Book of Facts on

Fringe Benefit Tax

Hand Book on F.B.T. 2009

5th edition April 2009

[1st edition Oct. 2006]

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Preface

During the outsource auditing in the year of 2006, we found that most of c.a. fellows and their staff charging and depositing the hefty amount on account of Fringe Benefit Tax in government kitty without being knowledge that, that amount attracting FBT or not. Keeping their valuable client in the vein due to our faults. This practice forced us to introduce a detailed handbook on the subject so the precious money of the client can be saved.

We have used best of our skill to produce the book before you, providing latest information on the subject. Perhaps we are not responsible for any loss resulting any error/omissions.

Readers are requested to kindly share their updated knowledge for updating the book in their own interest and distribute this book to other fellows.

Kindly note this book is completely free of cost and nobody is authorized to charge any money on account of printing/posting/uploading/downloading the book.

Pramod Agrawãl

15.10.2006

Details of applicability and non applicability of Fringe Benefit Tax for Assessment year 2009-2010 onward
Rate of tax 30% + S.C.10% + E.C.2% + H.E.C.1% on value of % of the Fringe benefits as shown here below:

WHO IS EMPLOYER FOR THE PURPOSE OF F.B.T.?
COMPANY, FIRM, AOP/BOI, LOCAL AUATHORITY, ARTIFICIAL DUDICIAL AUTHORITY
NOT COVERED:
REGISTERED TRUST /SOCIETIES CLAIMING EXEMPTION U/S 10,11,12 running Schools, colleges, hospitals etc.
INDIVIDUALS, HUF , POLITICAL PARTIES, CENTRAL GOVT.
Return Date: for Assessee need Audit 30th September and for other assessee 31st July

No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
1	ENTERTAINMENT	20%	6.798%			
2	HOSPITALITY	20% 5%	6.798% 1.6995%			*5% FOR HOTELS, Air/ship travels/cargo IMPECT 1.6995% Others 20%
3	CONFERENCE	20%	6.798%			
4	SALES PROMOTION, PUBLICITY	20%	6.798%			
5	EMPLOYEE'S WELFARE	20%	6.798%			
6	CONVEYANCE	20% 5%	6.798% 1.6995%			*5% for Construction, Pharmaceuticals & software and for Hotels, Air/ship travels/cargo
7	HOTEL, BOARDING, LODGING	20% 5%	6.798% 1.6995%			*5% for Pharmaceuticals and software; Impact 1.6995%
8A	REPAIR AND RUNNING OF CAR AND JEEP	20% 5%	6.798% 1.6995%			*5% for Business of carriage by Car; Impact 1.6995%
8B	FUEL OF CAR AND JEEP	20% 5%	6.798% 1.6995%			*5% for Business of carriage by Car; Impact 1.6995%
8C	DEPRECIATION OF CAR AND JEEP	20% 5%	6.798% 1.6995%			*5% for Business of carriage by Car; Impact 1.6995%
9A	REPAIR AND RUNNING OF AIRCRAFT	20%	6.798%			
9B	FUEL OF AIRCRAFT	20%	6.798%			
9C	DEPRECIATION OF AIRCRAFT	20%	6.798%			
10	TELEPHONE	20%	6.798%			
11	GUEST HOUSE MAINTAINING	NIL	NIL			*20% Previous Years
12	FESTIVAL CELEBRATIONS	20%	6.798%			*50% Previous Years
13	HEALTH CLUB USES	50%	16.83%			
14	OTHER CLUB FACILITIES	50%	16.83%			
15	GIFTS	50%	16.83%			
16	SCHOLERSHIPS	20%	6.798%			
17	TOUR's & TRAVELLING	5%	1.6995%			All class of Employers
18	EMPLOYEE'S STOCK OPTION	100%	33.99%			All class of Employers

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No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
1	Entertainment Allowance	20%	6.798%			
	(i) Reimbursement of	0	0		✓	Not falling under F.B.T. provided the bills produced in the name of "**EMPLOYEE**" u/s 115WB(3) or in the name of "**DIRECTOR**" u/s 115 WB(2)(A)
	(i) Reimbursement of	20%	6.798%	✓		Falling under F.B.T. if the bills produced in the name of "**EMPLOYER**"
	(ii) Fixed Allowance	0	0		✓	Not falling under F.B.T. u/s 115 WB(2)(A)
	(iii) Club facilities	20%	6.798%	✓		Attract F.B.T. u/s 115WB(2)(M)/(N)
	(iv) Reimbursement of personal bills				✓	Falls u/s 17(2)(iv) hence no F.B.T. maximum limit Rs.36000/-p.a.
	(v) Reimbursement of periodicals	20%	6.798%	✓		Attract F.B.T. 115WB(2)(E)
	(vi) Fixed Allowance of books etc.	0	0		✓	Not falling under F.B.T. u/s 115 WB(2)(A)
2	Hospitality	20% 5%	6.798% 1.6995%	✓		*Attract F.B.T. on amount spent on guests of the company/employer while employees are excluded
3	Conference Expenses					
	(I) Fees	0	0		✓	Fee paid doesn't attract F.B.T.
	(ii) Other expenses	20%	6.798%	✓		attract F.B.T.
4	Sales Promotion					
	(i) Advertisement in any form/media	0	0		✓	Can't be taken in FBT u/s 115WB(2)(D)
	(ii) rental of vehicles	0	0		✓	Spent on Special display vehicle can't be taken in FBT u/s 115WB(2)(D)
	(iii) Printing of price list /catalogue	0	0		✓	Can't be taken in FBT u/s 115WB(2)(D)
	(iv) Paid to advertising agency	0	0		✓	Can't be taken in FBT u/s 115WB(2)(D)
	(v) Sponsorships to sports event	0	0		✓	Can't be taken in FBT u/s 115WB(2)(D)
	(vi) Free samples of medicines	0	0		✓	Can't be taken in FBT u/s 115WB(2)(D)
	(vii) Calendars-diaries	0	0		✓	Calendars / diaries not containing logo /name of the "Employer" doesn't come in the ambit of F.B.T. u/s 115WB(2)(L)
	(viii) Material for Calendars-diaries	0	0		✓	Purchasing or procure Photo material or article for calendar/diary of the employer doesn't attract FBT u/s 115WB(2)(D)
	(ix) Press Conference	0	0		✓	No FBT u/s 115WB(2)(D)
	(x) Brokerage/Comm.	0	0		✓	No FBT u/s 115WB(2)(D)
	(xi) Reimbursement of salary	0	0		✓	No FBT u/s 115WB(2)(D) even if it is reimburse of salary of salesman

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No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
4	(xii) Discount on sales or incentive to distributor/ Dealer	0	0		✓	No FBT u/s 115WB(2)(D)
	(xiii) Expenses on display / samples distribution	0	0		✓	No FBT u/s 115WB(2)(D) *(free or concessional rate)
	(xiv) Payment to Brand Ambassador	0	0		✓	No FBT u/s 115WB(2)(D)
	(xv) Additional gift	20%	6.798%	✓		Given with main article or thing at the time of sales attract F.B.T.
5	***Canteen Expenses for Employee Welfare***	0	0		✓	NO F.B.T. on Food vouchers
	(i) Expenditure on maintaining Canteen	0	0		✓	Even if meal expenditure exceeds Rs.50/- per employee there is no F.B.T.
	(ii) Paid to Contractor (iii) Restaurant (iv) Hotel 3/4/5 star (v) Local shops	0	0		✓	If company paid to someone being contractor for running in the factory premises or supplies eatable from outside of the premises, supplied by any local shopkeeper/Restaurant/hotel there is NO F.B.T.
	(vi) Food provided at training centre	0	0		✓	Provided Training centre is not hired, by otherwise F.B.T. will applicable
	(vii) Lunch Allowance	0	0		✓	NO F.B.T.
	(viii) Prepaid Meal Card	20%	6.798%	✓		Payment on Non-transferable prepaid Meal Card attract FBT
5A	**Staff welfare**	0	0		✓	Special allowance covered u/s 10(14) don't attract FBT
	(i) Free ration	20%	6.798%	✓		Falling under FBT
	(ii) Contribution to funds	0	0		✓	No F.B.T. on contribution for any approved/unapproved super-annuation fund upto Rs.1,00,000/- per employee per year (kindly check for year 2008-09 onwards)
	(iii) Key man Insurance	0	0		✓	Being Life insurance policy premium paid received back on maturity of the policy can't be treated as insurance on health of employee
	(iv) Crèche Facility	0	0		✓	No F.B.T. from 01.04.2008
	(v) Sports Event	0	0		✓	No F.B.T. from 01.04.2008 on sponsorship of employees sports event

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No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
5B	**Medical expenses**	0	0		✓	No F.B.T. on Fixed allowance
	(i) Reimbursement	0 *20%*	0 *6.798%*		✓	More than Rs. 15001/- per employee and/or directors doesn't attract FBT u/s 115WB(2) /(E) ***while up to Rs. 15000/- attract FBT u/s 115WB(2)/(E)***
	(ii) Unlimited reimbursement	0	0		✓	Does not fall u/s 115WB(1) read with 115WB(3) hence no FBT u/s 115WB(2)(E)
	(iii) Expenditure on Hospital Maintain.	0	0		✓	No F.B.T.
	(iv) Health Insurance Premium	20% ***0***	6.798% ***0***	✓	✓	Attract F.B.T., - NO F.B.T. if amount spent for member of employee's family
6	**Conveyance**	20% 5%	6.798% 1.6995%	✓		*Reimbursement Attract F.B.T.
	(i) Transport facility to employee's kids	20% 5%	6.798% 1.6995%	✓		*Attract F.B.T. 115WB(2)(E)
	(ii) Fixed allowance by whatever name called as : Conveyance Fuel/Petrol Maintenance of vehicle All.	0	0		✓	Paid to employee and/or directors for official purpose wholly or partly can't be taken for F.B.T. any amount is exempt u/s 10(14) rule 2BB(1)(c). it is different from Transport allowance that is exempt up to Rs.9600/- p.a. u/s 10(14), most of employers/c.a. wrongly club the both and restricted up to Rs.9600/- p.a.
7	**Hotel bills**	0	0		✓	If hotel bill are in the name of employee there is no F.B.T.
	(i) Hotel / Motel bills	20% 5%	6.798% 1.6995%	✓		*If hotel bill are in the name of employer there is F.B.T.
	(ii) Expenditure on Guest house	0	0		✓	****There is No F.B.T. from Fin. Year 01.04.2008***
	(iii) Lodging House	0	0		✓	Not treated as Hotel so no F.B.T.
	(iv) Apartment house	0	0		✓	Not treated as Hotel so no F.B.T.
8	**Repair & running of vehicles**	0	0		✓	Except car and aircraft all vehicles are free from F.B.T.
	(i) Scooter or bike	0	0		✓	Motor bike/scooter maintenance / repair exp. Not covered under FBT u/s 115WB(2)(H); Vehicles may have owned by employer/employee
	(ii) Bus ferrying	0	0		✓	Bus used for transporting employees doesn't attract F.B.T. **
	(iii) Other vehicles	0	0		✓	Except car and aircraft all vehicles are free from F.B.T.

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No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
8	(iv) Driver's Salary	0	0		✓	Except car and aircraft all vehicles are free from F.B.T. and for the purpose of F.B.T. for car /Aircraft it will be add
	(v) Garage Rent	0	0		✓	All vehicles are free from F.B.T. applicable only for car /Aircraft
	(vi) Hiring or lease	0	0		✓	Except car and aircraft all vehicles are free from F.B.T. and for the purpose of F.B.T. for car /Aircraft it will be add
	(vii) Interest on loan taken for vehicles	0	0		✓	Except car and aircraft all vehicles are free from F.B.T. and for the purpose of F.B.T. for car /Aircraft it will be add
	(viii) Insurance				✓	***There is No F.B.T. from Financial Year starts from 01.04.2008**
9	**Fuel of Vehicles and / or Aircraft**	0	0		✓	Except car and aircraft all vehicles are free from F.B.T.
10	**Depreciation of Vehicles and / or Aircraft**	0	0		✓	Except car and aircraft all vehicles are free from F.B.T. and for the purpose of F.B.T. for car /Aircraft it will be add
11	**Telephone expenses**	0	0		✓	Sets given to employees attract NO F.B.T.
	(i) Fixed allowance	0	0		✓	No F.B.T. (maximum limit Rs.36000/- p.m.)however it is not exempt u/s 10(14)
	(ii) Reimbursement of phone bills	20%	6.798%	✓		even if telephone is not in the name of company reimburse of expenditure attract F.B.T. phone may or may not in the name of company
12	**Guest house**	0	0		✓	***There is No F.B.T. from Financial Year starts from 01.04.2008**
	(i) Maintenance	0	0		✓	***There is No F.B.T. from Financial Year starts from 01.04.2008**
	(ii) Rent	0	0		✓	***There is No F.B.T. from Financial Year starts from 01.04.2008**
	(iii) Interest on loan for acquiring	0	0		✓	***There is No F.B.T. from Financial Year starts from 01.04.2008**
13	**Festival celebrations**	20%	6.798%			Attract F.B.T. even on poojan expenses in temple situated in factory/office complex
	(i) Fixed Festival Allowance	0	0		✓	Taxable u/s 17(3) but not perquisite, No F.B.T. u/s 115WB(2)(A)/(L)
14	**Health & other clubs**	0	0		✓	Depreciation on Club building - NO F.B.T.
	(i) Levy and/ or fees	50%	16.83%	✓		Attract F.B.T.
	(ii) Reimburse of bills	0	0		✓	Reimburse of personal bills of employee up to Rs.2500/- p.m.– NO F.B.T.

No.	Head Of income	%	Impact	FBT	NON FBT	Comments with section
15	**Gifts**			✓		Gifts in kind/article attract F.B.T.
	(i) Cash gifts	0	0		✓	Cash gifts to employees on appreciation of services granted does not attract F.B.T.
16	**Scholarships**	50%	16.83%	✓		Attract F.B.T.
17	**Tour & Travelling**	5%	1.6995%	✓		Reimbursement of Foreign business /official tours /journey attract
	(i) Private journey	0	0		✓	Reimbursement even for more than Rs.84000/- p.a. - NO F.B.T.
	(ii) L.T.C.	0	0		✓	Provided twice in a block of 4 years and reimbursed does not attract F.B.T.
18	**Employee's Stock Option**	100%	33.99%	✓		F.B.T. u/s 115WB(1)Clause (d) Fair Market Value will be taken @100% for the purpose of calculating F.B.T. HOWEVER, Employer is empowered to recover amount of F.B.T. i.e. 33.99% tax from the employees/former employee u/s 115WKA. Employee is also liable to pay Capital Gain Tax at the time of transfer in addition to F.B.T.
	(I) Stock option offer by foreign holding Co.	0	0		✓	NO F.B.T. if foreign holding Co. charge nothing from Indian subsidiary
	(II) Stock option offer by foreign holding Co.	100%	33.99%	✓		F.B.T. u/s 115WB(1)Clause (d)
	(III) Stock Option Plan	100%	33.99%	✓		NOTE: Companies as well C.A.'s should be very careful while calculating F.B.T. under this clause as it is applicable as per agreement with the employees/former employee , even no share, stocks, securities were issued/transferred to employees they are liable to pay the F.B.T. on that option plan due to prior agreement with the employer.

**benefits enjoyed by the employees collectively in the form of facilities/amenities and difficult to identify and/or the value of that benefit / amenity cannot be determined, it would not be chargeable to tax Trnasworks Information Services LTd., versus ITO ITA No.1182/MUM/07 dt.16.02.2009, the Bombay Bench of the Income Tax Appellate.

#Can India Inc avoid paying even this minuscule amount of tax if their auditors certify an expense as a genuine business expenditure, I m not sure about this idea. In my opinion, even any auditor certify that the expenses is genuine business expenditure, F.B.T. will be payable on that expenditure.

Disclaimer: Though we were very careful while writing the book helping professionals however any error or omission is regretted and we will be no responsible for any damage/loss incurred on behalf of the book.

Updated on 1st April 2009 as per information revealed.