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Legal & Tax Counselling Worldwide

LEGAL UPDATE: INDIA

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Amendments to Finance Bill, 2000

In our last issue # 25 on Budget 2000-2001, we had covered the proposals made in the Budget 2000 – 2001(‘**the Bill’**). In order to remove certain anomalies and to provide protection to the domestic industry, the Finance Minister, Mr. Yashwant Sinha (‘**the FM’**) on May 3, 2000 proposed certain amendments to the Bill, which has been passed by the Parliament on May 4, 2000. These amendments introduce tax incentives for the information technology, housing, pharmaceutical and biotechnology sectors. This edition of “Legal Update” attempts to bring into focus some of the important amendments in the Bill.

Venture Capital:

The amendment withdraws the distribution tax on venture capital funds. The venture capital funds would now enjoy a complete ‘pass through’ status. There will be no tax on distributed or undistributed income of such funds. The income distributed by the funds will be taxable in the hands of investors at the rates applicable, depending upon the nature of income.

ESOPs:

The FM finally acceded to the long-standing demand of the IT industry to remove two-point tax incidence on ESOP. Now, at the time of exercise the difference between the exercise price and the fair market value on the date of exercise will not be taxable as perquisite in the hands of employees. The ESOP would now be taxable only once at the time of sale of shares acquired under ESOP, as capital gains. The difference between the sale price and the exercise price would be taxable as capital gains (long term or short term depending on the period of holding of the shares).

> The tax exemption limit for interest paid on housing loan raised from Rs. 75,000 to Rs. 100,000

Tax Incentives to units set up in Free Trade Zones, Technology Parks and Export Oriented Units:

Till last year, units setup in Free Trade Zones (**FTZ**) or Hardware and Software Technology Park (**HTP / STP**) enjoyed a tax holiday for ten years from the year in which they started commercial production. The Bill had proposed that only units set up on or before April 1, 2000 would be eligible for this tax holiday. Now the amendment provides a sunset clause for this tax holiday. Accordingly, the tax holiday for such units will end in the year 2010. Thus, the units set up till March 2000 will have concessions for 10 years, those set up in 2000-2001 for nine years and so on.

Pharma and Bio technology Sector:

In order to encourage research and development (**R&D**) in pharmaceutical and biotech industry, the FM has now provided to extend a 10-year tax holiday to the R&D companies. The weighted deduction for research expenses would be now raised from the current 125% to 150%. Further, a Rs. 150 crore fund would be set up for promoting the research in these sectors.

MAT:

Charitable companies set up without any profit motives are now exempt from the operation of Minimum Alternate Tax (**MAT**). The Bill had proposed applicability of MAT to domestic companies and branches of foreign companies at a reduced rate of 7.5% from the earlier rate of 10.5% (plus surcharge of 10% in the case of domestic companies.)

> The limit of investments in infrastructure bonds for claiming rebate from tax has been increased from Rs. 10,000 to Rs. 20,000.

Personal Tax Rates:

The Bill had introduced an additional surcharge of 5%, leading to a total surcharge of 15% on the tax payable under the Income Tax Act by non-corporate Indian resident assessees whose income exceeds Rs.1,50,000/-. Now, though the surcharge for this category of taxpayer would continue at 15%, in order to avoid operational complications at the time of deduction of tax at source, the surcharge should be calculated at 10%.

If you need any further information or clarification please contact:
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