

(i) a company; or

(ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force,

the 31st day of October of the assessment year;

(b) in the case of any other employer, the 31st day of July of the assessment year. 5

(2) In the case of any employer who, in the opinion of the Assessing Officer, is responsible for paying fringe benefit tax under this Act and who has not furnished a return under sub-section (1), the Assessing Officer may, after the due date, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice, the return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed. 10

(3) Any employer responsible for paying fringe benefit tax who has not furnished a return within the time allowed under sub-section (1) or within the time allowed under a notice issued under sub-section (2), may furnish the return for any previous year, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. 15

(4) If any employer, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. 20

Assessment. 115WE. (1) Where a return has been made under section 115WD,—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and 25

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him: 30

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

(2) Where a return has been furnished under section 115WD, the Assessing Officer shall, if he considers it necessary or expedient to ensure that the assessee has not understated the value of fringe benefits or has not underpaid the tax in any manner, serve on the assessee a notice requiring him on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return: 35

Provided that no notice under this sub-section shall be served on the assessee after the expiry of twelve months from the end of the month in which the return is furnished. 40

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the value of the fringe benefits paid or payable by the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment. 45

(4) Where a regular assessment under sub-section (3) or section 115WF is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment; 50

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so

refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

115WF. (1) If any person, being an employer—

Best
judgment
assessment.

5 (a) fails to make the return required under sub-section (1) of section 115WD and has not made a return under sub-section (3) or a revised return under sub-section (4) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) of section 115WD or fails to comply with a direction issued under sub-section (2A) of section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 115WE,

10 the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the fringe benefits to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment:

15 Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice as to why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (2) of section 115WD has been issued prior to the making of an assessment under this section.

20 115WG. If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year, he may, subject to the provisions of sections 115WH, 150 and 153, assess or reassess such fringe benefits and also any other fringe benefits chargeable to tax which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section, for the assessment year concerned (hereafter referred to as the relevant assessment year).

Fringe benefits
escaping
assessment.

Explanation.—For the purposes of this section, the following shall also be deemed to be cases where fringe benefits chargeable to tax have escaped assessment, namely:—

(a) where no return of fringe benefits has been furnished by the assessee;

30 (b) where a return of fringe benefits has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the value of fringe benefits in the return;

(c) where an assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

35 115WH. (1) Before making the assessment or reassessment under section 115WG, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period as may be specified in the notice, a return of the fringe benefits in respect of which he is assessable under this Chapter during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Chapter shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 115WD.

Issue of notice
where fringe
benefits have
escaped
assessment.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

(3) No notice under sub-section (1) shall be issued for the relevant assessment year after the expiry of six years from the end of the relevant assessment year.

45 *Explanation.*—In determining fringe benefits chargeable to tax which have escaped assessment for the purposes of this sub-section, the provisions of the *Explanation* to section 115WG shall apply as they apply for the purposes of that section.

50 (4) In a case where an assessment under sub-section (3) of section 115WE or section 115WG has been made for the relevant assessment year, no notice shall be issued under sub-section (1) by an Assessing Officer, after the expiry of four years from the end of the relevant assessment year,

unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

Payment of fringe benefit tax.	115WI. Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of section 115WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that financial year, such fringe benefits being hereafter in this Chapter referred to as the "current fringe benefits".	5
Advance tax in respect of fringe benefits.	115WJ. (1) Every assessee who is liable to pay advance tax under section 115W-I, shall on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (2). (2) The amount of advance tax payable by an assessee in the financial year shall be thirty per cent. of the value of the fringe benefits referred to in section 115WC, paid or payable in each quarter and shall be payable on or before the 15th day of the month following such quarter: Provided that the advance tax payable for the quarter ending on the 31st day of March of the financial year shall be payable on or before the 15th day of March of the said financial year. (3) Where an assessee, has failed to pay the advance tax for any quarter or where the advance tax paid by him is less than thirty per cent. of the value of fringe benefits paid or payable in that quarter, he shall be liable to pay simple interest at the rate of one per cent. on the amount by which the advance tax paid falls short of, thirty per cent. of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.	10
Interest for default in furnishing return of fringe benefits.	115WK. (1) Where the return of fringe benefits for any assessment year under sub-section (1) or sub-section (3) of section 115WD or in response to a notice under sub-section (2) of that section, is furnished after the due date, or is not furnished, the employer shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,— (a) where the return is furnished after the due date, ending on the date of furnishing of the return; or (b) where no return has been furnished, ending on the date of completion of the assessment under section 115WF, on the amount of the tax on the value of fringe benefits as determined under sub-section (1) of section 115WE or regular assessment as reduced by the advance tax paid under section 115WJ. <i>Explanation 1.</i> —In this section, "due date" means the date specified in the <i>Explanation</i> to sub-section (1) of section 115WD as applicable in the case of the employer. <i>Explanation 2.</i> —Where, in relation to an assessment year, an assessment is made for the first time under section 115WG, the assessment so made shall be regarded as a regular assessment for the purposes of this section. (2) The provisions contained in sub-section (2) to sub-section (4) of section 234A shall, so far as may be, apply to this section.	25
Application of other provisions of this Act.	115WL. Save as otherwise provided in this Chapter, all other provisions of this Act shall, as far as may be, apply in relation to fringe benefits also.	40
Amendment of section 119.	38. In section 119 of the Income-tax Act, in sub-section (2), in clause (a), with effect from the 1st day of April, 2006,— (i) for the word, figures and letters "sections 115P, 115S", the word, figures and letters "sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK" shall be substituted; (ii) for the words "any class of incomes", the words "any class of incomes or fringe benefits" shall be substituted.	45
Amendment of section 124.	39. In section 124 of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2006,— (i) in clause (a),—	

(A) for the words, brackets and figures “under sub-section (1) of section 139”, the words, brackets, figures and letters “under sub-section (1) of section 115WD or under sub-section (1) of section 139” shall be substituted;

5 (B) for the words, brackets and figures “sub-section (2) of section 143”, the words, brackets, figures and letters “sub-section (2) of section 115WE or sub-section (2) of section 143” shall be substituted;

10 (ii) in clause (b), for the words, brackets and figures “sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144”, the words, brackets, figures and letters “sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144” shall be substituted.

40. In section 139 of the Income-tax Act,—

Amendment of section 139.

(a) in sub-section (1), with effect from the 1st day of April, 2006,—

15 (i) in clause (a), for the word “company”, the words “company or a firm” shall be substituted;

(ii) in clause (b), for the words “other than a company”, the words “other than a company or a firm” shall be substituted;

(iii) in the first proviso,—

(A) clause (iii) shall be omitted;

20 (B) in clause (v), the word “or” shall be inserted at the end;

(C) after clause (v), the following clause shall be inserted, namely:—

“(vii) has incurred an expenditure of fifty thousand rupees or more towards consumption of electricity.”;

(iv) in the third proviso, for the word “company”, the words “company or a firm” shall be substituted;

25 (v) after the third proviso, the following proviso shall be inserted, namely:—

30 “Provided also that every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the provisions of section 10A or section 10B or section 10BA or Chapter VI-A exceeded the maximum amount which is not chargeable to income tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.”;

35 (b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), for the words, figures and letters “before the 1st day of April, 2005”, the words, figures and letters “before the 1st day of April, 2006” shall be substituted.

41. In section 139A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006,—

Amendment of section 139A.

40 (a) in clause (iii), for the words, brackets, figures and letter “sub-section (4A) of section 139”, the following shall be substituted, namely:—

“sub-section (4A) of section 139; or

(iv) being an employer, who is required to furnish a return of fringe benefits under section 115WD.”;

45 (b) in sub-section (7), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that any person, who has been allotted a permanent account number under any clause other than clause (iv) of sub-section (1),

shall not be required to obtain another permanent account number and the permanent account number already allotted to him shall be deemed to be the permanent account number in relation to fringe benefit tax.”.

Amendment of section 140. **42.** In section 140 of the Income-tax Act, in the opening portion, for the words and figures “under section 139”, the words, figures and letters “under section 115WD or section 139” shall be substituted with effect from the 1st day of April, 2006. 5

Amendment of section 140A. **43.** In section 140A of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1), for the word and figures “section 139”, the words, figures and letters “section 115WD or section 115WH or section 139” shall be substituted;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:— 10

“(1A) For the purposes of sub-section (1), interest payable,—

(i) under section 234A shall be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source;

(ii) under section 115WK shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid, if any.”; 15

(c) in sub-section (2), for the word and figures “section 143”, the words and figures “section 115WE or section 115WF or section 143” shall be substituted;”.

Amendment of section 142. **44.** In section 142 of the Income-tax Act, in sub-section (1), for the words, figures, letters and brackets “under section 139 or in whose case the time allowed under sub-section (1) of that section”, the words, figures, letters and brackets “under section 115WD or section 139 or in whose case the time allowed under sub-section (1) of section 139” shall be substituted with effect from the 1st day of April, 2006. 20

Amendment of section 153. **45.** In section 153 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) after sub-section (1), the following sub-sections shall be inserted, namely:— 25

“(1A) No order of assessment shall be made under section 115WE or section 115WF at any time after the expiry of two years from the end of the assessment year in which the fringe benefits were first assessable.

(1B) No order of assessment or reassessment shall be made under section 115WG after the expiry of one year from the end of the financial year in which the notice under section 115WH was served.”; 30

(b) in sub-section (2A), for the words, brackets and figures “in sub-sections (1) and (2)”, the words, brackets, figures and letters “in sub-sections (1), (1A), (1B) and (2)” shall be substituted;

(c) in sub-section (3), for the words, brackets and figures “in sub-sections (1) and (2)”, the words, brackets, figures and letters “in sub-sections (1), (1A), (1B) and (2)” shall be substituted. 35

Amendment of section 153B. **46.** In section 153B of the income-tax Act, in sub-section (1), after clause (b) and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or one year from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.”. 40

Amendment of section 153C. **47.** In the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) section 153C shall be numbered as sub-section (1) thereof and in sub-section (1) as so numbered, the following proviso shall be inserted and shall be deemed to have been inserted, namely:— 45

“Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person.”; 50