FINAL COURSE

SUPPLEMENTARY STUDY PAPER - 2007

DIRECT TAXES AND INDIRECT TAXES
(Existing Final Course)

DIRECT TAX LAWS AND INDIRECT TAX LAWS
(New Final Course)

[Covers amendments made by the Finance Act, 2007, Taxation Laws (Amendment) Act, 2006 and Important Circulars/Notifications issued between 1st May 2006 and 30th April 2007]

(Relevant for students appearing for May, 2008 and November, 2008 examinations)

BOARD OF STUDIES
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

This Supplementary Study Paper has been prepared by the faculty of the Board of Studies of the Institute of Chartered Accountants of India with a view to assist the students in their education. While due care has been taken in preparing this Supplementary Study Paper, if any errors or omissions are noticed, the same may be brought to the attention of the Director of Studies. The Council of the Institute is not responsible in any way for the correctness or otherwise of the amendments published herein.

Prepared by

CA. Priya Subramanian and CA. Smita Mishra

Faculty, Board of Studies

Website: www.icai.org. E-mail : bosnoida@icai.org

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FOREWORD

Direct and Indirect taxes are the extremely dynamic subjects of the chartered accountancy course. The level of knowledge prescribed at the final level for the subjects is 'expert knowledge'. For attaining such a level of knowledge, the students have not only to be thorough with the basic provisions of the relevant laws, but also have to constantly update their knowledge regarding statutory developments.

The Board of Studies brings out the annual Supplementary Study Papers to help the students to update their knowledge relating to recent statutory developments in the field of direct and indirect taxes made by the Annual Finance Acts, Notifications/Circulars etc.

This year, the amendments made by the Taxation Laws (Amendment) Act, 2006 have also been incorporated in this Supplementary Study Paper. I compliment the Board of Studies for its good work in bringing out this publication, which would help the students to update their knowledge regarding the latest statutory developments. I am sure that this publication will be of great use to the students in preparing for their examination.

Date: 19th June, 2007
Place: New Delhi.

CA. Sunil Talati
President

PREFACE

The Board of Studies is engaged in the task of providing quality study materials and other inputs to enable the students to prepare for their examinations. One of the important inputs of the Board on taxation is the supplementary study paper in direct and indirect taxes to be used by the final students. The supplementary study papers are annual publications and contain a discussion of the amendments made by the Annual Finance Acts and Notifications/Circulars in income-tax, wealth-tax, excise, customs and service tax. They are very important to the students for updating their knowledge regarding the latest statutory developments in the respective areas mentioned above. A lot of emphasis is being placed on these latest amendments in the final examinations.

The faculty of the Board of Studies have incorporated in this Supplementary Study Paper-2007, the amendments made by the Finance Act, 2007, Taxation Laws (Amendment) Act, 2006 and important Notifications/Circulars issued between 1st May 2006 to 30th April, 2007. I am happy to note that this Supplementary Study Paper has many student-friendly features like presentation of the amendments point-wise in a simplified and lucid manner, supporting the theory with examples wherever possible, giving 'amendments at a glance' etc. These features will help the students to understand and grasp the essence of the new amendments in an easy and methodical manner.

It may be noted that this supplementary study paper would be relevant for both the existing final course and the new final course. I appreciate the earnest and sincere efforts taken by CA. Priya Subramanian & CA. Smita Mishra, Faculty, Board of Studies in bringing out this valuable publication, under the guidance of CA. R. Devarajan, Additional Director of Studies (S.G.). I am sure that, as in the past, this Supplementary Study Paper would be highly useful to the students preparing for final examinations.

CA. Jaydeep Narendra Shah
Chairman
Board of Studies

June 19, 2007.
New Delhi.

DIRECT TAXES / DIRECT TAX LAWS

AMENDMENTS AT A GLANCE – FINANCE ACT, 2007

S.No.	Particulars	Section
I	INCOME-TAX ACT, 1961	
1.	A. Rates of tax	
	B. Basic Concepts	
2.	Assessing Officer to include Additional Commissioner and Additional Director	2(7A)
3.	Amendment of definition of 'India'	2(25A)
	C. Residence and scope of total income	
4.	Contribution made by any employer to the pension scheme of Central Government deemed to be income received	7(iii), 17(1)(viii) & 80CCD
5.	Income deemed to accrue or arise in India to a non-resident by way of interest, royalty and fee for technical services to be taxed irrespective of territorial nexus	Explanation to section 9
	D. Incomes which do not form part of total income	
6.	Exemption of compensation received on account of disaster	10(10BC)
7.	Exemption of interest on notified bonds issued by State Pooled Finance Entities	10(15)(vii)
8.	Exemption of income of ASOSAI-SECRETARIAT	10(23BBD)
9.	Exemption of income of Central Electricity Regulatory Commission	10(23BBG)
10.	Approval of prescribed authority required for exemption of funds/institutions established for charitable purposes	10(23C), 80E, 143(3) & 296
11.	Exemption of specified income of Investor Protection Fund set up by commodity exchanges	10(23EC)
12.	Pass through status restricted to investment in a venture capital undertaking engaged in specified businesses	10(23FB)
13.	Restrictive conditions to apply for units in SEZ also for availing benefit under section 10AA	10AA

	E. Charitable or religious trusts and institutions	
14.	Removal of requirement to file an application for registration within one year of creation or establishment of the trust or institution	12A & 12AA
15.	Exemption not to be denied to trusts investing in shares of a public sector company or shares prescribed as a form or mode of investment under section 11(5)(xii)	13(1)
	F. Income from salaries	
16.	Deemed concession in the matter of rent	17
	G. Profits and gains of business or profession	
17.	Increase in time limit for availing weighted deduction in respect of scientific research expenditure	35(2AB)
18.	Medical insurance premium paid by the employer to insure the health of his employees to qualify for deduction if paid by any mode other than cash	36(1)(ib)
19.	Co-operative banks to be allowed deduction in respect of provision for bad and doubtful debts	36(1)(viia), 10(15)
20.	Restriction of deduction under section 36(1)(viii) relating to transfer to any special reserve	36(1)(viii)
21.	Withdrawal of deduction in respect of contribution towards Exchange Risk Administration Fund by public financial institutions	36(1)(x)
22.	Central Government empowered to notify statutory corporations and body corporates for the purpose of deduction under section 36(1)(xii)	36(1)(xii)
23.	Deduction of contribution by a public financial institution to Credit guarantee fund trust for small industries	36(1)(xiv)
24.	Disallowance of entire expenditure in respect of which payments exceeding Rs.20,000 have been made otherwise than by account payee cheque or account payee bank draft	40A(3)
25.	Method of computing deduction in the case of business reorganisation of co-operative banks	44DB, 47 & 49
	H. Capital Gains	
26.	Transfer of drawings, paintings, sculptures etc. to attract capital gains tax	2(14)

88.	Exclusive jurisdiction of the Settlement Commission	22F
89.	Power of Settlement Commission to grant immunity from prosecution restricted	22H
90.	Abatement of proceeding before the Settlement Commission	22HA & 22HAA
91.	Bar on subsequent application for settlement	22K
92.	Vice-chairman to include senior member of Bench	22A(f)
	X. Miscellaneous provisions	
93.	Presumption as to assets, books of account, etc.	42D

AMENDMENTS AT A GLANCE - TAXATION LAWS (AMENDMENT) ACT, 2006

S.No.	Particulars	Section
	INCOME-TAX ACT, 1961	
94.	Tax Recovery Officer to exercise or perform the powers and functions of the Assessing Officer	2(44)
95.	Exemption of income of North-Eastern Development Finance Corporation Limited	10(23BBF)
96.	Removal of the requirement of renewal of notification issued under sub-clauses (iv) and (v) of section 10(23C)	10(23C)
97.	Time limit for issue of notification under sub-clauses (iv) and (v) or for approval by the prescribed authority under sub-clauses (vi) and (via) of section 10(23C)	10(23C)
98.	Funds/Trusts/Universities/Other educational institutions or hospitals or other medical institutions referred to in sub-clauses (iv),(v),(vi) or (via) of clause (23C) of section 10 to get their accounts audited and furnish audit report	10(23C)
99.	Accounts of a charitable or religious trust or institution to be audited if their total income exceeds the basic exemption limit	12A(b)
100.	Guidelines, manner and conditions on the basis of which approval is to be granted under section 35(1)(ii) and section 35(1)(iii)	35(1)(ii) & 35(1)(iii)

INDIRECT TAXES / INDIRECT TAX LAWS

S. No.	Particulars	Section
A.	EXCISE (Central Excise Act, 1944)	
I.	AMENDMENTS BY THE FINANCE ACT, 2007	
1.	A secondary and higher education cess of 1% imposed on excisable goods manufactured in India	
2.	Provisions relating to free trade zone omitted	3(1)
3.	CENVAT credit need not be reversed where the manufacturing process is held as not chargeable to excise duty by the Courts and the assessee has not preferred a claim for refund of excise duty paid by him	5B
4.	Relevant date for refund of duty in case of judgement, decree, order etc. defined	11B
5.	Meaning of 'joint venture in India' for the purpose of advance ruling clarified	23A(c)
6.	Settlement Commission to entertain applications only in respect of cases pending before the adjudicating authority	31(c)
7.	Chairman of the bench of Settlement Commission empowered to constitute Bench consisting of three members in appropriate cases	32A
8.	Application for settlement cannot be made if proper records are not maintained in daily stock register or where there is clandestine removal of goods	32E(1)
9.	Substitution of new section for section 32F in respect of procedure on receipt of an application for settlement under section 32E	32F
10.	Settlement Commission debarred from reopening completed proceedings in respect of applications received on or after 1.06.2007	32H
11.	Settlement Commission debarred from granting immunity from prosecution for any offence under IPC or any Central Act other than Central Excise Act	32K
12.	Application for settlement permissible only once during the lifetime of the assessee	32O
13.	Section 32PA entitling certain persons, who have filed appeals to the Appellate Tribunal on or before 29.02.2000, to make application to the Settlement Commission omitted	32PA

	section 136 may also be arrested	
5.	Summons to be issued in case of any inquiry	108
6.	Use of false and incorrect material to be penalized	114AA
7.	Show cause notice before confiscation of goods to be issued only with the prior approval of the officer of customs not below the rank of a Deputy Commissioner of Customs	124
8.	Commissioner to direct any officer of customs subordinate to him to apply to the Commissioner (Appeals)	129D(2)
9.	Term of imprisonment increased from 6 months to 2 years in case of furnishing of false declarations/documents etc.	132
10.	Term of imprisonment increased from 6 months to 2 years in case of obstruction of officers of customs	133
11.	Prior sanction of Commissioner of Customs necessary to take cognizance in case of offence under section 135A also	137
12.	Property may be attached provisionally to protect revenue in certain cases	28BA
13.	Seized goods, documents and things pending adjudication to be released provisionally	110A
14.	Information in respect of persons in certain cases to be published	154B
	Customs Tariff Act, 1975	
15.	The words “all such countries” clarified to mean “developing countries each with less than 3% import share” in proviso to section 8B(1)	8B(1)
C.	SERVICE TAX (Chapter V and VA of the Finance Act, 1994)	
I.	AMENDMENTS BY THE FINANCE ACT, 2007	
1.	A secondary and higher education cess of 1% imposed on services liable to service tax	
2.	7 new services brought under the service tax net	65
	1. Telecommunication service (includes individual services in respect of telephone, pager, leased circuit, telegraph, telex and facsimile communication)	
	2. Mining services	
	3. Services provided in relation to renting of immovable	