of an individual, immediately before the person ceases to exist; and

(*c*) in the circumstances referred to in section 70 (change of residence).

(3) Subject to any regulations, the provisions of Division II shall apply, with any necessary adaptations, to liabilities in a manner similar to that in which they apply to assets.

Reversal, quantification and compensation of amounts.

41. (1) Subject to section 24, where a person includes expenditure in the cost of an asset or liability and later recovers the expenditure, the person shall include the amount recovered in the consideration received for the asset or liability, as the case requires.

(2) Subject to section 24 where a person includes an amount derived as consideration received for an asset or liability and, later refunds the amount, the person may include the amount refunded in the cost of the asset.

(3) Where a person or an associate of a person derives an amount which compensates for or represents –

(*a*) recovery of actual or expected costs or expected but not received consideration for an asset or liability; or

(*b*) a loss in value of an asset or increase in a liability,

subject to any other adjustment made under this Act, the compensation amount shall be included in the consideration received for the asset or liability, as the case requires.

Division II: Realisation of assets

Cost of trading stock and other fungible assets.

42. (1) For the purposes of determining the cost of trading stock of a business of a person –

(*a*) no amount shall be included in respect of the repair, improvement or depreciation of depreciable assets; and

(*b*) subject to the provisions of paragraph (*a*), the absorption-cost method shall be used for amounts that are eligible to be included in the cost of the trading stock (section 37).

(2) The owner of an asset referred to in subsection (3) may elect for the cost of the asset to be determined according to the first-in-first-out method or the average-cost method. Once chosen, the method shall only be changed with the written permission of the Commissioner-General.

(3) The assets referred to in subsection (2) shall be trading stock or any other type of asset specified by the Commissioner-General that are fungible and not readily identifiable.

(4) In this section –

"absorption-cost method" means the generally accepted accounting principle under which the cost of trading stock is the sum of direct asset costs, direct labour costs and factory overhead costs;

"average-cost method" means the generally accepted accounting principle under which costs are allocated to fungible assets of a particular type owned by a person based on a weighted average cost of all assets of that type owned by the person;

"direct labour costs" means expenditure incurred by a person on labour that directly relates to the production of trading stock;

"direct asset costs" means expenditure incurred by a person in acquiring any asset or assets that constitutes trading stock or becomes an integral part of trading stock produced;

"factory overhead costs" means all expenditure incurred by a person in producing trading stock except direct labour and direct asset costs; and

"first-in-first-out method" means the generally accepted accounting principle under which costs are allocated to a fungible asset of a particular type owned by a person based on the assumption that assets of that type owned by the person are realised in the order of their acquisition.

Realisation with retention of asset.

43. Where a person realises an asset in any of the manners set out in paragraphs (*c*) to (*f*) of section 39 –

(*a*) the person shall be treated as having parted with ownership of the asset and deriving an amount in respect of the realisation equal to the market value of the asset at the time of the realisation; and

(*b*) the person shall be treated as reacquiring the asset and incurring expenditure of the amount referred to in paragraph (*a*) in the acquisition.

Transfer of asset to spouse or former spouse.

44. Where on death or as part of a divorce settlement or *bona fide* separation agreement an individual transfers an asset to a spouse or former spouse and an election for this section to apply is made by the spouse or former spouse in writing –

(*a*) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(*b*) the spouse or former spouse shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in acquiring the asset.

Transfer of asset on death.

45. Where an individual realises an asset on death by way of transfer of ownership of the asset to another person –

(*a*) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset at the time of realisation; and

(*b*) the person who acquires ownership of the asset shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in the acquisition.

Transfer of asset to an associate or for no consideration.

46. (1) Subject to this section and sections 44 and 45, where a person realises an asset by way of transfer of ownership of the asset to an associate of the person or by way of transfer to any other person by way of gift –

(*a*) the person shall be treated as deriving an amount in respect of the realisation equal to the greater of the market value of the asset or the net cost of the asset immediately before the realisation; and

(*b*) the person who acquires ownership of the asset shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in the acquisition.

(2) Where an individual realises an asset by way of transfer of ownership of the asset to an associate of the individual or a charitibale institution and the requirements of subsection (3) are met –

(*a*) the individual shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(*b*) the associate or the charitable institution shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in acquiring the asset.

(3) The requirements specified in subsection (2) shall be–

(*a*) in the case of a transfer to an associate–

(i) the associate in relation to the individual is the individual's child by marriage or adoption, spouse, parent, grandparent, grandchild, sibling, aunt, uncle, nephew, niece or first cousin; and

(ii) the asset is an interest in land or a building situated in Sri Lanka; or

(*b*) in the case of a transfer to a charitable institution, the transfer occurs by way of gift.

(4) Where a person realises an asset, being trading stock, a depreciable asset, an investment asset or a capital asset of a business, by way of transfer of ownership of the asset to an associate of the person and the requirements of subsection (5) are met –

(*a*) the person shall be treated as deriving an amount in respect of the realisation equal to the net cost of the asset immediately before the realisation; and

(*b*) the associate shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in acquiring the asset.

(5) The requirements specified in subsection (4) are –

(*a*) the person or the associate is an entity;

(*b*) the asset or assets are trading stock, depreciable assets, investment assets or capital assets of a business of the associate immediately after transfer by the person;

(*c*) at the time of the transfer –

(i) the person and the associate are residents; and

(ii) the associate or, in the case of an associate partnership, none of its partners is exempt from income tax; and

(*d*) there is continuity of underlying ownership in the asset of at least fifty *per cent*.

Involuntary realisation of asset with replacement.

47. (1) Where a person involuntarily realises an asset in any manner set out in paragraph (*a*) of section 39 and acquires a replacement asset of the same type within six months before or within one year after the realisation and elects in writing for this subsection to apply, that person shall be treated as –

(*a*) deriving an amount in respect of the realisation equal to the aggregate of –

(i) the net cost of the asset immediately before the realisation; and

(ii) the amount, if any, by which amounts derived in respect of the realisation exceed expenditure incurred in acquiring the replacement asset; and

(*b*) incurring expenditure in acquiring the replacement asset equal to the aggregate of –

(i) the amount referred to in paragraph (*a*)(i); and

(ii) the amount, if any, by which expenditure incurred in acquiring the replacement asset exceeds amounts derived in respect of the realisation.

(2) The Commissioner-General may specify the circumstances in which the replacement of one security in a company with another security in the same company or a different company (including as a result of merger, demerger or reconstruction) constitutes an involuntary realisation.

Realisation by separation.

48. (1) Subject to section 49 where rights or obligations with respect to an asset owned by one person are assigned to another person, including by way of lease of an asset or part thereof, then –

(*a*) where the rights or obligations are permanent, the one person shall be treated as realising part of the asset, but shall not be treated as acquiring any new asset or liability; and

(*b*) where the rights or obligations are temporary or contingent, the person shall not be treated as realising part of the asset or liability, but as acquiring a new asset or incurring a new liability, as the case requires.

(2) Rights or obligations shall be considered permanent when they are likely to last for more than fifty years.

Transfer by way of security, finance lease or instalment sale.

49. (1) Where a person grants a mortgage (legal or equitable) or similar form of security over an asset to secure a debt owed to another person –

(*a*) the first person shall not be treated as realising the asset or any part of it, but shall be treated as still owning the asset and as having incurred a liability being the secured debt; and

(*b*) the other person shall not be treated as acquiring the asset or any part of it, but shall be treated only as owning the secured debt.

(2) Where an asset is leased under a finance lease, the lessor shall be treated as transferring ownership of the asset to the lessee.

(3) Subject to section 46 where a person transfers an asset under an instalment sale or, under a finance lease under subsection (2) –

(*a*) the person shall be treated as deriving an amount in respect of the transfer equal to the market value of the asset immediately before the transfer; and

(*b*) the person who acquires the asset shall be treated as incurring expenditure of the amount referred to in paragraph (*a*) in acquiring the asset.

(4) Where a lessee under a finance lease returns the asset to the lessor before ownership passes to the lessee (except the transaction referred to in subsection (2)) the lessee shall be treated as transferring ownership of the asset back to the lessor.

(5) In this section, "finance lease" and "instalment sale" shall have the same meaning as in section 31.

Payment of tax on gains from realisation of an asset.

50. The manner and the procedure relating to the payment of tax on the gain from realisation of an asset may be specified by the Commissioner- General.

Apportionment of costs and consideration received.

51. (1) Where a person acquires one or more assets by way of transfer at the same time or as part of the same arrangement, the expenditure incurred in acquiring each asset shall be apportioned between the assets according to their market values at the time of acquisition.

(2) Where a person realises one or more assets by way of transfer at the same time or as part of the same arrangement, the amounts derived in realising each asset shall be apportioned between the assets according to their market values at the time of realisation.

(3) Where a person who owns an asset realises part of it, the net cost of the asset immediately before the realisation

shall be apportioned between the part of the asset realised and the part retained according to their market values immediately after the realisation.