

FINANCE ACT, 2011

Preamble - Finance Act, 2011

FINANCE Act, 2011

[Act No. 08 of 2011]

[08th April, 2011]

PREAMBLE

to give effect to the financial proposals of the Central Government for the financial year 2011-2012.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:--

Chapter I - Preliminary

FINANCE Act, 2011

[Act No. 08 of 2011]

[08th April, 2011]

PREAMBLE

to give effect to the financial proposals of the Central Government for the financial year 2011-2012.

Be it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:--

Section 1 - Short title and commencement

(1) This Act may be called the Finance Act, 2011.

(2) Save as otherwise provided in this 1Act, sections 2 to 34 shall be deemed to have come

into force on the 1st day of April, 2011.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

1 von 43 21.02.2012 12:00

1. Effective from 01.08.2011 vide Notification No. 01/2011-M&TP (N.T) dated 28.07.2011.

Chapter II - Rates of income-tax

(1) This Act may be called the Finance Act, 2011.

(2) Save as otherwise provided in this 1Act, sections 2 to 34 shall be deemed to have come

into force on the 1st day of April, 2011.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

2 von 43 21.02.2012 12:00

1. Effective from 01.08.2011 vide Notification No. 01/2011-M&TP (N.T) dated 28.07.2011.

Section 2 - Income-tax

(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year

commencing on Income-tax. the 1st day of April, 2011, income-tax shall be charged at the

rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge,

for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the

assessee has, in the previous year, any net agricultural income exceeding five thousand

rupees, in addition to total income, and the total income exceeds one lakh sixty thousand

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

3 von 43 21.02.2012 12:00

rupees, then,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh sixty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging income-tax in respect of the total

income; and

(b) the income-tax chargeable shall be calculated as follows:--

(i) the total income and the net agricultural income shall be aggregated and

the amount of income-tax shall be determined in respect of the aggregate

income at the rates specified in the said Paragraph A, as if such aggregate

income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty

thousand rupees, and the amount of income-tax shall be determined in respect

of the net agricultural income as so increased at the rates specified in the said

Paragraph A, as if the net agricultural income as so increased were the total

income;

(iii) the amount of income-tax determined in accordance with sub-clause (i)

shall be reduced by the amount of income-tax determined in accordance with

sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of

the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty-five years at any time during the previous year,

referred to in item (II) of Paragraph A of Part I of the First Schedule,

the provisions of this sub-section shall have effect as if for the words

"one lakh sixty thousand rupees", the words "one lakh ninety thousand

rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty-five years or more at any time during

the previous year, referred to in item (III) of Paragraph A of Part I of

the First Schedule, the provisions of this sub-section shall have effect

as if for the words "one lakh sixty thousand rupees", the words "two

lakh forty thousand rupees" had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or

sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the

Income-tax Act, 1961(43 of 1961) (hereinafter referred to as the Income-tax Act) apply, the

tax chargeable shall be determined as provided in that Chapter or that section, and with

reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or

section, as the case may be:

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

4 von 43 21.02.2012 12:00

Provided that the amount of income-tax computed in accordance with the provisions

of section 111A or section 112 shall be increased by a surcharge, for purposes of the

Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the

First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of

the Income-tax Act, the amount of income-tax computed under this sub-section shall

be increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of a domestic company, at the rate of seven and one-half per

cent. of such income-tax where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two and one-half per cent. of such income-tax where the total income

exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such

income exceeds one crore rupees, the total amount payable as

income-tax and surcharge on such income-tax shall not exceed the total

amount payable as income-tax on a total income of one crore rupees by

more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2)

of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as

specified in those sections and shall be increased by a surcharge, for purposes of the Union,

calculated at the rate of five per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB,

194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at

the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for

purposes of the Union, calculated in cases wherever prescribed, in the manner provided

therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G,

194H, 194-I, 194J, 194LA, 194LB, 196B, 196C and 196D of the Income-tax Act, the

deductions shall be made at the rates specified in those sections and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the income or the

aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one

crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the

Income-tax Act, the collection shall be made at the rates specified in Part II of the First

Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

5 von 43 21.02.2012 12:00

cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the

collection shall be made at the rates specified in that section and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the amount or the

aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be

charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section

174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted

from, or paid on, income chargeable under the head "Salaries" under section 192 of the said

Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be

computed at the rate or rates in force, such income-tax or, as the case may be, "advance

tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the

First Schedule and such tax shall be increased by a surcharge, for purposes of the Union,

calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or

section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or

section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be

computed with reference to the rates imposed by this sub-section or the rates as

specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the

provisions of section 111A or section 112 of the Income-tax Act shall be increased by

a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the

First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115E and

115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be

increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of every domestic company, at the rate of five per cent. of such

"advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two per cent. of such "advance tax" where the total income exceeds one

crore rupees:

Provided also that in the case of every company having total income chargeable to tax

under section 115JB of the Income-tax Act, and such income exceeds one crore

rupees, the total amount payable as "advance tax" on such income and surcharge

thereon, shall not exceed the total amount payable as "advance tax" on a total

income of one crore rupees by more than the amount of income that exceeds one

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

6 von 43 21.02.2012 12:00

crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the

assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act,

income-tax is to be charged in respect of the income of a period other than the previous

year, in such other period, any net agricultural income exceeding five thousand rupees, in

addition to total income and the total income exceeds one lakh eighty thousand rupees, then,

in charging income-tax under sub-section (2) of section 174 or section 174A or section 175

or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable

under Chapter XVII-C of the said Act, at the rate or rates in force,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh eighty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging or computing such income-tax

or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or

computed as follows:--

(i) the total income and the net agricultural income shall be aggregated and

the amount of income-tax or "advance tax" shall be determined in respect of

the aggregate income at the rates specified in the said Paragraph A, as if such

aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh eighty

thousand rupees, and the amount of income-tax or "advance tax" shall be

determined in respect of the net agricultural income as so increased at the

rates specified in the said Paragraph A, as if the net agricultural income were

the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with

sub-clause (i) shall be reduced by the amount of income-tax or, as the case

may be, "advance tax" determined in accordance with sub-clause (ii) and the

sum so arrived at shall be the income-tax or, as the case may be, "advance

tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty years at any time during the previous year, referred to

in item (II) of Paragraph A of Part III of the First Schedule, the

provisions of this sub-section shall have effect as if for the words "one

lakh eighty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty years or more but less than eighty

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

7 von 43 21.02.2012 12:00

years at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "two lakh fifty thousand rupees" had been

substituted:

Provided also that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (IV) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "five lakh rupees" had been substituted.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall be further increased by an additional surcharge, for purposes of the Union, to

be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such

income-tax and surcharge so as to fulfil the commitment of the Government to provide and

finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall also be increased by an additional surcharge, for purposes of the Union, to be

called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of

one per cent. of such income-tax and surcharge so as to fulfil the commitment of the

Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(13) For the purposes of this section and the First Schedule,--

(a) "domestic company" means an Indian company or any other company which, in

respect of its income liable to income-tax under the Income-tax Act, for the

assessment year commencing on the 1st day of April, 2011, has made the prescribed

arrangements for the declaration and payment within India of the dividends (including

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

8 von 43 21.02.2012 12:00

dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of

commission or otherwise, for soliciting or procuring insurance business (including

business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of

agricultural income, from whatever source derived, of that person computed in

accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not

defined in this sub-section and defined in the Income-tax Act shall have the

meanings, respectively, assigned to them in that Act.

Chapter III - Direct taxes

(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year

commencing on Income-tax. the 1st day of April, 2011, income-tax shall be charged at the

rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge,

for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the

assessee has, in the previous year, any net agricultural income exceeding five thousand

rupees, in addition to total income, and the total income exceeds one lakh sixty thousand

rupees, then,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh sixty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging income-tax in respect of the total

income; and

(b) the income-tax chargeable shall be calculated as follows:--

(i) the total income and the net agricultural income shall be aggregated and

the amount of income-tax shall be determined in respect of the aggregate

income at the rates specified in the said Paragraph A, as if such aggregate

income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty

thousand rupees, and the amount of income-tax shall be determined in respect

of the net agricultural income as so increased at the rates specified in the said

Paragraph A, as if the net agricultural income as so increased were the total

income;

(iii) the amount of income-tax determined in accordance with sub-clause (i)

shall be reduced by the amount of income-tax determined in accordance with

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

9 von 43 21.02.2012 12:00

sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of

the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty-five years at any time during the previous year,

referred to in item (II) of Paragraph A of Part I of the First Schedule,

the provisions of this sub-section shall have effect as if for the words

"one lakh sixty thousand rupees", the words "one lakh ninety thousand

rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty-five years or more at any time during

the previous year, referred to in item (III) of Paragraph A of Part I of

the First Schedule, the provisions of this sub-section shall have effect

as if for the words "one lakh sixty thousand rupees", the words "two

lakh forty thousand rupees" had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or

sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the

Income-tax Act, 1961(43 of 1961) (hereinafter referred to as the Income-tax Act) apply, the

tax chargeable shall be determined as provided in that Chapter or that section, and with

reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or

section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions

of section 111A or section 112 shall be increased by a surcharge, for purposes of the

Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the

First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of

the Income-tax Act, the amount of income-tax computed under this sub-section shall

be increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of a domestic company, at the rate of seven and one-half per

cent. of such income-tax where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two and one-half per cent. of such income-tax where the total income

exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such

income exceeds one crore rupees, the total amount payable as

income-tax and surcharge on such income-tax shall not exceed the total

amount payable as income-tax on a total income of one crore rupees by

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

10 von 43 21.02.2012 12:00

more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2)

of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as

specified in those sections and shall be increased by a surcharge, for purposes of the Union,

calculated at the rate of five per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB,

194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at

the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for

purposes of the Union, calculated in cases wherever prescribed, in the manner provided

therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G,

194H, 194-I, 194J, 194LA, 194LB, 196B, 196C and 196D of the Income-tax Act, the

deductions shall be made at the rates specified in those sections and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the income or the

aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one

crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the

Income-tax Act, the collection shall be made at the rates specified in Part II of the First

Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in

cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the

collection shall be made at the rates specified in that section and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the amount or the

aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be

charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section

174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted

from, or paid on, income chargeable under the head "Salaries" under section 192 of the said

Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be

computed at the rate or rates in force, such income-tax or, as the case may be, "advance

tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the

First Schedule and such tax shall be increased by a surcharge, for purposes of the Union,

calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or

section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or

section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

11 von 43 21.02.2012 12:00

computed with reference to the rates imposed by this sub-section or the rates as

specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the

provisions of section 111A or section 112 of the Income-tax Act shall be increased by

a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the

First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115E and

115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be

increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of every domestic company, at the rate of five per cent. of such

"advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two per cent. of such "advance tax" where the total income exceeds one

crore rupees:

Provided also that in the case of every company having total income chargeable to tax

under section 115JB of the Income-tax Act, and such income exceeds one crore

rupees, the total amount payable as "advance tax" on such income and surcharge

thereon, shall not exceed the total amount payable as "advance tax" on a total

income of one crore rupees by more than the amount of income that exceeds one

crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the

assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act,

income-tax is to be charged in respect of the income of a period other than the previous

year, in such other period, any net agricultural income exceeding five thousand rupees, in

addition to total income and the total income exceeds one lakh eighty thousand rupees, then,

in charging income-tax under sub-section (2) of section 174 or section 174A or section 175

or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable

under Chapter XVII-C of the said Act, at the rate or rates in force,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh eighty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging or computing such income-tax

or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or

computed as follows:--

(i) the total income and the net agricultural income shall be aggregated and

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

12 von 43 21.02.2012 12:00

the amount of income-tax or "advance tax" shall be determined in respect of

the aggregate income at the rates specified in the said Paragraph A, as if such

aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh eighty

thousand rupees, and the amount of income-tax or "advance tax" shall be

determined in respect of the net agricultural income as so increased at the

rates specified in the said Paragraph A, as if the net agricultural income were

the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with

sub-clause (i) shall be reduced by the amount of income-tax or, as the case

may be, "advance tax" determined in accordance with sub-clause (ii) and the

sum so arrived at shall be the income-tax or, as the case may be, "advance

tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty years at any time during the previous year, referred to

in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one

lakh eighty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "two lakh fifty thousand rupees" had been

substituted:

Provided also that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (IV) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "five lakh rupees" had been substituted.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall be further increased by an additional surcharge, for purposes of the Union, to

be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such

income-tax and surcharge so as to fulfil the commitment of the Government to provide and

finance universalised quality basic education:

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

13 von 43 21.02.2012 12:00

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall also be increased by an additional surcharge, for purposes of the Union, to be

called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of

one per cent. of such income-tax and surcharge so as to fulfil the commitment of the

Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(13) For the purposes of this section and the First Schedule,--

(a) "domestic company" means an Indian company or any other company which, in

respect of its income liable to income-tax under the Income-tax Act, for the

assessment year commencing on the 1st day of April, 2011, has made the prescribed

arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

Section 3 to 34 - Income-tax

(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on Income-tax. the 1st day of April, 2011, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

14 von 43 21.02.2012 12:00

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh sixty thousand rupees, then,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh sixty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging income-tax in respect of the total

income; and

(b) the income-tax chargeable shall be calculated as follows:--

(i) the total income and the net agricultural income shall be aggregated and

the amount of income-tax shall be determined in respect of the aggregate

income at the rates specified in the said Paragraph A, as if such aggregate

income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty

thousand rupees, and the amount of income-tax shall be determined in respect

of the net agricultural income as so increased at the rates specified in the said

Paragraph A, as if the net agricultural income as so increased were the total

income;

(iii) the amount of income-tax determined in accordance with sub-clause (i)

shall be reduced by the amount of income-tax determined in accordance with

sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of

the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty-five years at any time during the previous year,

referred to in item (II) of Paragraph A of Part I of the First Schedule,

the provisions of this sub-section shall have effect as if for the words

"one lakh sixty thousand rupees", the words "one lakh ninety thousand

rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "two lakh forty thousand rupees" had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or

sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the

Income-tax Act, 1961(43 of 1961) (hereinafter referred to as the Income-tax Act) apply, the

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

15 von 43 21.02.2012 12:00

tax chargeable shall be determined as provided in that Chapter or that section, and with

reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or

section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions

of section 111A or section 112 shall be increased by a surcharge, for purposes of the

Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the

First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of

the Income-tax Act, the amount of income-tax computed under this sub-section shall

be increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of a domestic company, at the rate of seven and one-half per

cent. of such income-tax where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two and one-half per cent. of such income-tax where the total income

exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such

income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income-tax shall not exceed the total

amount payable as income-tax on a total income of one crore rupees by

more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2)

of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as

specified in those sections and shall be increased by a surcharge, for purposes of the Union,

calculated at the rate of five per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB,

194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at

the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for

purposes of the Union, calculated in cases wherever prescribed, in the manner provided

therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G,

194H, 194-I, 194J, 194LA, 194LB, 196B, 196C and 196D of the Income-tax Act, the

deductions shall be made at the rates specified in those sections and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the income or the

aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one

crore rupees.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

16 von 43 21.02.2012 12:00

(7) In cases in which tax has to be collected under the proviso to section 194B of the

Income-tax Act, the collection shall be made at the rates specified in Part II of the First

Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in

cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the

collection shall be made at the rates specified in that section and shall be increased by a

surcharge, for purposes of the Union, in the case of every company, other than a domestic

company, calculated at the rate of two per cent. of such tax, where the amount or the

aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be

charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section

174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted

from, or paid on, income chargeable under the head "Salaries" under section 192 of the said

Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be

computed at the rate or rates in force, such income-tax or, as the case may be, "advance

tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the

First Schedule and such tax shall be increased by a surcharge, for purposes of the Union,

calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or

section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or

section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be

computed with reference to the rates imposed by this sub-section or the rates as

specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the

provisions of section 111A or section 112 of the Income-tax Act shall be increased by

a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the

First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115E and

115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be

increased by a surcharge, for purposes of the Union, calculated,--

(a) in the case of every domestic company, at the rate of five per cent. of such

"advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate

of two per cent. of such "advance tax" where the total income exceeds one

crore rupees:

Provided also that in the case of every company having total income chargeable to tax

under section 115JB of the Income-tax Act, and such income exceeds one crore

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

17 von 43 21.02.2012 12:00

rupees, the total amount payable as "advance tax" on such income and surcharge

thereon, shall not exceed the total amount payable as "advance tax" on a total

income of one crore rupees by more than the amount of income that exceeds one

crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the

assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act,

income-tax is to be charged in respect of the income of a period other than the previous

year, in such other period, any net agricultural income exceeding five thousand rupees, in

addition to total income and the total income exceeds one lakh eighty thousand rupees, then,

in charging income-tax under sub-section (2) of section 174 or section 174A or section 175

or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable

under Chapter XVII-C of the said Act, at the rate or rates in force,--

(a) the net agricultural income shall be taken into account, in the manner provided in

clause (b) [that is to say, as if the net agricultural income were comprised in the total

income after the first one lakh eighty thousand rupees of the total income but without

being liable to tax], only for the purpose of charging or computing such income-tax

or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or

computed as follows:--

(i) the total income and the net agricultural income shall be aggregated and

the amount of income-tax or "advance tax" shall be determined in respect of

the aggregate income at the rates specified in the said Paragraph A, as if such

aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh eighty

thousand rupees, and the amount of income-tax or "advance tax" shall be

determined in respect of the net agricultural income as so increased at the

rates specified in the said Paragraph A, as if the net agricultural income were

the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with

sub-clause (i) shall be reduced by the amount of income-tax or, as the case

may be, "advance tax" determined in accordance with sub-clause (ii) and the

sum so arrived at shall be the income-tax or, as the case may be, "advance

tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below

the age of sixty years at any time during the previous year, referred to

in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one

lakh eighty thousand rupees", the words "one lakh ninety thousand

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

18 von 43 21.02.2012 12:00

rupees" had been substituted:

Provided further that in the case of every individual, being a resident in

India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "two lakh fifty thousand rupees" had been

substituted:

Provided also that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (IV) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "five lakh rupees" had been substituted.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall be further increased by an additional surcharge, for purposes of the Union, to

be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such

income-tax and surcharge so as to fulfil the commitment of the Government to provide and

finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by

the applicable surcharge, for purposes of the Union, calculated in the manner provided

therein, shall also be increased by an additional surcharge, for purposes of the Union, to be

called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of

one per cent. of such income-tax and surcharge so as to fulfil the commitment of the

Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is

to be deducted or collected under the sections of the Income-tax Act mentioned in

sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at

source or collection of tax at source is paid to a domestic company and any other

person who is resident in India.

(13) For the purposes of this section and the First Schedule,--

(a) "domestic company" means an Indian company or any other company which, in

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

19 von 43 21.02.2012 12:00

respect of its income liable to income-tax under the Income-tax Act,
for the

assessment year commencing on the 1st day of April, 2011, has made
the prescribed

arrangements for the declaration and payment within India of the
dividends (including

dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward,
whether by way of

commission or otherwise, for soliciting or procuring insurance
business (including

business relating to the continuance, renewal or revival of policies of
insurance);

(c) "net agricultural income", in relation to a person, means the total
amount of

agricultural income, from whatever source derived, of that person
computed in

accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First
Schedule but not

defined in this sub-section and defined in the Income-tax Act shall
have the

meanings, respectively, assigned to them in that Act.

Section 3 - Amendment of section 2

In section 2 of the Income-tax Act, in clause (15), in the second
proviso, for the words "ten

lakh rupees", the words "twenty-five lakh rupees" shall be
substituted with effect from the

1st day of April, 2012.

Section 4 - Amendment of section 10

In section 10 of the Income-tax Act,--

(a) in clause (34), the Explanation [as so inserted by the Special
Economic Zones Act,

2005(28 of 2005)] shall be omitted with effect from the 1st day of
June, 2011;

(b) after clause (44), the following clause shall be inserted and shall
be deemed to

have been inserted with effect from the 1st day of April, 2008,
namely:--

"(45) any allowance or perquisite, as may be notified by the Central
Government in the Official Gazette in this behalf, paid to the
Chairman or a
retired Chairman or any other member or retired member of the
Union Public
Service Commission;";

(c) after clause (45) as so inserted, the following shall be inserted
with effect from the

1st day of June, 2011, namely:--

'(46) any specified income arising to a body or authority or Board or
Trust or

Commission (by whatever name called) which--

(a) has been established or constituted by or under a Central, State or
Provincial Act, or constituted by the Central Government or a State
Government, with the object of regulating or administering any
activity

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

20 von 43 21.02.2012 12:00

for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for
the

purposes of this clause.

Explanation.-- For the purposes of this clause, "specified income"
means the income, of the nature and to the extent arising to a
body or authority or Board or Trust or Commission (by whatever
name called) referred to in this clause, which the Central
Government may, by notification in the Official Gazette, specify
in this behalf;

(47) any income of an infrastructure debt fund, set up in accordance
with the

guidelines as may be prescribed, which is notified by the Central
Government

in the Official Gazette for the purposes of this clause.'

Section 5 - Amendment of section 35

In section 35 of the Income-tax Act, in sub-section (2AA), in clause (a), for the words "one

and three-fourth", the word "two" shall be substituted with effect from the 1st day of April,

2012.

Section 6 - Amendment of section 35AD

In section 35AD of the Income-tax Act,--

(a) in sub-section (5), with effect from the 1st day of April, 2012,--

(i) in clause (ac), the word "and" occurring at the end shall be omitted;

(ii) after clause (ac), the following clauses shall be inserted, namely:--

"(ad) on or after the 1st day of April, 2011, where the specified business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be

prescribed;

(ae) on or after the 1st day of April, 2011, in a new plant or in a newly installed capacity in an existing plant for production of fertilizer; and";

(iii) in clause (b), for the words, brackets and letters "and clause (ac)", the

words, brackets and letters "clause (ac), clause (ad) and clause (ae)" shall be

substituted;

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

21 von 43 21.02.2012 12:00

(b) in sub-section (8), in clause (c),--

(i) in sub-clause (iv), for the words "new hotel", the word "hotel" shall be

substituted;

(ii) in sub-clause (v), for the words "new hospital", the word "hospital" shall be

substituted;

(iii) after sub-clause (vi), the following sub-clauses shall be inserted with effect

from the 1st day of April, 2012, namely:--

"(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; (viii) production of fertilizer in India;"

Section 7 - Amendment of section 36

In section 36 of the Income-tax Act, in sub-section (1), after clause (iv), the following shall

be inserted with effect from the 1st day of April, 2012, namely:--

'(iva) any sum paid by the assessee as an employer by way of contribution towards a

pension scheme, as referred to in section 80CCD, on account of an employee to the

extent it does not exceed ten per cent. of the salary of the employee in the previous

year.

Explanation.--For the purposes of this clause, "salary" includes dearness

allowance, if the terms of employment so provide, but excludes all other

allowances and perquisites;'

Section 8 - Amendment of section 40A

In section 40A of the Income-tax Act, in sub-section (9), after the words, brackets and

figures "under clause (iv)", the words, brackets, figures and letter "or clause (iva)" shall be

inserted with effect from the 1st day of April, 2012.

Section 9 - Amendment of section 80CCE

In section 80CCE of the Income-tax Act, for the word, figures and letters "section 80CCD",

the words, brackets, figures and letters "sub-section (1) of section 80CCD" shall be

substituted with effect from the 1st day of April, 2012.

Section 10 - Amendment of section 80CCF

In section 80CCF of the Income-tax Act, after the words, figures and letters "previous year

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

22 von 43 21.02.2012 12:00

relevant to the assessment year beginning on the 1st day of April, 2011", the words, figures

and letters "or to the assessment year beginning on the 1st day of April, 2012" shall be

inserted with effect from the 1st day of April, 2012.

Section 11 - Amendment of section 80-IA

In section 80-IA of the Income-tax Act, in sub-section (4), in clause (iv), for the words,

figures and letters "the 31st day of March, 2011", wherever they occur, the words, figures

and letters "the 31st day of March, 2012" shall be substituted with effect from the 1st day of

April, 2012.

Section 12 - Amendment of section 80-IB

In section 80-IB of the Income-tax Act, in sub-section (9), in clause (ii), the following proviso

shall be inserted with effect from the 1st day of April, 2012, namely:--

"Provided that the provisions of this clause shall not apply to blocks licensed under a

contract awarded after the 31st day of March, 2011 under the New Exploration

Licensing Policy announced by the Government of India vide Resolution No.

O-19018/22/95-ONG.DO.VL, dated the 10th February, 1999 or in pursuance of any

law for the time being in force or by the Central or a State Government in any other

manner;"

Section 13 - Amendment of section 92C

In section 92C of the Income-tax Act, in sub-section (2), in the second proviso, for the words

"five per cent. of the latter", the words "such percentage of the latter, as may be notified by

the Central Government in the Official Gazette in this behalf" shall be substituted with effect

from the 1st day of April, 2012.

Section 14 - Amendment of section 92CA

In section 92CA of the Income-tax Act, with effect from the 1st day of June, 2011,--

(i) after sub-section (2), the following sub-section shall be inserted, namely:--

"(2A) Where any other international transaction [other than an international transaction referred under sub-section (1)], comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such other international transaction is an international transaction referred to him under sub-section (1).";

(ii) in sub-section (7), after the word and figures "section 133", the words, figures and letter "or section 133A" shall be inserted.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

23 von 43 21.02.2012 12:00

Section 15 - Insertion of new section 94A

After section 94 of the Income-tax Act, the following section shall be inserted with effect

from the 1st day of June, 2011, namely:--

'94A. Special measures in respect of transactions with persons located in

notified jurisdictional area.--(1) The Central Government may, having regard to

the lack of effective exchange of information with any country or territory outside

India, specify by notification in the Official Gazette such country or territory as a

notified jurisdictional area in relation to transactions entered into by any assessee.

(2) Notwithstanding anything to the contrary contained in this Act, if an

assessee enters into a transaction where one of the parties to the transaction

is a person located in a notified jurisdictional area, then--

(i) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 92A;

(ii) any transaction in the nature of purchase, sale or lease of tangible or intangible property or provision of service or lending or borrowing

money or any other transaction having a bearing on the profits,

income, losses or assets of the assessee including a mutual agreement

or arrangement for allocation or apportionment of, or any contribution

to, any cost or expense incurred or to be incurred in connection with a

benefit, service or facility provided or to be provided by or to the assessee shall be deemed to be an international transaction within the

meaning of section 92B,

and the provisions of sections 92, 92A, 92B, 92C [except the second proviso to

sub-section (2)], 92CA, 92CB, 92D, 92E and 92F shall apply accordingly.

(3) Notwithstanding anything to the contrary contained in this Act, no

deduction,--

(a) in respect of any payment made to any financial institution located

in a notified jurisdictional area shall be allowed under this Act, unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on

behalf of such assessee; and

(b) in respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area shall be allowed under any other provision of

this Act, unless the assessee maintains such other documents and furnishes such information as may be prescribed, in this behalf.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

24 von 43 21.02.2012 12:00

(4) Notwithstanding anything to the contrary contained in this Act, where, in

any previous year, the assessee has received or credited any sum from any

person located in a notified jurisdictional area and the assessee does not offer

any explanation about the source of the said sum in the hands of such person

or in the hands of the beneficial owner (if such person is not the beneficial

owner of the said sum) or the explanation offered by the assessee, in the

opinion of the assessing officer, is not satisfactory, then, such sum shall be

deemed to be the income of the assessee for that previous year.

(5) Notwithstanding anything contained in any other provisions of this Act,

where any person located in a notified jurisdictional area is entitled to receive

any sum or income or amount on which tax is deductible under Chapter

XVII-B, the tax shall be deducted at the highest of the following rates, namely:--

(a) at the rate or rates in force;

(b) at the rate specified in the relevant provisions of this Act;

(c) at the rate of thirty per cent.

(6) In this section,--

(i) "person located in a notified jurisdictional area" shall include,--

(a) a person who is resident of the notified jurisdictional area;

(b) a person, not being an individual, which is established in the notified jurisdictional area; or

(c) a permanent establishment of a person not falling in sub-clause (a) or sub-clause (b), in the notified jurisdictional area;

(ii) "permanent establishment" shall have the same meaning as defined

in clause (iiia) of section 92F;

(iii) "transaction" shall have the same meaning as defined in clause (v)

of section 92F.'

Section 16 - Amendment of section 115A

In section 115A of the Income-tax Act, in sub-section (1), in clause (a), with effect from the

1st day of June, 2011,--

(a) in sub-clause (ii), after the words "foreign currency", the words, brackets, figures

and letter "not being interest of the nature referred to in clause (iia)" shall be

inserted;

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

25 von 43 21.02.2012 12:00

(b) after sub-clause (ii), the following sub-clause shall be inserted, namely:--

"(iia) interest received from an infrastructure debt fund referred to in clause

(47) of section 10; or";

(c) after item (B), the following item shall be inserted, namely:--

"(BA) the amount of income-tax calculated on the amount of income by way of

interest referred to in sub-clause (iia), if any, included in the total income, at

the rate of five per cent.;"

(d) in item (D), after the word, brackets and figures "sub-clause (ii)", the word,

brackets, figures and letter ", sub-clause (iia)" shall be inserted.

Section 17 - Insertion of new section 115BBD

After section 115BBC of the Income-tax Act, the following section shall be inserted with

effect from the 1st day of April, 2012, namely:--

'115BBD. Tax on certain dividends received from foreign companies.-
-(1)

Where the total income of an assessee, being an Indian company, for the previous

year relevant to the assessment year beginning on the 1st day of April, 2012 includes

any income by way of dividends declared, distributed or paid by a specified foreign

company, the income-tax payable shall be the aggregate of--

(a) the amount of income-tax calculated on the income by way of such

dividends, at the rate of fifteen per cent.; and

(b) the amount of income-tax with which the assessee would have been

chargeable had its total income been reduced by the aforesaid income

by way of dividends.

(2) Notwithstanding anything contained in this Act, no deduction in respect of

any expenditure or allowance shall be allowed to the assessee under any

provision of this Act in computing its income by way of dividends referred to in

sub-section (1).

(3) In this section,--

(i) "dividends" shall have the same meaning as is given to "dividend" in

clause (22) of section 2 but shall not include sub-clause (e) thereof;

(ii) "specified foreign company" means a foreign company in which the

Indian company holds twenty-six per cent, or more in nominal value of

the equity share capital of the company.'

Section 18 - Amendment of section 115JB

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

26 von 43 21.02.2012 12:00

In section 115JB of the Income-tax Act,--

(i) in sub-section (1), with effect from the 1st day of April, 2012,--

(a) for the words, figures and letters "the 1st day of April, 2011", the words,

figures and letters "the 1st day of April, 2012" shall be substituted;

(b) for the words "eighteen per cent.", at both the places where they occur, the

words "eighteen and one-half per cent." shall be substituted;

(ia) after sub-section (2), in Explanation 1, clause (iv), clause (v) and clause (vi) shall

be omitted and shall be deemed to have been omitted with effect from the 1st day of

April, 2005;

(ii) in sub-section (6) [as so inserted by the Special Economic Zones Act, 2005(28 of

2005)], the following proviso shall be inserted with effect from the 1st day of April,

2012, namely:--

"Provided that the provisions of this sub-section shall cease to have effect in

respect of any previous year relevant to the assessment year commencing on

or after the 1st day of April, 2012."

Section 19 - Insertion of new Chapter XII-BA

After Chapter XII-B of the Income-tax Act, the following Chapter shall be inserted with effect

from the 1st day of April, 2012, namely:--

'CHAPTER XII-BA

Special provisions relating to certain limited liability partnerships

115JC. Special provisions for payment of tax by certain limited liability

partnerships.--(1) Notwithstanding anything contained in this Act, where the regular

income-tax payable for a previous year by a limited liability partnership is less than the

alternate minimum tax payable for such previous year, the adjusted total income shall be

deemed to be the total income of the limited liability partnership for such previous year and

it shall be liable to pay income-tax on such total income at the rate of eighteen and one-half

per cent.

(2) Adjusted total income referred to in sub-section (1) shall be the total income

before giving effect to this Chapter as increased by--

(i) deductions claimed, if any, under any section included in Chapter VI-A

under the heading "C.--Deductions in respect of certain incomes"; and

(ii) deduction claimed, if any, under section 10AA.

(3) Every limited liability partnership to which this section applies shall obtain a

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

27 von 43 21.02.2012 12:00

report, in such form as may be prescribed, from an accountant certifying that the

adjusted total income and the alternate minimum tax have been computed in

accordance with the provisions of this Chapter and furnish such report on or before

the due date of filing of return under sub-section (1) of section 139.

115JD. Tax credit for alternate minimum tax.--(1) The credit for tax paid by a limited

liability partnership under section 115JC shall be allowed to it in accordance with the

provisions of this section.

(2) The tax credit of an assessment year to be allowed under sub-section (1) shall be

the excess of alternate minimum tax paid over the regular income-tax payable of that

year.

(3) No interest shall be payable on tax credit allowed under sub-section (1).

(4) The amount of tax credit determined under sub-section (2) shall be carried

forward and set off in accordance with the provisions of sub-sections (5) and (6) but

such carry forward shall not be allowed beyond the tenth assessment year

immediately succeeding the assessment year for which tax credit becomes allowable

under sub-section (1).

(5) In any assessment year in which the regular income-tax exceeds the alternate

minimum tax, the tax credit shall be allowed to be set off to the extent of the excess

of regular income-tax over the alternate minimum tax and the balance of the tax

credit, if any, shall be carried forward.

(6) If the amount of regular income-tax or the alternate minimum tax is reduced or

increased as a result of any order passed under this Act, the amount of tax credit

allowed under this section shall also be varied accordingly.

115JE. Application of other provisions of this Act.--Save as otherwise provided in this

Chapter, all other provisions of this Act shall apply to a limited liability partnership referred

to in this Chapter.

115JF. Interpretation in this Chapter.--In this Chapter--

(a) "accountant" shall have the same meaning as in the Explanation below

sub-section (2) of section 288;

(b) "alternate minimum tax" means the amount of tax computed on adjusted total

income at a rate of eighteen and one-half per cent.;

(c) "limited liability partnership" shall have the same meaning as assigned to it in

clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act,

2008(6 of 2009);

(d) "regular income-tax" means the income-tax payable for a previous year by a

limited liability partnership on its total income in accordance with the provisions of

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

28 von 43 21.02.2012 12:00

this Act other than the provisions of this Chapter.'

Section 20 - Amendment of section 115-O

In section 115-O of the Income-tax Act, in sub-section (6) [as so inserted by the Special

Economic Zones Act, 2005(28 of 2005)], the following proviso shall be inserted with effect

from the 1st day of June, 2011, namely:--

"Provided that the provisions of this sub-section shall cease to have effect from the

1st day of June, 2011."

Section 21 - Amendment of section 115R

In section 115R of the Income-tax Act, in sub-section (2), with effect from the 1st day of

June, 2011,--

(a) in clause (i), for the words "income distributed", the words "income distributed to

any person being an individual or a Hindu undivided family" shall be substituted;

(b) after clause (i), the following clause shall be inserted, namely:--
"(ia) thirty per cent. on income distributed to any other person by a money market mutual fund or a liquid fund;";
(c) in clause (iii), for the words "twenty per cent.", the words "thirty per cent." shall be substituted.

Section 22 - Amendment of section 131

In section 131 of the Income-tax Act, with effect from the 1st day of June, 2011,--

(i) after sub-section (1A), the following sub-section shall be inserted, namely:--

"(2) For the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as may be notified by the Board in this behalf, to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.";
(ii) in sub-section (3), after the words, brackets, figure and letter "or sub-section (1A)", the words, brackets and figure "or sub-section (2)" shall be inserted.

Section 23 - Amendment of section 133

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

29 von 43 21.02.2012 12:00

In section 133 of the Income-tax Act, after the second proviso, the following proviso shall be

inserted with effect from the 1st day of June, 2011, namely:--

"Provided also that for the purposes of an agreement referred to in section 90 or

section 90A, an income-tax authority notified under sub-section (2) of section 131

may exercise all the powers conferred under this section, notwithstanding that no

proceedings are pending before it or any other income-tax authority."

Section 24 - Amendment of section 139

In section 139 of the Income-tax Act,--

(a) in sub-section (1), in Explanation 2,--

(i) in clause (a), in sub-clause (i), after the words "a company", the words,

brackets and letters "other than a company referred to in clause (aa)" shall be

inserted;

(ii) after clause (a), the following clause shall be inserted, namely:--

"(aa) in the case of an assessee being a company, which is required to furnish a report referred to in section 92E, the 30th day of November of

the assessment year;"

(b) after sub-section (1B), the following sub-section shall be inserted with effect from

the 1st day of June, 2011, namely:--

"(1C) Notwithstanding anything contained in sub-section (1), the Central

Government may, by notification in the Official Gazette, exempt any class or

classes of persons from the requirement of furnishing a return of income

having regard to such conditions as may be specified in that notification.";

(c) in sub-section (4C), with effect from the 1st day of June, 2011,--

(i) after clause (f) and before the words "shall, if the total income", the

following clauses shall be inserted, namely:--

"(g) body or authority or Board or Trust or Commission (by whatever

name called) referred to in clause (46) of section 10;

(h) infrastructure debt fund referred to in clause (47) of section 10,";

(ii) after the words "medical institution or trade union", the words "or body or

authority or Board or Trust or Commission or infrastructure debt fund" shall be

inserted.

Section 25 - Amendment of section 143

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

30 von 43 21.02.2012 12:00

In section 143 of the Income-tax Act, in sub-section (1B), for the words, figures and letters

"the 31st day of March, 2011", the words, figures and letters "the 31st day of March, 2012"

shall be substituted.

Section 26 - Amendment of section 153

In section 153 of the Income-tax Act, in Explanation 1, with effect from the 1st day of June,

2011,--

(a) in clause (vii), for the word, figures and letter "section 245R," the words, figures

and letter "section 245R, or" shall be substituted;

(b) after clause (vii) and before the words "shall be excluded", the following clause

shall be inserted, namely:--

"(viii) the period commencing from the date on which a reference for exchange

of information is made by an authority competent under an agreement

referred to in section 90 or section 90A and ending with the date on which the

information so requested is received by the Commissioner or a period of six

months, whichever is less,".

Section 27 - Amendment of section 153B

In section 153B of the Income-tax Act, in sub-section (1), in the Explanation, with effect

from the 1st day of June, 2011,--

(a) in clause (vii), for the words "by the Commissioner," the words "by the

Commissioner; or" shall be substituted;

(b) after clause (vii) and before the words "shall be excluded", the following clause

shall be inserted, namely:--

"(viii) the period commencing from the date on which a reference for exchange

of information is made by an authority competent under an agreement

referred to in section 90 or section 90A and ending with the date on which the

information so requested is received by the Commissioner or a period of six

months, whichever is less,".

Section 28 - Insertion of new section 194LB

After section 194LA of the Income-tax Act, the following section shall be inserted with effect

from the 1st day of June, 2011, namely:--

"194LB. Income by way of interest from infrastructure debt fund.--
Where any

income by way of interest is payable to a non-resident, not being a company, or to a

foreign company, by an infrastructure debt fund referred to in clause (47) of section

10, the person responsible for making the payment shall, at the time of credit of such

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

31 von 43 21.02.2012 12:00

income to the account of the payee or at the time of payment thereof in cash or by

issue of a cheque or draft or by any other mode, whichever is earlier, deduct

income-tax thereon at the rate of five per cent.".

Section 29 - Amendment of section 245C

In section 245C of the Income-tax Act, in sub-section (1), with effect from the 1st day of

June, 2011,--

(a) in the proviso, after clause (i), the following clause shall be inserted, namely:--

'(ia) in a case where--

(A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as

"specified person"); and

(B) the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section

153A or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated,

the additional amount of income-tax payable on the income disclosed in the

application exceeds ten lakh rupees,;

(b) after the proviso, the following Explanation shall be inserted, namely:--

"Explanation.-- For the purposes of clause (ia),--

(a) the applicant, in relation to the specified person referred to in clause (ia), means,--

(i) where the specified person is an individual, any relative of the specified person;

(ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

32 von 43 21.02.2012 12:00

such company, firm, association or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,--
(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or
(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;
(b) a person shall be deemed to have a substantial interest in a business or profession, if--
(A) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power; and
(B) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent. of the profits of such business or profession."

Section 30 - Amendment of section 245D

In section 245D of the Income-tax Act, after sub-section (6A), the following sub-section shall

be inserted with effect from the 1st day of June, 2011, namely:--

"(6B) The Settlement Commission may, at any time within a period of six months

from the date of the order, with a view to rectifying any mistake apparent from the

record, amend any order passed by it under sub-section (4):

Provided that an amendment which has the effect of modifying the liability of

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

33 von 43 21.02.2012 12:00

the applicant shall not be made under this sub-section unless the Settlement

Commission has given notice to the applicant and the Commissioner of its

intention to do so and has allowed the applicant and the Commissioner an

opportunity of being heard."

Section 31 - Omission of section 282B

Section 282B of the Income-tax Act shall be omitted.

Section 32 - Insertion of new section 285

After section 284 of the Income-tax Act, the following section shall be inserted with effect

from the 1st day of June, 2011, namely:--

"285. Submission of statement by a non-resident having liaison office.--Every

person, being a non-resident having a liaison office in India set up in accordance with

the guidelines issued by the Reserve Bank of India under the Foreign Exchange

Management Act, 1999(42 of 1999), shall, in respect of its activities in a financial

year, prepare and deliver or cause to be delivered to the Assessing Officer having

jurisdiction, within sixty days from the end of such financial year, a statement in such

form and containing such particulars as may be prescribed."

Section 33 - Amendment of section 296

In section 296 of the Income-tax Act, after the words and figures "of section 10", the words,

brackets, figures and letter "and every notification issued under sub-section (1C) of section

139" shall be inserted with effect from the 1st day of June, 2011.

Section 34 - Amendment of Fourth Schedule

In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first

proviso, for the figures, letters and words "31st day of December, 2010", the figures, letters

and words "31st day of March, 2012" shall be substituted and shall be deemed to have been

substituted with effect from the 1st day of January, 2011.

Section 35 - Amendment of section 22D of Act 27 of 1957

In section 22D of the Wealth-tax Act, 1957, after sub-section (6A), the following sub-section

shall be inserted with effect from the 1st day of June, 2011, namely:--

"(6B) The Settlement Commission may, at any time within a period of six months

from the date of the order, with a view to rectifying any mistake apparent from the

record, amend any order passed by it under sub-section (4):

Provided that an amendment which has the effect of modifying the liability of

the applicant shall not be made under this sub-section unless the Settlement

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

34 von 43 21.02.2012 12:00

Commission has given notice to the applicant and the Commissioner of its

intention to do so and has allowed the applicant and the Commissioner an

opportunity of being heard."

Chapter IV - Indirect Taxes

In section 22D of the Wealth-tax Act, 1957, after sub-section (6A), the following sub-section

shall be inserted with effect from the 1st day of June, 2011, namely:--

"(6B) The Settlement Commission may, at any time within a period of six months

from the date of the order, with a view to rectifying any mistake apparent from the

record, amend any order passed by it under sub-section (4):

Provided that an amendment which has the effect of modifying the liability of

the applicant shall not be made under this sub-section unless the Settlement

Commission has given notice to the applicant and the Commissioner of its

intention to do so and has allowed the applicant and the Commissioner an

opportunity of being heard."

Section 36 to 56 - Customs

In section 22D of the Wealth-tax Act, 1957, after sub-section (6A), the following sub-section

shall be inserted with effect from the 1st day of June, 2011, namely:--

"(6B) The Settlement Commission may, at any time within a period of six months

from the date of the order, with a view to rectifying any mistake apparent from the

record, amend any order passed by it under sub-section (4):

Provided that an amendment which has the effect of modifying the liability of

the applicant shall not be made under this sub-section unless the Settlement

Commission has given notice to the applicant and the Commissioner of its

intention to do so and has allowed the applicant and the Commissioner an

opportunity of being heard."

Section 36 - Amendment of section 2

In section 2 of the Customs Act, 1962(52 of 1962) (hereinafter referred to as the Customs

Act), for clause (2), the following clause shall be substituted, namely:-

-

'(2) "assessment" includes provisional assessment, self-assessment, re-assessment

and any assessment in which the duty assessed is nil;'

Section 37 - Amendment of section 3

In section 3 of the Customs Act, in clause (e), the words "or Deputy Commissioner of

Customs" shall be omitted.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

35 von 43 21.02.2012 12:00

Section 38 - Substitution of new section for section 17

For section 17 of the Customs Act, the following section shall be substituted, namely:--

"17. Assessment of duty.--(1) An importer entering any imported goods under

section 46, or an exporter entering any export goods under section 50, shall, save as

otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(2) The proper officer may verify the self-assessment of such goods and for

this purpose, examine or test any imported goods or export goods or such part

thereof as may be necessary.

(3) For verification of self-assessment under sub-section (2), the proper officer

may require the importer, exporter or any other person to produce any

contract, broker's note, insurance policy, catalogue or other document,

whereby the duty leviable on the imported goods or export goods, as the case

may be, can be ascertained, and to furnish any information required for such

ascertainment which is in his power to produce or furnish, and thereupon, the

importer, exporter or such other person shall produce such document or

furnish such information.

(4) Where it is found on verification, examination or testing of the goods or

otherwise that the self-assessment is not done correctly, the proper officer

may, without prejudice to any other action which may be taken under this Act,

re-assess the duty leviable on such goods.

(5) Where any re-assessment done under sub-section (4) is contrary to the

self-assessment done by the importer or exporter regarding valuation of goods,

classification, exemption or concessions of duty availed consequent to any

notification issued therefor under this Act and in cases other than those where

the importer or exporter, as the case may be, confirms his acceptance of the

said reassessment in writing, the proper officer shall pass a speaking order on

the re-assessment, within fifteen days from the date of re-assessment of the

bill of entry or the shipping bill, as the case may be.

(6) Where re-assessment has not been done or a speaking order has not been

passed on reassessment, the proper officer may audit the assessment of duty

of the imported goods or export goods at his office or at the premises of the

importer or exporter, as may be expedient, in such manner as may be prescribed.

Explanation.-- For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section

46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

36 von 43 21.02.2012 12:00

the President, such imported goods or export goods shall continue to be

governed by the provisions of section 17 as it stood immediately before

the date on which such assent is received.”.

Section 39 - Amendment of section 18

In section 18 of the Customs Act,--

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

“(1) Notwithstanding anything contained in this Act but without prejudice to

the provisions of section 46,--

(a) where the importer or exporter is unable to make self-assessment under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the proper officer deems it necessary to subject any imported

goods or export goods to any chemical or other test; or

(c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems

it necessary to make further enquiry; or

(d) where necessary documents have not been produced or information

has not been furnished and the proper officer deems it necessary to

make further enquiry,
the proper officer may direct that the duty leviable on such goods be
assessed
or re-assessed, as the case may be, provisionally if the importer or
the
exporter, as the case may be, furnishes such security as the proper
officer
deems fit for the payment of the deficiency, if any, between the duty
as may
be finally assessed and the duty provisionally assessed.”;
(b) in sub-section (2),-
(i) in the opening portion, after the words "assessed finally", the
words "or
re-assessed by the proper officer" shall be inserted;
(ii) for the words "finally assessed" wherever they occur, the words :
"finally
assessed or re-assessed, as the case may be," shall be substituted;
(c) in sub-section (J), after the words "final assessment order", the
words "or
re-assessment order" shall be inserted;
(d) in sub-section (4), after the word "duty finally", the words " or
reassessment of
duty, as the case may be" shall be inserted.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

37 von 43 21.02.2012 12:00

Section 40 - Amendment of section 19

In section 19 of the Customs Act, in the proviso, in clause (b), after
the words “proper

officer”, the words “or the evidence is available” shall be inserted.

Section 41 - Amendment of section 27

In section 27 of the Customs Act, for sub-section (1), the following
sub-sections shall be

substituted, namely:--

‘(1) Any person claiming refund of any duty or interest,--

(a) paid by him; or

(b) borne by him,

may make an application in such form and manner as may be
prescribed for such

refund to the Assistant Commissioner of Customs or Deputy Commissioner of

Customs, before the expiry of one year, from the date of payment of such duty or

interest:

Provided that where an application for refund has been made before the date

on which the Finance Bill, 2011 receives the assent of the President, such

application shall be deemed to have been made under sub-section (1), as it

stood before the date on which the Finance Bill, 2011 receives the assent of

the President and the same shall be dealt with in accordance with the provisions of sub-section (2):

Provided further that the limitation of one year shall not apply where any duty

or interest has been paid under protest.

Explanation.-- For the purposes of this sub-section, "the date of payment of duty or interest" in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such

person.

(1A) The application under sub-section (1) shall be accompanied by such documentary

or other evidence (including the documents referred to in section 28C) as the

applicant may furnish to establish that the amount of duty or interest, in relation to

which such refund is claimed was collected from, or paid by, him and the incidence of

such duty or interest, has not been passed on by him to any other person.

(1B) Save as otherwise provided in this section, the period of limitation of one year

shall be computed in the following manner, namely:--

(a) in the case of goods which are exempt from payment of duty by a special

order issued under sub-section (2) of section 25, the limitation of one year

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

38 von 43 21.02.2012 12:00

shall be computed from the date of issue of such order;

(b) where the duty becomes refundable as a consequence of any judgment,

decree, order or direction of the appellate authority, Appellate Tribunal or any

court, the limitation of one year shall be computed from the date of such

judgment, decree, order or direction;

(c) where any duty is paid provisionally under section 18, the limitation of one

year shall be computed from the date of adjustment of duty after the final

assessment thereof or in case of re-assessment, from the date of such re-assessment.

Section 42 - Substitution of new section for section 28

For section 28 of the Customs Act, the following section shall be substituted, namely:--

'28. Recovery of duties not levied or short-levied or erroneously refunded.--(1) Where any duty has not been levied or has been short-levied or

erroneously refunded, or any interest payable has not been paid, part-paid or

erroneously refunded, for any reason other than the reasons of collusion or any wilful

mis-statement or suppression of facts,--

(a) the proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which

has not been so levied or which has been short-levied or short-paid or

to whom the refund has erroneously been made, requiring him to show

cause why he should not pay the amount specified in the notice;

(b) the person chargeable with the duty or interest, may pay before service of notice under clause (a) on the basis of,--

(i) his own ascertainment of such duty; or

(ii) the duty ascertained by the proper officer,

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the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

(2) The person who has paid the duty along with interest or amount of interest

under clause (b) of sub-section (1) shall inform the proper officer of such

payment in writing, who, on receipt of such information shall not serve any

notice under clause (a) of that sub-section in respect of the duty or interest so

paid or any penalty leviable under the provisions of this Act or the rules made

thereunder in respect of such duty or interest.

(3) Where the proper officer is of the opinion that the amount paid under

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

39 von 43 21.02.2012 12:00

clause (b) of sub-section (1) falls short of the amount actually payable, then,

he shall proceed to issue the notice as provided for in clause (a) of that

sub-section in respect of such amount which falls short of the amount actually

payable in the manner specified under that sub-section and the period of one

year shall be computed from the date of receipt of information under sub-section (2).

(4) Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or

erroneously refunded, by reason of,--

(a) collusion; or

(b) any wilful mis-statement; or

(c) suppression of facts,

by the importer or the exporter or the agent or employee of the importer or

exporter, the proper officer shall, within five years from the relevant date,

serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(5) Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under subsection (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(6) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (5), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion--

(i) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (1) or subsection (4), shall, without

prejudice to the provisions of sections 135, 135A and 140 be deemed to

be conclusive as to the matters stated therein; or

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

40 von 43 21.02.2012 12:00

(ii) that the duty with interest and penalty that has been paid falls short

of the amount actually payable, then the proper officer shall proceed to

issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable

in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (5).

(7) In computing the period of one year referred to in clause (a) of sub-section

(1) or five years referred to in sub-section (4), the period during which there

was any stay by an order of a court or tribunal in respect of payment of such

duty or interest shall be excluded.

(8) The proper officer shall, after allowing the concerned person an opportunity

of being heard and after considering the representation, if any, made by such

person, determine the amount of duty or interest due from such person not

being in excess of the amount specified in the notice.

(9) The proper officer shall determine the amount of duty or interest under

sub-section (8),--

(a) within six months from the date of notice where it is possible to do

so in respect of cases falling under clause (a) of subsection (1);

(b) within one year from the date of notice where it is possible to do so

in respect of cases falling under sub-section (4).

(10) Where an order determining the duty is passed by the proper officer

under this section, the person liable to pay the said duty shall pay the amount

so determined along with the interest due on such amount whether or not the

amount of interest is specified separately.

Explanation 1.-- For the purposes of this section, "relevant date" means,--

(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

(b) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment or re-assessment, as the case may be thereof;

(c) in a case where duty or interest has been erroneously refunded, the date of refund;

(d) in any other case, the date of payment of duty or interest.'.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

41 von 43 21.02.2012 12:00

Explanation 2.- For the removal of doubts, it is hereby declared that any non-levy, short-levy or erroneous refund before the date on which

the Finance Bill, 2011 receives the assent of the President, shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.

Section 43 - Substitution of new section for sections 28AA and 28AB

For sections 28AA and 28AB of the Customs Act, the following section shall be substituted,

namely:--

"28AA. Interest on delayed payment of duty.--(1) Notwithstanding anything

contained in any judgment, decree, order or direction of any court, Appellate Tribunal

or any authority or in any other provision of this Act or the rules made thereunder,

the person, who is liable to pay duty in accordance with the provisions of section 28,

shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under

sub-section (2), whether such payment is made voluntarily or after determination of

the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six

per cent. per annum, as the Central Government may, by notification in the

Official Gazette, fix, shall be paid by the person liable to pay duty in terms of

section 28 and such interest shall be calculated from the first day of the month

succeeding the month in which the duty ought to have been paid or from the

date of such erroneous refund, as the case may be, up to the date of payment

of such duty.

(3) Notwithstanding anything contained in sub-section (1), no interest shall be

payable where,--

(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and

(b) such amount of duty is voluntarily paid in full, within forty-five days

from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.”.

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

42 von 43 21.02.2012 12:00

FINANCE ACT, 2011

<http://www.manupatrafast.com/ba/fulldisp.aspx?iactid=4964>

43 von 43 21.02.2012 12:00