

HIGHLIGHTS OF THE FINANCE ACT, 2008

(Assessment year 2009-10, May 2009 and Nov 2009 CA PCC Exams)

INCOME TAX RATES: The threshold limit for individuals and HUFs has been raised and tax slabs have also been liberalised for asst. year 2009-10. The detailed rates are given hereinafter.

1. Basic Exemption Limits

Category of assesses:

Amount (Rs.)

- | | |
|---|----------|
| a. For general Individuals,
(other than resident women and
senior citizens), HUF, AOP and BOI | 1,50,000 |
| b. For resident women assesses
below the age of 65 years | 1,80,000 |
| c. For senior citizen who is atleast of age
of 65 year: | 2,25,000 |

2. Tax Rates for Individuals & HUF:

Income	Tax Rate
Upto Rs,1,50,000	Nil
From Rs.1,50,010-3,00,000	10%
From Rs.3,00,010 -5,00,000	20%
Above Rs.5,00,000	30%

3. Tax Rates for Firms: 30% of Total Income (No change)

4. Tax Rates for Companies: Domestic Companies – 30% & Foreign Co's – 40%. (No change)

5. Tax Rates for Co-operative Societies: No change.

6. Surcharge:

- a. In case of individuals and HUFs : Surcharge of 10 % of total tax liability is applicable where the total income exceeds Rs.10,00,000 (No change).
- b. On companies and firms: 2.5% surcharge where total income exceeds Rs.1 Crore (No change)

7. Education cess: Education cess of 2% and Secondary & Higher Education cess of 1% shall also continue to be levied on the aggregate amount of income-tax and surcharge (No change).

8. Short Term Capital Gains tax rate u/s 111A raised: Short Term Capital Gains tax rate u/s 111A on listed securities, where STT has been paid, has been raised from 10% to 15%.

9. Rates of TDS: There is no change in rates of TDS.

INCOME FROM HOUSE PROPERTY AND INCOME FROM SALARIES

No changes

INCOME FROM BUSINESS AND PROFESSION

- 1. Deduction for STT paid - [Sec.36, Sec. 40(a), Sec. 88E]:** Securities Transaction Tax (STT) paid will be allowed as deduction from the income under the head business and profession if the assessee is engaged in the business of trading in such securities (Sec.36). The earlier restriction on its allowability u/s 40(a) has been omitted. Further rebate u/s 88E available on such STT has also been withdrawn.
- 2. Deduction for Commodities Transaction Tax (CTT) paid [Sec. 36(xvi)]:** Commodities Transaction Tax (CTT) paid will be allowed as business expenses if the income from taxable commodities transaction is included under the head PGBP.
- 3. Amortisation of preliminary expenses at the time of expansion now available to service sector also [Sec. 35D]:** Upto asst. yr. 2008-09, expenditure incurred on the preparation of a feasibility report, project report, market survey, legal charges, etc after commencement of business is allowed if the expenditure is incurred in connection with the extension of the

industrial undertaking or for setting-up of a new industrial unit. W.e.f. asst. yr. 2009-10, this deduction u/s 35D will be allowed for setting up or extension of all units and will not be restricted to industrial undertakings or units.

- 4. Weighted deduction available for contribution to approved association and institution extended to donation made to companies [Sec. 35(1)(iia)]:** The act has extended the weighted deduction of 125% to payment made to a company to be used by it for scientific research provided it fulfills the following conditions:

- a. It is registered in India
- b. Has as its main object the scientific research and development
- c. Is for the time being approved by the prescribed authority in the prescribed manner
- d. Fulfills such other conditions as may be prescribed.

Prior to the amendment, a weighted deduction of 125% of the sum paid to an approved scientific research association, approved university, college or other institution was available to the payer.

Consequently the deduction u/s 35(2AB -150%) will not be available to such companies notified under Sec.35(1)(iia).

- 5. Expenditure in excess of Rs.20,000 paid in aggregate during a day to be disallowed [Sec. 40A(3)]:** W.e.f. asst. yr. 2009-10, expenditure incurred in respect of payments or aggregate of payments made to a person, in a day, in excess of Rs.20,000 otherwise than by way of an account payee cheque drawn on a bank or an account payee bank draft, will not be allowed as a deduction.
- 6. Tax audit report u/s 44AB to be obtained on or before 30th September [Sec. 44AB]:** W.e.f. assessment year 2008-09, the due date for furnishing tax audit report required u/s 44AB has been advanced to September 30 of the assessment year in place of 31st October.

CAPITAL GAINS

- 1. Conversion of Foreign Currency Exchangeable Bonds does not amount to transfer [Sec. 47(xa), Sec. 49(2A)]:** Government has allowed established Indian Companies to issue Foreign Currency Exchangeable Bonds. These are bonds expressed in foreign currency, the principal and interest in respect of which is payable in foreign currency. W.e.f. asst. yr. 2008-09, conversion of FCEBs into shares or debentures of any company shall not be regarded as transfer. Hence no capital gain shall arise on such conversion. Further sec. 49(2A) provides that cost of acquisition of FCEBs will be deemed to be the cost of acquisition of the shares, debentures issued pursuant to the conversion of FCEBs.
- 2. Short-term capital gains tax arising from transfer of Shares or a unit of an equity oriented mutual fund [Sec. 111 A]:** Rate of Short-term capital gains tax arising from transfer of equity shares of a company or units of an equity oriented fund, where such transaction is chargeable to STT has been raised to 15% from 10% w.e.f. asst. yr. 2009-10.

DEDUCTIONS

- 1. Additional investment option for deduction u/s 80C:** W.e.f. asst. yr. 2008-09, following investments by individuals and HUFs will also qualify for deduction u/s 80C.
- a. Five year time deposit in an account under Post Office Time Deposit Rules, 1981.
 - b. Deposit in an account under the Senior Citizens Savings Scheme Rules, 2004.
- However pre-mature withdrawal of any of the deposits including interest accrued (not taxed earlier) on such deposits before the expiry of five years from the date of its deposit will be deemed as income of the assessee in the year of withdrawal. But any amount received by the nominee or legal heir of the assessee upon the death of the assessee shall not amount to premature withdrawal other than interest not included in the total income of the assessee for any previous year.
- 2. Additional deduction u/s 80D for medical insurance premium paid for parents:** W.e.f. asst. yr. 2009-10, an additional deduction of Rs.15,000 (Rs. 20,000 for senior citizens) will be available to an individual for payment of medical insurance premium for parents. The deduction for payment of medical insurance premium for self, spouse and children of Rs.15,000 (Rs.20,000 for senior citizens) shall also continue to be available.

RETURN OF INCOME

1. **Due date for filing return of income [Sec. 139(1)]:** W.e.f. asst. yr. 2008-09, the due date for filing the return of income in respect of the following categories of assesses will be preponed from 31st October to 30th September:
 - a. A company
 - b. A person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force; and
 - c. A working partner of a firm whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force.

For other assesses no change.

2. **Defective return of income [Sec. 139(9)]:** There was no requirement of furnishing proof of TDS or TCS along with the return of income after 1-4-2008. The Finance Act, 2008 has omitted the words "after 1-4-2008". As such the requirement of furnishing the proof of TDS/TCS shall continue.

TDS & TCS

Exemption from TDS on interest from listed securities [Sec. 193]: W.e.f. 1st June 2008 no deduction of tax at source will be required on payment of interest by a company on securities issued by it which is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956.

TDS made applicable to all AOPs and BOIs [Sec. 194C]: Finance Act, 2008 has included AOPs and BOIs (whether incorporated or not) in Sec. 194C(1) by inserting clause (ja) w.e.f. 1st June 2008. Prior to such insertion also most of the AOPs and BOIs were required to deduct TDS while making payment to contractors or sub contractors. However in order to make responsible all AOPs and BOIs to deduct tax at source while making payment to contractor the above amendment has been made.

AGRICULTURE INCOME

Agricultural income definition [Sec.2(1A), Expl. 3]: W.e.f. asst. yr. 2009-10, agricultural income shall include income derived by nursery's. The above amendment is in line with the Madras High Court decision in the case of CIT v. Soundarya Nursery.

EXEMPTIONS

1. **Exemption of income of the Coir Board [Sec.10 (29A)]:** With retrospective effect from asst. yr. 2002-03, the income of the coir board set-up under the Coir Industry Act, 1953 shall also be exempt u/s 10(29A). Earlier under this section income of coffee, rubber, tea, tobacco, spices board and marine products, agricultural and processed food products export development authority were exempt.
2. **Exemption to a Sikkimese Individual [Sec. 10(26AAA)]:** W.r.e.f. asst. yr 1990-91, the following income of a Sikkimese individual has been exempted:
 - a. Income from any source in the State of Sikkim;
 - b. Income by way of dividend or interest on securities.

This exemption will not be available to a Sikkimese woman who marries a non- Sikkimese individual on or after 1st April 2008.
3. **Income of APMC and SAMB exempted [Sec. 10(26AAB)]:** A new sec.10 (26AAB) has been inserted w.e.f. asst. year 2009-10 to provide exemptions to any income of an Agricultural Produce Market Committees (APMC) and State Agricultural Marketing Boards (SAMB) constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce.
4. **Exemption to unit established In Free Trade Zone u/s 10A extended for one more year [Sec. 10A]:** Thus the exemption will now be available up to the asst. yr. 2010-11.
5. **Exemption to unit established in EOU u/s 10B extended for one more year [Sec. 10B]:** Thus the exemption will now be available up to the asst. yr. 2010-11.