

## **Introduction**

1. The Finance (No. 2) Act, 2004 as passed by the Parliament, received the assent of the President on the 10th September, 2004 and has been enacted as Act No. 23 of 2004. This circular explains the substance of the provisions of the Act relating to direct taxes.

## **2. Changes made by the Finance (No. 2) Act, 2004**

2.1 The Finance (No. 2) Act, 2004 (hereinafter referred to as the 'Act') has,—

- (i) amended sections 2, 7, 10, 12AA, 17, 32, 33AC, 35AC, 40, 48, 56, 71, 80DD, 80-IA, 80-IB, 80U, 87, 88, 90, 94, 115AD, 115JB, 115R, 119, 139, 139A, 153, 153B, 194C, 197, 198, 199, 200, 202, 203, 204, 205, 206, 206C, 206CA, 245RR, 246A, 253, 272A, 272B, 272BBB, 273B, 278B, 279 and Thirteenth Schedule of the Income-tax Act, 1961;
- (ii) inserted new sections 80CCD, 88D, 88E, 111A, 142A, 194LA, 203AA, 271FA, 277A and new Chapter XII-G in the Income-tax Act, 1961;
- (iii) substituted new sections 203A, 285BA of the Income-tax Act, 1961;
- (iv) amended section 35HA of the Wealth-tax Act, 1957;
- (v) introduced a new Chapter VII to levy Securities Transaction Tax.

## **3. Provisions in brief**

3.1 The provisions of the Act in the sphere of direct taxes relate to the following matters:—

- (i) Prescribing the rates of income-tax on income liable to tax for the assessment year 2004-05; the rates at which the tax will be deductible at source in the financial year 2004-05 from interest (including interest on securities), winnings from lotteries or cross-word puzzles, winnings from horse races, insurance commission and other categories of income liable for tax deduction at source under the Income-tax Act, rates for computing 'advance tax', deduction of income-tax from 'Salaries' and charging of income-tax on current income in certain cases for the financial year 2004-05.
- (ii) Amendment of the Income-tax Act, 1961, with a view to :
  - modifying the definition of income to include any sum of money exceeding Rs. 25,000 received without any consideration by an individual or HUF.
  - providing a sunset provision to section 10(4)(ii) relating to interest in a Non-Resident (External) Account.
  - reintroducing exemption under section 10(6BB).
    - exempting income payable to the European Investment Bank on loans granted in pursuance of the framework agreement.
  - providing a sunset provision to section 10(15)(iv)(fa) relating to interest on Foreign Currency Deposits.
  - withdrawing exemption under section 10(15A).
  - exempting family pension received by the family members of armed forces personnel killed in action in certain circumstances.
  - modifying the definition of venture capital undertaking.
  - providing for taxation on income of infrastructure capital company under section 115JB.
  - providing for exemption on capital gains arising from compulsory acquisition of agricultural land situated within specified urban limits.
  - explicitly providing power to the Commissioner for cancelling registration under section 12AA.
  - introducing a new provision to give effect to the New Pension Scheme.
  - reducing the limit for increase in installed capacity for the purposes of additional depreciation.
    - providing for additional ground for withdrawal of approval granted to associations/institutions or withdrawal of notification of eligible project or scheme by the National Committee.
  - providing for disallowance of certain amounts while computing income under the head "Profits and gains of business or profession" if tax has not been deducted at source.
  - not allowing set-off of business loss against income from salary.
  - providing deduction in respect of maintenance including medical treatment of a dependent being a person with disability or severe disability suffering from autism, cerebral palsy or multiple disabilities.

- extending tax benefits under section 80-IA in the case of substantial renovation and modernization of transmission and distribution lines in the power sector.
- extending the time limit for providing telecommunication services, etc. for the purpose of tax holiday under section 80-IA.
- extending the time-limit for setting up of industries in the State of Jammu and Kashmir for the purpose of tax holiday under section 80-IB.
- extending the time-limit for the purpose of tax holiday under section 80-IB to any company carrying on scientific research and development.
- extending the time-limit for obtaining approval of housing projects for the purpose of tax holiday under section 80-IB, and allowing deduction for redevelopment or reconstruction of existing buildings in slum areas.
- providing tax holiday for agro-processing industry.
- giving incentive to an undertaking building, operating and maintaining a hospital in a rural area.
- providing for deduction in respect of a person with disability or severe disability suffering from autism, cerebral palsy or multiple disabilities.
- giving rebate for repayment of housing loans taken from an authority established by a Central or State Act.
- introducing a new provision for allowing deduction from tax payable for individuals having total income up to rupees one lakh.
- amending section 90.
- curbing tax avoidance *via* dividend and bonus stripping.
- reducing the opportunity of arbitrage for the companies.
- continuing exemption to open-ended equity oriented funds without any time-limit.
- amending section 119 relating to instructions to subordinate authorities.
- clarifying provisions regarding estimates by Valuation Officer in certain cases.
- excluding the time taken by the Authority for Advance Rulings in rejecting an application or pronouncing an advance ruling from the period of limitation for making an assessment.
  - amending section 194C relating to tax deduction at source from payments made to contractors and sub-contractors.
- providing for deduction of tax at source from compensation or enhanced compensation paid on acquisition of certain immovable property other than agricultural land.
  - providing for common identification number in cases of tax deduction at source and tax collection at source.
- amending the provision for filing of returns of tax deducted at source.
- expanding the scope of collection of tax at source.
- amending the provisions for filing of returns of tax collected at source.
- inserting a new chapter for special provisions relating to income of shipping companies.
- enabling de-materialisation of TDS and TCS certificates.
- providing for prosecution in case of falsification of books of account or documents etc.
- Rationalising provisions relating to offences by a company.
- modifying the provisions for filing of annual information return.

(iii) Introduction of provisions for levy of **Securities Transaction Tax** and to provide :

- **exemption** from income-tax on **long-term capital gain** arising from transactions chargeable to securities transaction tax;
- **concessional rate** of income-tax on **short-term capital gain** arising from transaction chargeable to securities transaction tax;
- rebate of securities transaction tax paid on transactions forming part of business against income-tax liability on business income arising from such transactions.

## Rate Structure

4. Rates of income-tax in respect of incomes liable to tax for the assessment year 2004-05.