

31. Section 88C of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 88C.
32. Section 88D of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006. Omission of section 88D.
- 5 33. In section 112 of the Income-tax Act, in sub-section (1), in the proviso occurring below clause (d), after the words "being listed securities or unit", the words "or zero coupon bond" shall be inserted with effect from the 1st day of April, 2006. Amendment of section 112.
34. In section 115A of the Income-tax Act, in sub-section (1), in clause (b) with effect from the 1st day of April, 2006,— Amendment of section 115A.
- 10 (i) in sub-clause (A), for the words, figures and letters "agreement made after the 31st day of May, 1997", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005" shall be substituted;
- (ii) after sub-clause (A), the following sub-clause shall be inserted, namely:—
- 15 "(AA) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of ten per cent. if such royalty is received in pursuance of an agreement made on or after the 1st day of June, 2005;"
- (iii) in sub-clause (B), for the words, figures and letters "agreement made after the 31st day of May, 1997; and", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005;" shall be substituted;
- 20 (iv) after sub-clause (B), the following sub-clause shall be inserted, namely:—
- "(BB) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of ten per cent. if such fees for technical services are received in pursuance of an agreement made on or after the 1st day of June, 2005; and".
- 25 35. In section 115JAA of the Income-tax Act, with effect from the 1st day of April, 2006,— Amendment of section 115JAA.
- (a) after sub-section (1), the following sub-section shall be inserted, namely:—
- 30 "(1A) Where any amount of tax is paid under sub-section (1) of section 115JB by an assessee, being a company for the assessment year commencing on the 1st day of April, 2006 and any subsequent assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.";
- (b) in sub-section (2), for the words, brackets, figures and letters "under sub-section (1) of section 115JA", the words, brackets, figures and letters "under sub-section (1) of section 115JA or under sub-section (1) of section 115JB, as the case may be," shall be substituted.
- 35 36. In section 115VD of the Income-tax Act, clause (vii) shall be omitted with effect from the 1st day of April, 2006. Amendment of section 115VD.
37. After Chapter XIIG of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2006, namely: — Insertion of new Chapter XII-H.

#### ‘CHAPTER XII-H

##### INCOME-TAX ON FRINGE BENEFITS

#### 40 A.—*Meaning of certain expressions*

115W. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "employer" means,—

45 (i) an individual or a Hindu undivided family engaged in a business or profession, the profits and gains whereof are assessable to income-tax under the head "Profits and gains of business or profession";

- (ii) a company;
  - (iii) a firm;
  - (iv) an association of persons or a body of individuals, whether incorporated or not;
  - (v) a local authority; and
  - (vi) every artificial juridical person, not falling within any of the preceding sub-clauses; 5
- (b) "fringe benefit tax" or "tax" means the tax chargeable under section 115WA.

*B.—Basis of charge*

Charge of fringe benefit tax. 115WA. (1) In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent. on the value of such fringe benefits. 10

(2) Notwithstanding that no income-tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer. 15

Fringe benefits.

115WB. (1) For the purposes of this Chapter, "fringe benefits" means—

(a) any privilege, service, facility or amenity, directly or indirectly, provided by an employer to his employees (including former employee or employees) by reason of their employment; or

(b) any reimbursement, directly or indirectly, made by the employer to his employees for any purpose; 20

(c) any free or concessional ticket provided by the employer for private journeys of the employees and their family members; and

(d) any contribution by the employer to an approved superannuation fund.

(2) The fringe benefits shall be deemed to have been provided if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains), incurred any expense on or made any payment for, the following purposes, namely:— 25

(A) entertainment;

(B) festival celebrations;

(C) gifts; 30

(D) use of club facilities;

(E) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade, but does not include expenditure on or payment for, food or beverages provided by the employer to his employees in office or factory; 35

(F) maintenance of any accommodation in the nature of guest house;

(G) conference;

(H) employee welfare;

(I) use of health club, sports and similar facilities; 40

(J) sales promotion including publicity;

(K) conveyance, tour and travel including foreign travel;

(L) hotel, boarding and lodging;

(M) repair, running and maintenance of motorcars;

(N) repair, running and maintenance of aircrafts; 45

(O) consumption of fuel other than industrial fuel;

(P) use of telephone;

(Q) scholarship to the children of the employees;

(3) For the purposes of sub-section (1), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee under Chapter IV or any benefit or amenity in the nature of free or subsidised transport or any such allowance provided by the employer to its employees for journeys by the employees from their residence to the place of work or such place of work to the place of residence.

115WC. (1) For the purposes of this Chapter, the value of fringe benefits shall be the aggregate Value of fringe benefits.  
of the following, namely:—

(a) cost at which the benefits referred to in clause (c) of sub-section (1) of section 115WB, is provided by the employer to the public as reduced by the amount, if any, paid or recovered from his employee or employees:

Provided that in a case where the expenses of the nature referred to in clause (c) of sub-section (1) of section 115WB are included in any other clause of sub-section (2) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (c) for computing the value of fringe benefits;

(b) actual amount of contribution referred to in clause (d) of sub-section (1) of section 115WB;

(c) fifty per cent. of the expenses referred to in clauses (A) to (D) of sub-section (2) of section 115WB;

(d) fifty per cent. of the expenses referred to in clause (E) of sub-section (2) of section 115WB:

Provided that in the case of an employer engaged in the business of hotel, the provisions of this clause shall have effect as if for the words "fifty per cent.", the words "five per cent." had been substituted;

(e) fifty per cent. of the expenses referred to in clauses (F) to (J) of sub-section (2) of section 115WB;

(f) twenty per cent. of the expenses referred to in clauses (K) and (L) of sub-section (2) of section 115WB;

(g) twenty per cent. of the expenses referred to in clauses (M) and (N) of sub-section (2) of section 115WB:

Provided that in the case of an employer engaged in the business of carriage of passengers or goods either by motor car or by aircraft, as the case may be, the provisions of this clause shall have effect as if for the words "twenty per cent.", the words "five per cent." had been substituted.

*Explanation.*—For the purposes of calculating twenty per cent. of the expenses referred to in clauses (M) and (N) of sub-section (2) of section 115WB, the depreciation on motor cars and aircrafts referred to in the said clauses shall be included, in the fringe benefits;

(h) twenty per cent. of the expenses referred to in clause (O) of sub-section (2) of section 115WB:

Provided that in the case of an employer engaged in the business of carriage of passengers or goods, the provisions of this clause shall have effect as if for the words "twenty per cent.", the words "five per cent." had been substituted;

(i) ten per cent. of the expenses referred to in clause (P) of sub-section (2) of section 115WB; and

(j) actual amount incurred in providing scholarship referred to in clause (Q) of sub-section (2) of section 115WB.

*C.—Procedure for filing of return in respect of fringe benefits, assessment and payment of tax in respect thereof*

115WD. (1) Without prejudice to the provisions contained in section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

*Explanation.*—In this sub-section, "due date" means,—

(a) where the employer is—