

Taxation Amendment Bill 2005

On 12th May, 2005, Finance Minister introduced the Taxation Law Amendments Bill, 2005 in the Lok Sabha in order to amend the Income Tax Act, 1961. The important amendments as applicable to charitable and religious institutions are as follows:

1. Increase in limit for getting accounts audited by Charitable Trusts claiming exemption under Section 11

Under the existing provisions of Section 12A of the Income Tax Act, if the total income of the trust or institution as computed under the Act without giving effect to the provisions of Section 11 or 12 exceeds Rs.50,000 in any previous year, the accounts of the trust or institution for that year shall be audited and such audit report shall be furnished alongwith the return of income.

It is proposed to amend this section by providing that the accounts of the trust or institution for that year shall be audited and such audit report shall be furnished alongwith the return of income if the total income of trust or institution exceeds the maximum amount not chargeable to income tax i.e. Rs,1,00,000 as per the proposed tax rates.

2. Charitable and religious trusts and institutions registered under Section 10 (23c) of the Income Tax Act to obtain one time approval

As per the present system, the Central Government can notify trusts and institutions established for charitable and religious purposes to be exempt from tax for a period not exceeding three years. The new Amendment Bill proposes to withdraw the above proviso of giving exemption for 3 years. As a result, trusts and institutions established for charitable and religious purposes can get one-time approval from Central Government. Also, it has been provided that this approval shall be granted or rejected within a period of 12 months from the end of the month in which such application is received.

3. Audit of Charitable, Religious, Educational and Medical institutions registered under Section 10 (23C)

In the Amendment Bill, it has been proposed that the following shall be required to get their accounts audited by a Chartered Accountant in case the total income exceeds the maximum amount which is not chargeable to tax (proposed amount as per the Finance Bill, 2005 is Rs. 1 lakh) :

- (i) All charitable and religious institutions claiming exemption under Section 10(23C)
- (ii) Only those educational and medical institutions having annual receipts more than Rs.1 crore and claiming exemption under Section 10(23C)

4. Filing of Income Tax Return by Educational and Medical Institution claiming exemption under Section 10 (23C) and having annual receipt less than Rs. 1 Crore.

Presently only those Educational and Medical Institution claiming exemption under Section 10(23C) and having annual receipts more than Rs. 1 Crore are required to file returns when the total income exceeds the prescribed amount. In the Amendment Bill, it has been proposed that those universities or educational institutions or medical institutions claiming exemption under Section 10(23C) and having annual receipts less than Rs.1 crore shall be required to file the return of income in case its total income exceeds (before claiming exemption under Section 10(23C)), the maximum amount not chargeable to tax, i.e. Rs. 1 lakh.

5. Approval under Section 35

As per the existing systems, amount paid by donor to a scientific research association which has as its object the undertaking of scientific research or to a university, college or other institution for scientific, social science or statistical research can be exempt from tax, provided the scientific research association, university, college or other institution for the time being are approved for the purposes by Central Government by notification in the Official Gazette. The notification issued by the Central Government shall at any one time, have effect for not exceeding three assessment years. The new Amendment Bill proposes to withdraw the above proviso of giving exemption for 3 years. As a result scientific research association, university, college or other institution can get one-time approval from Central Government. Also, it has been provided that this approval shall be granted or rejected within a period of 12 months from the end of the month in which such application is received by Central Government.

6. TDS provisions extended to royalty and rent for plant and machinery etc

The scope of Section 194-I in respect of tax to be deducted on payment of rent is being extended by including the payment of rent for machinery, plant, equipment, furniture or fittings. Accordingly, on payment of rent for hiring above things, payee has to deduct tax at source whether or not it is owned by the payee.

Provision of Section 194J in respect of deduction of tax at source on payment of professional or technical services is being extended to include payment of royalty and payment for not sharing any know-how, patent, copyright, trade-mark, licence, franchise etc. Now the tax will be required to be deducted at source in case where payment is of Rs. 20,000 or more.

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