

ICMAB CPD Program:

Pre-Budget Discussion on National Budget for 2016-2017

ICMAB TAX PROPOSALS FOR 2016-2017 BUDGET

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ICMAB TAX PROPOSALS FOR 2016-2017 BUDGET

- ICMAB submitted 27 proposals to NBR for the National Budget 2016-2017 on 22 April 2016
- 26 proposals are on Income Tax
- 01 proposal is on Value Added Tax (VAT)
- ICMAB President attended a formal program of NBR to disseminate these proposals on May 4, 2016.
- This presentation is on those tax proposals.

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
1.	Current tax exemption limit for individual tax payers is Tk. 250,000.	Tax exemption limit for individual tax payers may be increased to Tk. 300,000.	Considering significant pay rise in the new pay scale and increase of cost of living index it is necessary to increase the exemption limit to some reasonable level in light with the realities.
2.	All non-listed foreign banks are subject to income tax @ 42.50%.	Branches of Foreign banks may be taxed @ 5% higher (i.e. 45%) than tax payable by non-listed locally incorporated banks (i.e. 40%).	This will encourage foreign banks to get incorporated in Bangladesh and listed on the stock exchanges. Further, this will generate immediate higher revenue for the Government.

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
3.	No separate tax rate for export cash subsidy	<ul style="list-style-type: none">- A separate tax rate @ 5% on cash subsidy may be prescribed;- TDS rate on cash incentive may be increased to 5% from 3% amending Section 53 DDD	<ul style="list-style-type: none">- Tax rate on cash subsidy should be same as TDS rate on such payment; If tax rate is higher than TDS rate than computation of income under section 82C(4) become much lower than actual cash subsidy receipt thus attracts additional income under section 82C(6) which do not match with intention of the law to treat the TDS as final discharge of tax liability.- A separate tax rate on cash subsidy can easily address this crucial problem;- Revenue will increase by increasing the TDS rate

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
4.	Rates of income tax are applied on retroactive basis. (For example, tax rates of Finance Act 2016 are applicable for the assessment year 2016-17 as well as for collection of advance tax in financial year 2016-17).	Rates of income tax may be applied on prospective basis. (For example, tax rates of Finance Act 2016 may be applicable for the assessment year 2017-18; but collection of advance tax in financial year 2016-17 may be based on Finance Act 2015).	Under the present situation it is very difficult to pay 75% advance tax during the income year due to absence of actual rate of tax (which would be known at the end the income year - approval of Finance Act on 30 June). This proposal if accepted would allow assesses, specially large tax payers, to plan and pay advance income tax, as required by law, on time.

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
5.	Section 2(48) "principal officer" used with reference to a local authority, a company, any other public body or any association of persons, includes- (a) managing director, manager, secretary, treasurer, agent or accountant (by whatever designation known), or any officer responsible for management of the affairs, or of the accounts, of the authority, company, body or association;	In section 2(48), in clause (a) after the words, "managing director", the words and comma, chief executive officer, chief financial officer" may be inserted.	These designations have become common now a day in most of the companies. This change may be made to cope up with the prevailing title of the higher executives.

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
6.	Section 19(28) Where an assessee, being an individual, receives any sum exceeding taka five lakh as loan or gift by crossed cheque or by bank transfer under the head income from income from other sources.	In section 19(28), at the end, a proviso may be inserted as follows: Provided that where an assessee receives a gift from his/her parent(s), spouse, son or daughter provisions of this sub-section shall not be applicable to the extent of such gift.	Firstly, as per Gift-tax Act 1990, gift amongst relations (parents, spouses, sons and daughters) are not taxable. Secondly, it is impractical to expect that transactions amongst close relations will always take place in cheques or bank transfers. In case of property acquisition, payment made from one spouse account but assets are registered in the name of other spouse.

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
7.	Section 29 does not have specific provision regarding Workers Profit Participation Fund to be an allowable expenditure.	After clause (xxvi) of Sub-section (1) of Section 29, a clause (xxviiia) may be inserted allowing any payment made to the Workers Profit Participation Fund in accordance with the provision of Labour Act, 2006 as tax deductible expenses	Although Section 29(1) (xxvii) allows expenses incurred wholly and exclusively for the purpose of business as allowable expense, in many cases tax officials do not allow Workers Profit Participation Fund payment due to absence of a clear provision in law. This is a compulsory payment under the Labour Act and must be an allowable expense

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
8.	<p>Section 43(4) In computing total income of any individual for the purpose of assessment, there shall be included-</p> <p>(a) so much of income.....</p> <p>(i)</p> <p>(ii)</p> <p>(iii)</p> <p>(iv)</p> <p>(b)</p>	<p>In section 43(4), after clause (b), a new clause (c) may be inserted as follows:</p> <p>"(c) any income of spouse or minor children from any source including investment in savings instruments, government or corporate securities, stocks, shares, bonds or debentures, bank deposits, or any other deposits or investments in any assets.</p> <p><u>Provided</u> that provisions of this sub-section shall not be applicable in cases where spouse submits return of income separately".</p>	<p>It is necessary to clearly specify in the law that all income from property and investments in the name of minor children and spouse are taxable. It is also necessary to specify clearly that these income will not be includible if the spouse submits return separately.</p>

A. PROPOSALS ON INCOME TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
9.	Section 52A. Deduction at source from fees for professional and technical services. --- (3) Tax at source is deductible at an uniform rate of 10%/15% from all persons- individuals and corporate bodies.	In section 52A, in sub-section (3) in clause (a) and clause (b) after the word, "person" the words, "is an individual" may be inserted. After clause (b), a new clause (c) may be inserted, namely- "(c) five percent of such fees where the person is a corporate body receiving such fees."	There should be difference in tax rate between individuals and corporate bodies. In case of individuals, the entire fee is his income, whereas, in case of corporate bodies, a major portion (about 60% to 80%) is required to be spent in hiring consultancy or technical services from individuals.

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change						
10.	In Section 52AA, no TDS rate is prescribed for 'Internet Services' and 'Courier Services'	3% tax deduction may be imposed on internet services or Courier Services by inserting these two items after 'transport provider' in Sl. No-18 of the table prescribing the tax deduction rates in section 52AA.	More services to be included under tax deduction net, thus tax revenue will increase.						
11.	15% TDS on Freight Forwarding Commission under Section 52M; No TDS where freight forwarding is conducted under contractual price not as commission	<p>(a) After Sl. No. 18 of the table prescribing the tax deduction rates in section 52AA sl. 18A may be inserted as follows:</p> <p>Freight Forwarding:</p> <table style="margin-left: 40px;"> <tr> <td>Commission</td> <td>....</td> <td>15%</td> </tr> <tr> <td>Gross Receipts</td> <td>....</td> <td>0.25%</td> </tr> </table> <p>(b) Section 52M needs to be deleted</p>	Commission	15%	Gross Receipts	0.25%	<p>-TDS needs to be introduced on total Freight forwarding payment when it is not done on Commission basis;</p> <p>-Where possible, TDS on services needs to be consolidated in one Section for simplicity purpose</p> <p>-Revenue will increase significantly</p>
Commission	15%							
Gross Receipts	0.25%							

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
12.	<p>Section 83AAA. Assessment on the basis of a report of a chartered accountant.</p> <p>--- Currently only the Chartered Accountants are referred to regarding assessment on the basis of report by an Accountant.</p>	<p>Heading of section 83AAA may be substituted by the words, "Assessment on the basis of a professional accountant". And in the section, the words, "chartered accountant" wherever occurring shall be substituted by the words, "chartered accountant or cost and management accountant".</p>	<p>Both the Chartered Accountants and the Cost and Management Accountants are equally qualified on taxation laws and recognized in the Income tax Ordinance 1984; but Cost and Management Accountants are inadvertently omitted in this Section.</p> <p>Therefore, Cost and Management Accountants should also be included in this section regarding assessment on the basis of report by an Accountant.</p>

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
13.	E-TIN certificate is mandatory for registration of land, building or an apartment situated within any city corporation or any paurashava of a district headquarter, deed value of which exceeds one lakh taka under Clause (f) of Section 184A (1).	This limit should be increased to five lakh taka from one lakh taka	<p>-One lakh taka is insignificant amount of money. Even in most of the villages of the country it is very difficult to buy one decimal land with taka one lakh.</p> <p>-A person who buys a piece of land by disposing off his own land by such small amount of money might not have taxable income in his life. Thus creating a TIN for such person only for registration purpose of a tiny piece of land becomes a life-long burden for him.</p> <p>-Registration of land would increase thus tax revenue will also increase.</p>

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
14.	Section 184A(1)(ff): Provisions of clause (f) shall not apply in case of registration for purchase of land, building or an apartment situated within any city corporation, by a non-resident Bangladeshi;	Provisions of clause (f) shall not apply in case of registration for purchase of land, building or an apartment situated within any city corporation or any paurashava of a district headquarter by a non-resident Bangladeshi;	Clause (f) of Sub-section (1) of Section 184A is applicable to both City Corporation and District Headquarter Paurashava areas. Erroneously the words 'any Paurashava of a districts headquarter' has been omitted in Clause (ff), which needs to be corrected

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
15.	<p>Third Schedule, Para 10A. Amortization of license fees.</p> <p>-- Currently amortization of license fees paid by the tele-communication business is allowed as admissible expense.</p>	<p>Amortization of intangible assets may also be considered as allowable deduction.</p>	<p>This is a genuine business expense expended wholly and exclusively for the purpose of business and should be considered as an admissible expense.</p>

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
16.	Tax rate for dividend: Company 20% Other than company ... TDS @ 10% or 15% and exemption up to Tk. 25,000.	Tax rate for dividend: Company 20% Other than company ... 15%	<ul style="list-style-type: none">- Distortionary dividend taxation for non-corporate shareholders- Share-market participants affected by lack of proof for TDS on dividend income- Share-market will be benefitted by eliminating hassles and implication for tax revenue will be positive for the government

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
17.	Section 159(6): Time limit of 6 (six) months from the end of appealing month for disposal of appeal by the Tribunal becomes a constraint when the members of a Bench give conflicting verdict at a moment just before the end of prescribed 6 months.	Section 159(6): In a case where the members of a Bench give conflicting verdict, then additional 60 (sixty) days should be allowed for disposing this appeal.	- Appointment of a new member under section 13(3) and new hearing in the extended Bench require additional time

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
18.	Section 53P: TDS @ 15% on signing money received from developer is not a final discharge of tax liability under section 82C	Section 53P: TDS @ 15% on signing money received from developer should be treated as a final discharge of tax liability under section 82C	<ul style="list-style-type: none">- Its nature is of “Capital Gain”, where maximum tax rate is 15%.- It will reduce hassle of taxpayers.
19.	Section 2(45)(i): In the definition of “perquisite”, there are words “not exceeding ten percent of disclosed profit of relevant income year”	Section 2(45)(i): from the definition of “perquisite”, words “not exceeding ten percent of disclosed profit of relevant income year” should be deleted	<ul style="list-style-type: none">- Same issue already addressed in section 30(i) as a disallowance.

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
20.	No definition in section 2 on “technical know how fee”	Definition on “technical know how fee” should be included in section 2	<ul style="list-style-type: none"> - Under section 52A(2), TDS @ 10% is applicable on “technical know how fee”, which is a settled tax under section 82C. - Under section 52A(3), TDS @ 10% (if eTIN) or @ 15% (if no eTIN) is applicable on “fees for technical services”, which is not a settled tax under section 82C. - A clear definition can remove the ambiguity.
21.	Advance tax issue under section 64(2): ... “Capital gains” excluding gain from transfer of share of a company listed with a stock exchange	Advance tax issue under section 64(2): ... words “excluding gain from transfer of share of a company listed with a stock exchange” should be deleted	<ul style="list-style-type: none"> - Capital gain is excluded from advance tax due to uncertainty; capital gain from share market is more uncertain. - Capital market will be benefitted.

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
22.	Interest calculation on unpaid advance tax issue under section 73(2): ... in case failure to pay advance tax, interest calculation starts from 1 st April of previous year (i.e., before 2.5 months)	Interest calculation on unpaid advance tax issue under section 73(2): ... in case failure to pay advance tax, interest calculation should start from 1 st July of relevant year in place of 1 st April of previous year	- This will eliminate inconsistency.
23.	Section 82BB(4): last word here is “income”	Section 82BB(4): last word here should be “return”	- It’s an error.

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
24.	Section 52A(3): TDS on fees for professional service is not a settled tax under section 82C	Section 52A(3): TDS on fees for professional service should be a settled tax under section 82C	<ul style="list-style-type: none">- Normal assessment creates refund in many cases, which will be stopped.- Assessment will be easier.
25.	Section 94(1): There is no provision on assessment on the basis of revised return under section 78	Section 94(1): There should be a provision on assessment on the basis of revised return under section 78	<ul style="list-style-type: none">- Difficulty is assessment will be eliminated.

A. PROPOSALS ON INCOME TAX

Sl.	Existing Provision	ICMAB Proposal	Reason for Change
26.	Taxes Appellate Tribunal (Procedure) Rules, 1985 Sub-rule (1) and sub-rule (2) of Rule 7: In case of presentation of a memorandum of appeal to the Tribunal, it may be done directly or by post	Taxes Appellate Tribunal (Procedure) Rules, 1985 Sub-rule (1) and sub-rule (2) of Rule 7: Along with presentation directly or by post, online submission may be added.	<ul style="list-style-type: none">- Time and cost will be saved.- Digital Tribunal formation will be facilitated.

B. PROPOSALS ON VALUE ADDED TAX

Sl. No	Existing Provision	ICMAB Proposal	Reason for Change
1.	Uniform VAT rate @ 15% proposed in the new VAT law	VAT rate should not be more than 10%	<ul style="list-style-type: none">-Presently, truncated VAT rates ranging from 3% to 9% are applicable for many goods and services which will be increased to 15% and shall be burdensome for the taxpayers-Taxpayers may be seriously encouraged to go for misreporting of turnover to avoid the tax burden-10% VAT rate across the board shall ensure desired revenue collection and will encourage the taxpayers for voluntary compliance

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Thank You