



## UPDATE ON INCOME TAX

### Amendments in Income Tax Ordinance, 1984



The Journal is running a series of updates on Income Tax issues. In this issue of THE COST & MANAGEMENT, Mr. Kamrul Hoque Maruf FCMA has taken the responsibility to give a reflection of recent updates on Income Tax Issues related to Tax Heaven and Offshore Banking. Mr. Maruf is presently working as Director (Deputy Secretary) Insurance Development and Regulatory Authority Ministry of Public Administration.

Finance act, 2017 has brought some changes in the Income Tax Ordinance, 1984. This paper will explain the changes.

#### **Section 52 :** Deduction from payment to Contractors:

With regard to deduction of tax from payment to contractors for execution of contract or supply of goods, proviso of sub-section (1) of section 52 has been replaced by the following:

- (a) the rate of tax shall be fifty percent (50%) higher if the payee does not have that twelve-digit Taxpayer's Identification Number at the time of making the payment;
- (b) tax shall not be deducted in respect of clause (b) of sub-section(1) in respect of the purchase of direct materials that constitute cost of sales or cost of goods sold of a trading company or a manufacturing company, as the case may be;
- (c) where any imported goods on which tax has been paid at source under section 53 is supplied, tax at source on the said supply shall be B-A, where  
A= the amount of tax paid under section 53,  
B= the amount of tax applicable under this section if no tax were paid under section 53.

#### **Section 52AA:** Deduction from the payment of certain services:

Payment made to a resident person on account of services, the following changes have been made in sub-section (1) of section 52AA:

"(1) Where any payment is to be made by a specified person to a resident person on account of a service as mentioned in this section, the person responsible for making the payment shall, at the time of making such payment, deduct income tax at the rate specified in the

Table below:

SL. No	Description of service and payment	Rate of deduction of tax	
		Where base amount does not exceed Tk. 25 lakh	Where base amount exceeds Tk. 25 lakh
1	Advisory or consultancy service	10%	12%
2	Professional service, technical services fee, or technical assistance fee	10%	12%
3	(i) <input type="checkbox"/> Catering service; (ii) <input type="checkbox"/> Cleaning service; (iii) <input type="checkbox"/> Collection and recovery service; (iv) <input type="checkbox"/> Private security service; (v) <input type="checkbox"/> Manpower supply service; (vi) <input type="checkbox"/> Creative media service; (vii) <input type="checkbox"/> Public relations service; (viii) <input type="checkbox"/> Event management service; (ix) <input type="checkbox"/> Training, workshop, etc. organization and management service; (x) <input type="checkbox"/> Any other service of similar nature- <input type="checkbox"/> (a) On commission or fee <input type="checkbox"/> (b) On gross bill amount	10% 1.5%	12% 2%
4	Media buying agency service <input type="checkbox"/> (a) On commission or fee <input type="checkbox"/> (b) On gross bill amount	10% 0.5%	12% 0.65%
5	Indenting commission	6%	8%
6	Meeting fees, training fees or honorarium	10%	12%
7	Mobile network operator, technical support service provider or service delivery agents engaged in mobile banking operations	10%	12%
8	Credit rating service	10%	12%
9	Motor garage or workshop	6%	8%
10	Private container port or dockyard service	6%	8%
11	Shipping agency commission	6%	8%
12	Stevedoring/berth operation commission	10%	12%
13	Transport service, carrying service, vehicle rental service	3%	4%
14	Any other service which is not mentioned in Chapter VII of the Income Tax Ordinance and is not service provided by any bank, insurance or financial institutions	10%	12%

If the amount for services mentioned in SL No. 3 and 4 of the Table shows both commission or fee and gross bill amount tax shall be the higher amount between (i) and (ii) where-

- (i) tax calculated on commission or fee applying the relevant rate in the table; and
- (ii)  $B \times C \times D$ , where
  - B = Gross bill amount
  - C = 10% for Sl. 3 and 3.5% for Sl. 4, and
  - D = rate of tax applicable on commission or fee:

The rate of tax shall be fifty percent (50%) higher if the payee does not have a twelve-digit Taxpayer's Identification Number at the time of making the payment:

Where the Board, on an application made in this behalf, gives certificate in writing that the person rendering such service is otherwise exempted from tax under any provision of this Ordinance, the payment referred to in this section shall be made without any deduction or with deduction at a lesser rate for that

income year.

**Section 52R:** Deduction of tax from receipts in respect of international phone call:

In case of deduction of tax from recipients in respect of international phone call a new subsection (2A) has been added which is as follows:

"(2A) Where any amount is paid or credited in respect of outgoing international calls, the provider of Interconnection Exchange (ICX) services or Access Network Services (ANS) shall deduct tax at the rate of seven point five percent (7.5%) on the whole amount so paid or credited at the time of such payment or credit";

**Section-53E:** Deduction or collection at source from commission, discount, fees, etc.

In case of deduction or collection at source from commission, discount, fees, etc section 53E will be replaced by the following:

(1) Any company making a payment or allowing an amount to a distributor, called by whatever name, or to any other person by way of commission, discount, fees, incentive or performance bonus or any other performance related incentive or any other payment or benefit of the similar nature for distribution or marketing of goods, shall deduct or collect tax at the time of payment or allowing the amount at the rate of ten percent (10%) of the amount of payment or the amount allowed or the value of benefits allowed, as the case may be.

(2) Any company making a payment in relation to the promotion of the company or its goods to any person engaged in the distribution or marketing of the goods of the company shall, at the time of payment, deduct tax at the rate of one point five percent (1.5%) of the payment.

(3) Any company, other than an oil marketing company, which sells goods to-

- (a) any distributor, or
- (b) any other person under a contract,

at a price lower than the retail price fixed by such company, shall collect tax from such distributor or such any other person at the rate of five percent (5%) on the amount equal to  $B \times C$ , where-

B = the selling price of the company to the distributor or the other person;

C = 5%:

Provided that a cigarette manufacturer company shall collect tax at the time of sale of its goods to such distributor or to such other person at the rate of three percent (3%) of the difference between the sale price to the distributor or the other person and the retail price fixed by such company.

(4) In this section-

- (a) "payment" includes a transfer, credit or an adjustment of payment;
- (b) "contract" includes an agreement or arrangement, whether written or not."

#### **Section 79 : Production of accounts and documents, etc.**

Section 79 will be replaced by the following:

(1) The Deputy Commissioner of Taxes may by notice in writing require an assessee, who has filed a return or to whom a notice has been issued to file a return, to produce or cause to be produced such accounts, statements, documents, data or electronic records, not being earlier than three years prior to the income year, as he may consider necessary for the purpose of auditor assessment under this Ordinance.

(2) The Deputy Commissioner of Taxes may specify in the notice that the accounts, statements, documents, data or electronic records or any part thereof shall be produced in such electronic form or by such electronic media as may be mentioned in the notice.

(3) The accounts, statements, documents, data or electronic records shall be produced on or before the date as may be specified in the notice.

(4) In this section

- (a) "return" includes a revised return or an

amended return;

(b) "data" includes "উপাত্ত" as defined in clause (10) of section 2 of (তথ্য ও যোগাযোগ প্রযুক্তি আইন, ২০০৬);

(c) "electronic record" and "electronic form" shall have the same meaning as assigned to "ইলেকট্রনিক রেকর্ড" and "ইলেকট্রনিক বিন্যাস" respectively in clauses (7) and (5) of section 2 of "তথ্য ও যোগাযোগ প্রযুক্তি আইন, ২০০৬"।

#### **Section-82BB: Universal Self Assessment**

Section 82BB of Income Tax Ordinance, 1984 will be replaced by the following:

(1) Where an assessee files a return of income mentioning twelve-digit Taxpayer's Identification Number (TIN) in compliance with the conditions and within the time specified in section 75 and pays tax in accordance with the provision of section 74, he shall be issued by the Deputy Commissioner of Taxes or any other official authorised by him, an acknowledgment of receipt of the return and such acknowledgment shall be deemed to be an order of assessment of the Deputy Commissioner of Taxes.

(2) The Deputy Commissioner of Taxes shall process the return filed under sub-section (1) in the following manner, namely:-

- (a) income shall be computed after making the adjustments in respect of any arithmetical error in the return or any incorrect claim which is apparent from the existence of any information in the return or in any statement or document filed therewith;
- (b) tax and any other amount payable under this Ordinance shall be computed on the basis of the income computed under clause (a); and
- (c) the sum, payable by or refundable to the assessee, shall be determined after giving credit of the sum paid by way of advance tax including the tax paid at source and the tax paid under this Ordinance.

(3) Where the process of return results in a difference in the amount of income, tax or other material figures than the amount mentioned in the return filed under sub-section (1), the Deputy Commissioner of Taxes shall serve a notice to the assessee-

- (a) communicating him about the difference and enclosing with the notice a sheet of

computation of income, tax, refund or other related particulars that resulted from the process of return;

(b) giving him an opportunity to explain his position in writing within the time specified in the notice where the process of return results in additional liability or in reduction of refund, as the case may be; and

(c) giving him an opportunity to-

(i) file an amended return, in the applicable cases, within the time specified in the notice, addressing the difference mentioned in the notice; and

(ii) pay, within the time specified in the notice, the tax and any other amount that becomes payable as a result of the process;

(4) Where a notice under sub-section (3) is served, the Deputy Commissioner of Taxes shall

(a) send a letter of acceptance of amended return within sixty days where all of the following conditions are fulfilled

(i) an amended return is filed in accordance with the provision of clause (c) of sub-section (3);

(ii) any tax or any other amount, payable under this Ordinance as a result of the process, has been paid on or before the submission of the amended return; and

(iii) the difference mentioned in sub-section (3) has been duly resolved in the return;

(b) serve, after the expiry of the date of response of the assessee as mentioned in the notice under sub-section(3), a notice of demand along with a sheet of computation of income, tax, refund or other related particulars where any of the conditions mentioned in clause (a) is not fulfilled:

A notice of demand shall be served within six months from the date of serving notice under sub-section (3).

(5) Where, after filing the return under sub-section (1), the assessee finds that owing to any unintentional mistake the tax or any other amount payable under this Ordinance has been paid short or computed short by reasons of under reporting of income or Over-reporting of rebate, exemption or credit or for any other reasons, he may file to the Deputy Commissioner of Taxes an amended

return-

(a) attaching with the amended return a written statement mentioning the nature and the reason for the mistake;

(b) paying in full, on or before filing the amended return -

(i) the tax and any other amount that was paid short or computed short; and

(ii) an interest at the rate of two percent (2%) per month on the amount mentioned in sub-clause (i);

and if the Deputy Commissioner of Taxes is satisfied that the amended return is filed in compliance with the conditions mentioned in clause (a) and (b), he may allow the amended return:

No amended return shall be allowed

(a) after the expiry of one hundred and eighty days from the date of filing the original return under sub-section (1); or

(b) after the original return has been selected for audit under sub-section (7).

(6) No notice under sub-section (3) shall be served after the expiry of twelve months from the date of the submission of return under sub-section (1) or amended return under sub-section (5), as the case may be.

(7) The Board or any authority subordinate to the Board, if so authorised by the Board in this behalf, may select, in the manner to be determined by the Board, a number of returns filed under subsection(1) or of amended returns accepted under clause (a) of subsection(4) or of amended returns allowed under sub-section (5), and refer the same to the Deputy Commissioner of Taxes for the purpose of audit:

A return filed or an amended return accepted or allowed under this section shall not be selected for audit where

(a) such return or amended return shows at least fifteen percent (15%) higher total income than the total income assessed in the immediately preceding assessment year; and

(b) such return or amended return

(i) is accompanied by corroborative evidence in support of income exempted from tax;

(ii) is accompanied by a copy of bank statement or account statement, as the case may be, in support of any sum or aggregate of sums of loan exceeding taka five lakh taken other than from a bank or financial institution;

(iii) does not show the receipt of gift during the year;

(iv) does not show any income which is subject to tax exemption or reduced tax rate under section 44; or

(v) does not show or result any refund.

(8) Where after conducting the audit the Deputy Commissioner of Taxes is satisfied that the affairs of the assessee has not been duly reflected in the return or the amended return or in statements and documents submitted therewith, he shall communicate the findings of the audit to the assessee and serve a notice requiring him to file a revised return reflecting the findings of the audit, and pay tax and any other applicable amount on the basis of the revised return on or before the filing of such revised return.

(9) Where a revised return is filed and the Deputy Commissioner of Taxes is satisfied that the findings of audit has been duly reflected in the revised return and the tax and any other applicable amount have been fully paid in compliance with the provision of sub-section (8), he may accept the revised return and issue a letter of acceptance to the assessee.

(10) Where after the service of notice under sub-section (8) no revised return is filed or the revised return that has been filed does not reflect the findings of the audit, or tax or other applicable amount has not been paid in compliance with the provisions of sub-section (8), the Deputy Commissioner of Taxes shall proceed to make assessment under section 83 or 84, which ever is applicable.

(11) In the case of a return submitted under sub-section (1), no question as to the source of initial capital of the business or profession of a new assessee shall be raised, if the assessee

(a) shows income which exceeds the tax exemption threshold and which is not less than twenty percent (20%) of the initial capital invested in the business or profession;

(b) pays tax on such income at regular tax rate along with any other applicable amount on or before filing of return; and

(c) mentions in writing that the return falls under this subsection.

(12) In the case of a return for which the provision of subsection(11) applies, the minimum amount of capital maintained in the business or profession at the end of the income year and four subsequent income years shall be equal to the initial capital; and any amount of shortfall of the capital in any income year shall be deemed as "income from business or profession" for that income year and shall be included in total income of the assessee.

(13) For the purpose of this section-

(a) a return includes any statement required to be filed under section 80;

(b) "an incorrect claim which is apparent from the existence of any information in the return or in any statement or document filed therewith" shall mean a claim, on the basis of an entry, in the return or in the statement or document submitted with the return-

(i) of an item, which is inconsistent with another entry of the same, or some other item, in such return, statement or document; or

(ii) in respect of a deduction, exemption, rebate or credit, where such deduction, exemption, rebate or credit exceeds the specified statutory limit which may have been expressed as monetary amount, percentage, ratio or fraction;

(c) "regular tax rate" means the rate of tax that would be applicable if the tax exemption or the reduced rate were not granted;

(d) in calculating fifteen percent (15%) higher total income, the income from the sources that are common between the assessment years for which the return under sub-section (1) has been filed and the immediately preceding assessment year shall be considered." 