

FINAL COURSE

SUPPLEMENTARY STUDY PAPER - 2008

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, 2008 and Important Circulars/Notifications issued between 1st May 2007 and 30th April 2008]

(Relevant for students appearing for May, 2009 and November, 2009 examinations)



BOARD OF STUDIES
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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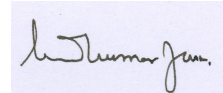
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FOREWORD

Direct and Indirect taxes are among the extremely dynamic subjects of the chartered accountancy course. The level of knowledge prescribed at the final level for the subjects is 'expert knowledge' and 'advanced knowledge' for the existing and new course, respectively. 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 Paper 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.

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: July, 2008
Place: New Delhi.

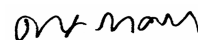
CA. Ved Jain
President

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-2008, the amendments made by the Finance Act, 2008 and important Notifications/Circulars issued between 1st May 2007 and 30th April, 2008. 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 & CA. Ajay Kumar Ray, Faculty, Board of Studies in bringing out this valuable publication. 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

July, 2008.
New Delhi.

DIRECT TAXES / DIRECT TAX LAWS

AMENDMENTS AT A GLANCE – FINANCE ACT, 2008

S.No.	Particulars	Section
I	INCOME-TAX ACT, 1961	
1.	A. Rates of tax	
	B. Basic Concepts	
2.	Scope of definition of "agricultural income" expanded	2(1A)
3.	Scope of definition of charitable purpose restricted	2(15)
	C. Incomes which do not form part of total income	
4.	Exemption of income of a Sikkemese Individual	10(26AAA)
5.	Exemption of income of an Agricultural Produce Market Committee or Board	10(26AAB)
6.	Exemption of income of Coir Board	10(29A)
7.	Exemption of income received in a transaction of reverse mortgage	10(43) & 47
8.	Sunset clause for deductions under sections 10A and 10B to be deferred by one more year	10A & 10B
	D. Profits and gains of business or profession	
9.	Deduction of contribution made to an Indian company for scientific research	35(1)(iia) & 35(2AB)
10.	Benefit of deduction of post-commencement preliminary expenses extended to the service sector	35D
11.	Deduction of securities transaction tax paid	36(1)(xv), 40(a)(ib) & 88E
12.	Deduction of commodities transaction tax paid	36(1)(xvi)
13.	Amendment of provisions relating to disallowance of interest, commission, rent etc. payable to a resident for non-deduction of tax at source or non-payment of tax deducted	40(a)(ia)
14.	Aggregate of payments made otherwise than by account payee cheque/ account payee bank draft during a day to a person to be considered for the purpose of disallowance under section 40A(3)	40A(3)

15.	Depreciation provided in the books of account deemed to be depreciation actually allowed	Explanation 6 to section 43(6)
E. Capital Gains		
16.	No capital gains on conversion of Foreign Currency Exchangeable Bonds into shares or debentures in a company	47 & 49(2A)
17.	Increase in rate of tax in respect of short-term capital gains on transfer of equity shares or units of equity oriented fund on which securities transaction tax has been paid	111A & 115AD
F. Deductions from Gross Total Income		
18.	Inclusion of new instruments under section 80C	80C
19.	Deduction in respect of medical insurance premium	80D
20.	Restrictive clause for deduction in respect of refining of mineral oil	80-IB(9)
21.	Five year tax holiday to hospitals set up in areas other than excluded areas	80-IB(11C)
22.	Extension of five year tax holiday to hotels set up in the specified districts having a World Heritage Site	80-ID
G. Assessment of various entities		
23.	Deferred tax and dividend distribution tax to be added back for computation of book profit	115JB
24.	No double taxation of dividend in certain cases	115-O
H. Income-tax on fringe benefits		
25.	Relaxation of FBT provisions	115WB & 115WC
26.	Definition of "securities" for levy of FBT amended	115WB(1)
27.	FBT recovered by employer deemed as payment by employee	115WKB
I. Assessment Procedure		
28.	Advancement of due date of filing return of income and return of fringe benefits	115WD(1), 139(1) & 44AB
29.	Correction of arithmetic mistakes and adjustment of incorrect claim under sections 143(1) and 115WE	143(1) & 115WE

30.	Time limit for issue of notice for scrutiny	143(2) & 115WE(2)
31.	Assessing Officer also empowered to extend suo motu the period of furnishing of audit report	142(2C)
32.	Assessing Officer empowered to assess or reassess an income which is chargeable to tax and has escaped assessment other than the income involving matters which are the subject matter of any appeal, reference or revision	147
33.	Notice under section 148 need not be issued by the Joint Commissioner/ Commissioner/ Chief Commissioner himself	151
34.	Provision for assessment in the case of annulment of the proceeding under section 153A	153, 153A, 153B
35.	Intimation under section 143(1) deemed to be notice of demand	156
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36.	Person not deducting tax also deemed to be an assessee in default	191 & 201
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	K. Appeals and Revision	
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42.	Consequence of non-filing of appeal in respect of cases where the tax effect is less than the prescribed monetary limit	268A
	L. Penalties	
43.	Deemed satisfaction for initiation of penalty proceedings under section 271(1)(c)	271(1B)

44.	Power of Commissioner to grant immunity from penalty and prosecution	273AA & 278AB, 153 & 251
	M. Miscellaneous provisions	
45.	Authentication of notices and other documents	282A
46.	Deemed service of valid notice in certain circumstances	292BB
47.	Presumption as to ownership of assets, books of accounts found during search under section 132 extended to survey cases also	292C
II.	WEALTH-TAX ACT, 1957	
48.	Power of Commissioner to grant immunity from penalty and prosecution	18BA, 35GA, 17A & 23A
49.	Assessing Officer empowered to assess or reassess the net wealth which is chargeable to tax and has escaped assessment other than the net wealth which is the subject matter of any appeal, reference or revision	17(1)
50.	Notice under section 17 need not be issued by the Joint Commissioner / Commissioner/ Chief Commissioner himself	17(1B)
51.	Deemed satisfaction for initiation of penalty proceedings	18(1A)
52.	Deemed service of valid notice in certain circumstances	42
53.	Presumption as to ownership of assets, books of accounts found during search extended to assets, books of accounts which have been delivered to the Requisitioning Officer also.	42D

INDIRECT TAXES / INDIRECT TAX LAWS
AMENDMENTS AT A GLANCE – FINANCE ACT, 2008

S.No.	Particulars	Section
	CENTRAL EXCISE ACT, 1944	
1.	The scope of the term “excisable goods” expanded	2(d)
2.	Provisions introduced for excise duty on the basis of capacity of production in respect of notified goods	New section 3A
3.	The provisions applicable for refund of duty extended to refund of interest	11B
4.	Scope of section 11D expanded	11D(1A)
5.	Matter to be referred to the jurisdictional Chief Commissioner where the Committee of Commissioners of Central Excise differs in its opinion regarding the appeal against the order of Commissioner (Appeals)	35B(2)
6.	Matter to be referred to the Board where the Committee of Chief Commissioners of Central Excise differs in its opinion on the legality or propriety of the order passed in appeal by the Commissioner	35E
7.	Provisions of interest introduced for delayed refund of amount deposited under the proviso to section 35F	New section 35FF
	CENTRAL EXCISE TARIFF ACT, 1985	
1.	Lamination or lacquering to amount to manufacture	
2.	Definition of manufacture provided in notes aligned with the definition of manufacture provided in section 2(f)(iii) of the Central Excise Act, 1944	
	CUSTOMS ACT, 1962	
1.	Scope of section 28B expanded	28B(1A)
2.	The necessity for the gazetted officer of customs to be empowered by Central Government for summoning persons to give evidence and produce documents dispensed with	108(1)
3.	Maximum penalty prescribed under section 117 increased from Rs.10,000 to Rs.1,00,000	117
4.	Matter to be referred to the jurisdictional Chief Commissioner where the Committee of Commissioners of Customs differs in its opinion regarding the appeal against the order of Commissioner (Appeals)	129A(2)

5.	Matter to be referred to the Board where the Committee of Chief Commissioners of Customs differs in its opinion on the legality or propriety of the order passed in appeal by the Commissioner	129D(1)
6.	Provisions of interest introduced for delayed refund of amount deposited under the proviso to section 129E	New section 129EE
7.	Import or export of the goods in the customs area to be regulated in the prescribed manner	141
8.	Maximum penalty for contravention of rule or regulation increased to Rs.50,000	158(2)(ii)
	CHAPTER V AND VA OF THE FINANCE ACT, 1994 (SERVICE TAX)	
1.	7 new services brought under the service tax net	65
	(1) Services provided in relation to information technology software for use in the course, or furtherance, of business or commerce;	
	(2) Services provided in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme;	
	(3) Services provided by a recognised stock exchange in relation to securities;	
	(4) Services provided by a recognised association or a registered association (commodity exchange) in relation to sale or purchase of any goods or forward contracts;	
	(5) Services provided by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts;	
	(6) Services provided in relation to supply of tangible goods, without transferring right of possession and effective control of the tangible goods;	
	(7) Services provided in relation to internet telecommunication	
2.	Scope of following existing services amended	65
	1. Cargo handling service	
	2. Tour operator's service	
	3. Business auxiliary service	

4.	Renting of immovable property service		
5.	Foreign exchange broker's service		
6.	Banking and other financial services		
7.	Consulting engineer's service		
8.	Management, maintenance or repair service		
9.	Mandap keeper's service		
10.	Technical testing and analysis service		
11.	Technical inspection and certification services		
12.	Manpower recruitment agent's service		
13.	On-line information and database access and/or retrieval service		
14.	Scientific or technical consultancy service		
3.	The words "to any person" substituted for the words "to a client" in 22 services	65	
4.	The words "to any person" substituted for the words "to a customer" in 14 services	65	
5.	In case of associated enterprise, gross amount charged for the taxable service to include any amount credited or debited to any account of the person liable to pay service tax	67	
6.	A new scheme for submission of returns through service tax return preparers introduced	New section 71	
7.	Provisions for best judgement assessment introduced	New section 72	
8.	Specific penalty for specific contraventions introduced	77	
9.	Penalty for failure to pay service tax not to apply where penalty for suppressing value of taxable service is payable	78	
10.	Provisions of interest on delayed refund of pre-deposit made for the purpose of appeal introduced for service tax	83	
11.	Matter to be referred to the Board or jurisdictional Chief Commissioner where the Committee of Chief Commissioners of Excise or Committee of Commissioners of Excise differs in its opinion regarding the appeal against the order of Commissioner or Commissioner (Appeals) respectively	86	
12.	Central Government empowered to remove difficulties arising in implementing, classifying or assessing the value of any taxable service introduced by the Finance Act, 2008	95	