

THE FINANCE ACT, 1974

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THE FINANCE ACT, 1974

ACT NO. XLIV OF 1974

[29th June, 1974]

An Act to give effect to the financial proposals of the Government and to amend certain laws.

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Government and to amend certain laws for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. (1) This Act may be called the Finance Act, 1974. Short title and commencement
- (2) Subject to the Provisional Collection of Taxes Act, 1931 (XVI of 1931), and the declaration made thereunder, this Act shall, except as otherwise provided, come into force on the 1st day of July, 1974.
2. In the Post Office Act, 1898 (VI of 1898), for the First Schedule thereto, the Schedule set out in the First Schedule to this Act shall be *substituted*. Amendment of Act VI of 1898
3. In the Stamp Act, 1899 (II of 1899),- Amendment of Act II of 1899
 - (a) in section 34, *for* the words “fifteen paise” the words “thirty poisha” shall be *substituted*; and
 - (b) in Schedule 1A, in Article 53, in the second column, *for* the words “fifteen paise” the words “thirty poisha” shall be *substituted*.
4. The following amendments shall be made in the Income-tax Act, 1922 (XI of 1922), namely:- Amendment of Act XI of 1922
 - (1) throughout the Act,-
 - (a) *for* the words “Pakistan Penal Code” wherever occurring the words “Penal Code” shall be *substituted*; and
 - (b) *for* the words “Bangladesh Law” or “a Bangladesh Law” wherever occurring the words “Act of Parliament” or “an Act of Parliament” shall respectively be *substituted*;

(2) in section 2,-

- (a) clause (4a) shall be *omitted*;
- (b) in clause (4A), *for* sub-clause (iii) the following shall be *substituted*, namely:-

“(iii) agricultural land in taxable territories, not being land situate-

(i) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, town, or by any other name) or a cantonment board and which has a population of not less than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or

(ii) in any area within such distance, not being more than five miles, from the local limits of any municipality or cantonment board referred to in item (i), as the Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the *official Gazette*.”;

- (c) sub-clause (iv) shall be *omitted*;
- (d) in clause (6A), in the second proviso, *for* the words and figure “or section 12” the comma, words, figures and letter “, section 12 or section 14A” shall be *substituted*;

(3) In section 4,-

- (a) in sub-section (1), in Explanation 3, *for* the word, figure and letter “section 15B” the words, figures and letters “section 14A or section 15B” shall be *substituted*;

(b) in sub-section (3),-

- (i) *for* clause (i) the following shall be *substituted*, namely:-

- “(i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto:

Provided that where any income is not applied or is not deemed to have been applied to charitable or religious purposes in taxable territories during the previous year but is accumulated, or finally set apart, for application to such purposes in taxable territories, such income shall not be included in the total income of the previous year of the person in receipt of the income provided the following conditions are complied with, namely:-

- (a) such person specifies, by notice in writing given to the Income-tax Officer in the prescribed manner, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;
- (b) the money so accumulated or set apart is-
 - (i) invested in any Government security as defined in clause (2) of section 2 of Public Debt Act, 1944, or in any other security which may be approved by the Government in this behalf, or
 - (ii) deposited in any account with the Post Office Savings Bank:

Provided further that where any income which-

- (a) is applied to purposes other than charitable or religious purposes or ceases to be accumulated or set apart for application thereto, or
- (b) ceases to remain invested in any security or deposited in any account referred to in the first proviso, or
- (c) is not utilised for the purpose for which it is so accumulated or set apart during the period preferred to in the first proviso or in the year immediately following the expiry thereof,

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or, as the case may be, of the previous year immediately following the expiry of the period aforesaid:

Provided further that for the purposes of this clause "property held under trust or other legal obligation" includes a business undertaking so held and where a claim is made that the income of any such undertaking shall not be included in the total income of the person in receipt thereof, the Income-tax Officer shall have the power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes;";

(ii) in clause (xiiiiaa), for the words "Pakistani firm" occurring twice, the words "Bangalee firm" shall be substituted;

(4) in section 10,-

(a) sub-section (2), in clause (vii), in the third proviso, for the words "such export to transfer" the words "such export or transfer" shall be substituted;

(b) in sub-section (3A),-

(i) for the words "by person other than the assessee" the words "by any person other than the assessee" shall be substituted; and

(ii) for the words "computation of excess" the words "computation of any excess" shall be substituted;

(c) In sub-section (3B),-

(i) for the words "local authority or person" the words "local authority or any person" shall be substituted;

(ii) for the words "under of the said clauses" the words "under any of the said clauses" shall be substituted;

(iii) for the words “apply to donation” the words “apply to any donation” shall be *substituted*;

(5) in section 14, sub-section (5) shall be *omitted*;

(6) *after* section 14, the following new section 14A shall be *inserted*, namely:-

“14A. Tax holiday for certain new industrial investments.-

(1) Subject to the provisions of this Act, the income, profits and gains of an industrial undertaking set up in taxable territories between the first day of July, 1973, and the thirtieth day of June, 1978 (both dates inclusive), shall be exempt from the income-tax and super-tax payable under this Act for a period of five years beginning with the month in which the commercial production of the undertaking is commenced.

(2) The exemption under sub-section (1) shall apply to an industrial undertaking which fulfils the following conditions, namely:-

(a) that it is owned and managed by a company formed and registered under the Companies Act, 1913 or a body corporate formed in pursuance of an Act of Parliament, having-

(i) its registered office in taxable territories;

(ii) a subscribed and paid up capital of not less than one lakh taka and not more than thirty-five lakhs taka; and

(iii) its capital wholly subscribed by Bangalees;

(b) that it belongs to the class of industries specified in the Industrial Investment Schedule issued by the Government for the purpose of this section;

(c) that as respects the industrial undertaking set up in the areas notified by the National Board of Revenue in this behalf in the *official Gazette* not less than sixty per cent of the income, profits and gains exempted under this section are reinvested in the industrial undertaking from which such income, profits and gains have been derived or are invested in the purchase of bonds issued by the Government:

Provided that in the case of an industrial undertaking set up in areas other than the areas as referred to above, this clause shall have effect as if *for* the words "sixty per cent" the words "thirty per cent" were *substituted*;

- (d) that an application for exemption in the prescribed form and verified in the prescribed manner has been made to the National Board of Revenue within four months of the month in which the undertaking goes into commercial production:

Provided that in respect of any undertaking which was set up and the commercial production of which commenced on any day between the first day of July, 1973 and the thirtieth day of June, 1974, the period of four months shall be reckoned from the first day of July, 1974;

- (e) that it is approved by the National Board of Revenue for purposes of this section:

Provided that an industrial undertaking approved under this clause may, not later than six months from the date of approval, apply in writing to the National Board of Revenue for the cancellation of such approval, and the National Board of Revenue may pass such orders thereon as it may deem fit:

Provided further that where any exemption has been allowed under sub-section (1) and it is subsequently discovered by the Income-tax Officer that any one or more of the conditions specified in this sub-section was or were not fulfilled, as the case may be, the exemption originally allowed shall be deemed to have been wrongly allowed and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and the provisions of section 34 shall, so far as may be, apply thereto, the period of four years specified under sub-section (2) of that section being reckoned from the end of the assessment year relevant to the previous year in which the infringement was discovered.

- (3) The profits and gains of an industrial undertaking to which this section applies shall be computed in accordance with the provisions of section 10:

Provided that nothing contained in-

- (i) clause (vi) of sub-section (2) of section 10 in so far as it relates to the further sum referred to therein; or
- (ii) clause (vii) of that sub-section; shall apply to such profits and gains derived by the undertaking in respect of the period specified in sub-section (1):

Provided further that such profits and gains shall be computed separately from other income, profits and gains of the assessee, if any, and where the assessee sustains a loss from such undertaking, it shall be carried forward and set off against the profits and gains of the said undertaking for the following year and where it cannot be wholly so set off, the amount of the loss not so set off shall be carried forward to the next year and so on, but no loss shall be carried forward beyond the period for which the income, profits and gains of the undertaking are exempt under this section.

- (4) Nothing contained in this section shall be deemed to exempt the following income of an industrial undertaking, namely:-
 - (i) the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid by a company which owns and manages the industrial undertaking to its shareholders with a view to increasing the paid up capital; or
 - (ii) any capital gains chargeable according to the provisions of section 12B.
- (5) The National Board of Revenue may make rules regulating the procedure for the grant of the exemption and any other matters connected with, or incidental to, the operation of this section.”;
- (7) in section 15CC, in sub-section (1), the comma, brackets, figure and letter “,(3A)” shall be *omitted*;
- (8) in section 15D, in sub-section (1),-
 - (a) clause (cc) shall be *omitted*;
 - (b) in the first proviso, *for* the colon at the end a fullstop shall be *substituted*; and
 - (c) the second proviso shall be *omitted*;

- (9) in section 16, in sub-section (2), *for* the words “net Pakistan rate” the words “net Bangladesh rate” shall be *substituted* and shall be deemed to have been so *substituted* on the twenty-sixth day of March, 1971;
- (10) in section 17, in sub-section (5), in clause (b), in sub-clause (ii), *for* paragraph (2) the following shall be *substituted*, namely :-
- “(2) the amount of the said income as reduced by an amount equal to fifty per cent of the amount of the said income.”;
- (11) in section 45, *for* the words “Income-tax Officer in his discretion” the words “Income-tax Officer may in his discretion” shall be *substituted*;
- (12) in section 46, in sub-section (8), *for* the word “National” the word “Central” shall be *substituted*;
- (13) in section 49D, *for* the words “Pakistan Income-tax” wherever occurring the words “Bangladesh Income-tax” shall be *substituted* and shall be deemed to have been so *substituted* on the twenty-sixth day of March, 1971;
- (14) in section 54, in sub-section (3),-
- (i) in clause (a), *for* the words “Bangladesh Penal Code” the words “Penal Code” shall be *substituted*;
- (ii) in clause (cc), the words and comma “a Provincial Government,” shall be *omitted* and shall be deemed to have been so omitted on the twenty-sixth day of March, 1971; and
- (iii) in clause (e), *for* the words “Comptroller and Auditor-General of Pakistan” the words “Comptroller and Auditor-General of Bangladesh” shall be *substituted*;
- (15) in section 54A, in sub-section (1), the word “Pakistan” shall be *omitted*;
- (16) in section 58F, in sub-section (1), *for* the words, brackets, figure and letter “computed in the manner laid down in sub-section (3A)” the words, brackets and figure “as specified in sub-section (3)” shall be *substituted* and shall be deemed to have been so *substituted* on the first day of July, 1971;

(17) in the Second Schedule,-

- (a) in rule 4, the word "Pakistan" shall be *omitted*; and
- (b) in rule 7, the word "Pakistan" shall be *omitted*;

and shall be deemed to have been so *omitted* on the twenty-sixth day of March, 1971;

(18) in the Fourth Schedule, *for* the words "Pakistan tax" the words "Bangladesh tax" shall be *substituted* and shall be deemed to have been so substituted on the twenty-sixth day of March, 1971.

5. In the Amusement Tax Act, 1922 (Ben. Act V of 1922), in section 3 in the entries under the heading "Rate of tax", *for* the figures "75", "100" and "125" the figures "100", "125" and "150" shall respectively be *substituted*. Amendment of section 3 Ben. Act V of 1922

6. In the Tariff Act, 1934 (XXXII of 1934), in the First Schedule, *for* heading number 73.13, in column 1 and the entries relating thereto in columns 2 and 3 the following shall be *substituted*, namely:- Amendment of Act XXXII of 1934

"73.13 Sheets and plates of iron or steel, hot-rolled or cold-rolled:

A. Corrugated iron sheets 50% *ad val.*

B. Other 40% *ad val.*"

7. In the Central Excises and Salt Act, 1944 (I of 1944), the First Schedule thereto shall be amended in the manner set out in the Second Schedule to this Act. Amendment of Act I of 1944

8. In the Estate Duty Act, 1950 (X of 1950), in section 67, in sub-section (3), *for* the word, brackets, figure and letter "sub-section (5A)" the word, brackets, figures, comma and letters "sub-sections (1), (1A) and (5A)" shall be *substituted*. Amendment of Act X of 1950

9. In the Finance Act, 1950 (E. B. Act XVI of 1950), in section 3, in sub-section (1), in clause (d), *for* sub-clause (iii) the following shall be *substituted*, namely:- Amendment of E.B. Act XVI of 1950

“(iii)(a) clearing, forwarding agents registered at 2,000 a customs-port.

(b) clearing, forwarding agents registered at 1,000”. a land customs-station or a customs-airport.

Amendment of E.P. Act X of 1957

10. In the Finance Act, 1957 (E.P. Act X of 1957), in section 6, in sub-section (1), *for* the word and figure “annas 2” the word and figure “Taka 2.00” shall be *substituted*.

Amendment of section 3, E.P. Ord. LXXXII of 1958

11. In the Finance (Third) Ordinance, 1958 (E.P. Ord. LXXXII of 1958), in section 3, in sub-section (1), in the entries under heading “Rate of additional duty”, *for* the words “three”, “four” and “five” the words “four”, “five” and “seven and a half” shall respectively be *substituted*.

Amendment of E.P. Act III of 1966

12. In the Finance Act, 1966 (E.P. Act III of 1966), section 5 shall be *repealed*.

Amendment of Act IV of 1969

13. In the Customs Act, 1969 (IV of 1969), in section 193, *after* the words “this Act”, the words “not being an order passed under section 82” shall be *inserted*.

14. [Tax on vessels.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

15. [Tax on Motor vehicles carrying goods for hire.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

16. [Tax on motor vehicles carrying goods otherwise than for hire.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

17. [Toll on fares and freights.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

18. [Import licence tax.- Repealed by section 2 of the Finance(Amendment) Act, 1975 (Act No. XXXVII of 1975).]

19. [Exchange tax.- Repealed by section 2 of the Finance(Amendment) Act, 1975 (Act No. XXXVII of 1975).]

20. [Tax on house-rent.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

21. [Betterment tax.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).]

22. (1) There shall be levied and collected in such manner as may be prescribed by rules on all lands on which rent is payable under the State Acquisition and Tenancy Act, 1950 (E.B. Act XXVIII of 1951), or would have been so payable had not the State Acquisition and Tenancy (Third Amendment) Order, 1972 (P.O. No. 96 of 1972), come into force, a primary education cess at the rate of twenty per cent of such rent.

Primary
Education Cess

(2) Any primary education cess payable under any other law for the time being in force shall, notwithstanding anything contained in such law, cease to be payable upon the commencement of this section.

(3) This section shall be deemed to have taken effect on the 1st day of July, 1973.

23. (1) Subject to the provisions of sub-sections (2), (3), (4) and (5), in making any assessment for the year beginning on the first day of July, 1974,-

Income-tax and
Super-tax

(a) income-tax shall be charged at the rates specified in Part I of the Fourth Schedule, and

(b) the rates of super-tax shall, for the purposes of section 55 of the Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Fourth Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1974,-

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "salaries" or any income chargeable under the head "interest on securities" the income-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Finance Act, 1973 (XI of 1973), on his total income the same proportion as the amount of such inclusion bears to his total income; and

- (b) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) In making any assessment for the year beginning on the first day of July, 1974, where the assessee is a co-operative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph B of Part I and paragraph A of Part II of the Fourth Schedule as if the assessee were a company to which the proviso to sub-paragraph (1) of paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee:

Provided that in calculating for the purposes of this subsection, the amount of income-tax at the rates specified in paragraph A of Part I of the Fourth Schedule, no deduction in respect of any allowance or sums referred to in clause (i) of the proviso to the said paragraph shall be made.

- (4) (a) In making any assessment for the year beginning on the first day of July, 1974, where the total income of an assessee, not being a company to which the proviso to sub-paragraph (1) of paragraph A of Part II of the Fourth Schedule does not apply, includes any profits and gains derived from the export of goods out of Bangladesh, income-tax and super-tax, if any, payable by him in respect of such profits and gains shall, subject to the provisions of clauses (b) and (c) be reduced by an amount computed in the manner specified hereunder:-

Amount

- | | |
|--|--|
| (i) Where the goods exported abroad had not been manufactured by the assessee who exported them: | 15 per cent of the income-tax and super-tax, if any, attributable to export sales. |
| (a) and where the export sales during the relevant year exceed the export sales of the preceding year. | <i>Plus</i> an additional 1 per cent for every increase of 10 per cent in export sales over those of the preceding year, subject to an overall maximum of 25 per cent. |

(b) and where the export sales during the relevant year do not exceed the export sales of the preceding year. *Minus* 1 per cent for every decrease of 10 per cent in export sales over those of the preceding year, subject to an overall minimum of 10 per cent.

(ii) Where the goods exported had been manufactured by the assessee who had exported them:

- (a) where the export sales do not exceed 10 per cent of the total sales. Nil.
- (b) where the export sales exceed 10 per cent but do not exceed 20 per cent of the total sales. 15 per cent of the income-tax and super-tax, if any, attributable to export sales.
- (c) where the export sales exceed 20 per cent but do not exceed 30 per cent of the total sales. 20 per cent of the income-tax and super-tax, if any, attributable to export sales.
- (d) where the export sales exceed 30 per cent of the total sales. 25 per cent of the income-tax and super-tax, if any, attributable to export sales:

Provided that in the case of a registered firm super-tax payable by it under paragraph C of Part II of the Fourth Schedule shall be reduced under this clause by an amount calculated on the basis of the income-tax payable on its total income under paragraph A of Part I had it been the total income of an unregistered firm;

(b) Nothing contained in clause (a) shall apply in respect of the following goods or class of goods, namely:-

- (i) tea,
- (ii) raw jute,
- (iii) jute manufacture,
- (iv) such other goods as may be notified by the National Board of Revenue from time to time;

- (c) The National Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.

(5) In cases to which section 17 of the Income-tax Act, 1922 (XI of 1922), applies the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-section (2).

(6) For the purposes of making deduction of tax under section 18, the rates specified in Part I and Part II of the Fourth Schedule shall apply as respects the year beginning on the first day of July, 1974, and ending on the thirtieth day of June, 1975.

(7) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with provisions of the Income-tax Act, 1922 (XI of 1922); and the expression "public company" means a company-

- (i) in which not less than fifty per cent of the shares are held by the Government, or
- (ii) whose shares were the subject of dealings in a registered stock exchange in the taxable territories at any time during the previous year and remained listed on the stock exchange till the close of that year.

Surcharge under the Income-tax Act, 1922 (XI of 1922)

24. Surcharge under the Income-tax Act, 1922 (XI of 1922), shall be charged as respects any assessment for the year beginning on the first day of July, 1974, at the rates specified in Part III of the Fourth Schedule to this Act.

25. [*Restriction on renewal of certificate of survey, etc.- Repealed by section 10 of the Finance Act, 1975 (Act No. III of 1975).*]

26. A ¹[cess under section 22] or any penalty imposed thereunder shall be recoverable as a public demand under the Public Demands Recovery Act, 1913 (Ben. Act III of 1913). Public demand.

27. ²(1) The Government may, by notification in the *official Gazette*, make rules to provide for the procedure for the assessment, collection and payment of any cess leviable under section 22; and such rules may provide for matters relating to- Power to make rules

- (a) the person by whom the cess shall be payable;
- (b) the time and manner of such payment;
- (c) penalty for default or delay in the payment of the cess of an amount not exceeding the amount of the cess; and
- (d) such other matters as may be necessary for the efficient assessment and collection of the cess.]

(2) The rules made under the Finance Act, 1957 (E.P. Act X of 1957), shall be deemed to be rules made under the corresponding provisions of this Act in so far as they are not inconsistent with those provisions.

¹ The words and figures “cess under section 22” were substituted for the words, figures and commas “tax or toll leviable under sections 14, 15, 16, 17, 20, 21, and 22 ” by section 10 of the Finance Act, 1975 (Act No. III of 1975).

² Sub-section (1) was substituted by section 10 of the Finance Act, 1975 (Act No. III of 1975).