

FAST FACTS BULLETIN

Monthly Updates on Tax Law Changes

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► **Summary of Circular No 8 / 2005: Fringe Benefit Tax** - Team FFB

CBDT has issued Circular No 8 / 2005 dated 29th August, 2005. The purpose of above circular is "to provide a harmonious, purposive and contextual interpretation of the provisions of the Finance Act, 2005 relating to the FBT so as to further the objective of this levy."

The circular also seeks to clarify a number of issues raised by the trade and industry. Total 107 questions and answers have been provided on these issues.

In the following paragraphs, we have tried to summarise such questions and answers in logical headings of Deemed Fringe Benefits. The number in the parenthesis refers to the question number in the Circular.

The summary given below is not exhaustive and covers only important points. For details, please refer to the full text of the circular which is available at www.incometaxindia.gov.in.

(A) Entertainment;

Entertainment has been defined to include all expenditure in connection with exhibition, performance, amusement, game or sport, for affording some sort of amusement and gratification. (49)

Expenditure on meeting/get-together of employees and their families on non-festival occasions (including annual day), may be classified as expenditure on entertainment within the meaning of clause. (95)

(B) Provision of hospitality of every kind

If a training centre, owned by the employer is used exclusively for training of employees, food and beverages provided therein are not liable to FBT. However, if such place is not owned then such expenses are liable to FBT. (50)

For food and beverages expenses incurred by employees and later reimbursement by employer, the exemption from FBT will not be available. (52)

Food voucher, not transferable and used only in eating joints are exempt from FBT. (53)

(C) Conference excluding fee for participation by the employees in any conference;

Expenditure incurred during in-house employee training would be considered as conference expense and liable to

FBT to the extent such expenditure is towards food and beverage, tour and travel, and lodging and boarding in connection with such in-house training of employees. (51)

Expenditure incurred for attending training programmes organized by trade bodies or institutions is liable to FBT. (54)

Expenditure incurred for the purposes of conferences of the agents or dealers or development advisors is liable to FBT. (56)

(D) Sales promotion including publicity but excluding specified expenditure on advertisement;

Payment, for use of brand or to a brand ambassador or for celebrity endorsement would be expenditure on sales promotion and publicity and therefore liable to FBT. (57)

Sales promotion expenses including brokerage and selling commission in relation to sales paid to direct selling agents/direct marketing agents is ordinary marketing expense, FBT is not payable thereon. (58)

Expenditure relating to salesmen appointed by distributors for company's products reimbursed through credit notes, as it is ordinary selling expenses, is NOT liable to FBT. (59)

Sales discount or rebates to wholesalers or customers or bonus points given to credit card customers are in the nature of selling expenses and are not liable to FBT. (60)

Expenditure on incentives given to distributors for meeting quantity targets including free goods and cash incentives adjustable against future supplies are ordinary selling expenses hence not liable to FBT. (61)

Product marketing research expenses will be covered under sales promotion, if carried out through own employees. However, if carried out thru an outside agency, it will NOT be liable to FBT. (62)

Expenditure in the nature of call centre charges for canvassing sales (cold calls) or carrying out post-sales activities is NOT liable to FBT. (63)

Expenditure on distribution of free medical or other product samples is liable to FBT. (64)

Expenditure on making ad-film is NOT liable to FBT. (65)
Expenditure on free offers (with products) such as freebies like tattoos, cricket cards or similar products, to trade or consumers (excluding employees) is liable to FBT. (66)

Expenditure incurred for hotel stay, air ticket charges etc. in relation to customer/ clients is liable to FBT. (67)

(E) Employee welfare excluding any expenditure or payment made to fulfill any statutory obligations or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer;

Expenses by employer for Group Personal Accident / Workman Compensation Insurance policy is exempt only if such payment is towards a statutory obligation. (68)

Reimbursement of medical expenses. Any sum over Rs. 15000 is taxable in the hands of employee and outside the purview of FBT. But any sum paid upto Rs. 15000 will be exempt in the hands of employees and will be liable to FBT. (69)

Expenses by employer for Group Health Insurance or Group Medical Insurance or Group Life Insurance is exempt only if such payment is towards a statutory obligation. (70)

Expenditure incurred at a hospital/dispensary, not maintained by the employer, for injuries incurred during the course of employment, is liable to FBT, unless it is towards discharge of a statutory obligation. (71)

Subsidy provided to a school not meant exclusively for employee's children is liable to FBT. (72)

Expenditure incurred on provision and maintenance of facilities like garden, school, library, mess, television, cable connection etc. in employees colonies is liable to FBT. (73)

Reimbursement of expenditure on books and periodicals to employees is liable to FBT. (75)

Expenditure incurred on prizes/rewards to employees for achievements is liable to FBT. (76)

Expenditure incurred on transportation facility provided to the children of employees is liable to FBT. (77)

(F) Conveyance tour and travel (including foreign travel);

If LTA is part of salaries (exempt to the extent define under section 10(5)), then it is not liable to FBT, otherwise it will be treated deemed FBT under Conveyance, tour and travel. (44)

Reimbursement in respect of car expenses on the basis of bills submitted and drivers salary on the basis of a declaration provided, booked as salary, is treated as non-taxable reimbursement, will be liable to FBT. (78)

(G) Use of hotel, boarding and lodging facilities;
Per-diem allowance for meeting the expenditure on lodging and boarding given to employees is exempt from tax under section 10(14) but is liable to FBT. (79)

(H) Repair, running (including fuel) and maintenance of motorcars and the amount of depreciation thereon;

Expenses on motor car provided by the employer is not to be taken as perquisite but is liable to FBT. (81)

FBT is payable on any rent paid or payable for hiring of motor-cars. (82)

Depreciation on motor-car or any other asset should be the amount calculated as per the Income-tax Act and total depreciation for the block must be considered for FBT. (83)

Expenditure by way of interest on loans taken for purchase of cars is liable to FBT (84)

Expenditure on repair, running and maintenance of delivery/ display vans, trucks/lorries, ambulances and tractors is NOT liable to FBT as these cannot be termed as motor car. (85)

(I) Repair, running (including fuel) and maintenance of aircrafts and the amount of depreciation thereon;

Salary paid to a pilot of an aircraft is liable to FBT . (82)

Fringe benefits include airport tarmac/hanger charges. (88)

(J) Use of telephone (including mobile phone) other than expenditure on leased telephone lines;

Expenditure for use of telephone includes expenditure for use of telephone installed in the office, even if the bills are not in the name of the company and irrespective of payment of such bills being made directly or indirectly by the company. (90)

(K) Maintenance of any accommodation in the nature of guest house other than accommodation used for training purposes;

Expenditure on capital items (e.g., fridges, TVs) in a guesthouse and depreciation thereon is NOT liable for FBT. (91)

Maintenance of a guesthouse includes payment of rent for the guesthouse and is liable to FBT. (92)

Expenditure on all guesthouses is liable to FBT and is not restricted to holiday homes. (93)

Expenditure on provision of food at the guest house maintained by the employer, contract charges paid to guest house staff; rent payable are all liable to FBT.

However depreciation on guest house building is NOT liable to FBT (94)

(L) Festival celebrations;

Expenditure on meeting of employees and their families on the occasion of a festival like Navratri ,Diwali , ID would be expenditure on festival and liable to FBT. (95)

However, expenditure on celebration of Independence Day and Republic Day will not be liable to FBT because they are not festivals as normally understood. (95)

(M) Use of health club and similar facilities;

Payment of entrance or membership fee of a club or health club or similar facility would be expenditure incurred on use of such facilities and liable to FBT. (96)

(N) Use of any other club facilities;

Amount of depreciation on the club building is NOT liable to FBT. (86)

(O) Gifts

Expenditure on gifts under trade schemes or for promotion of company's products to distributors/retailers is liable to FBT. (97)

A gift to customer fall under the category gift (O) and not sales promotion. (98.)

(99). Expenditure incurred on gifts provided to employees, on the occasion of marriage, is liable to FBT.

(100). Gift in kind is also liable to FBT and for this purpose the cost to the employer of such gifts will be taken for the purpose of valuation

(P) Scholarships.

Expenses on employees sent to an educational institution will fall within the scope of scholarship and liable to FBT. (101)

FBT is payable on scholarships awarded to students and trainees, irrespective of whether the recipient is an employee or his relative or any other person. (102)

Others Points

Conveyance Allowance exempt up to Rs. 800 is outside the purview of FBT. (47)

Children Education Allowance is outside the purview of FBT. (47)

FBT would be allowable deduction while computing book profit under section 115JB. (103)

Expenditure incurred by the employer for the purposes of providing free or subsidized transport for journeys to employees from their residence to the place of work or

such place of work to the place of residence will NOT be liable to FBT. (104.)

Who is liable for FBT

FBT is payable by a person if he

- (i) is an employer;
- (ii) has employees based in India;
- (iii) is a company / firm /AOP /BOI/ Local authority or an artificial juridical person;
- (iv) has income not exempt under section 10(23C) of the Income-tax Act or he is not registered under section 12AA;
- (v) either contributes to an approved superannuation fund for employees or provides free or concessional tickets for private journeys of employees or their family members;
- (vi) has, during the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred any expense on, or made any payment for, the purposes referred to in clauses (A) to (P) of sub-section (2) of section 115WB of the Income-tax Act. , commonly known as Deemed Fringe Benefits. (1)

Employer-employee relationship is a pre-requisite for the levy of FBT. (2)

FBT is payable not by an entity having no employee. (3)

FBT is not leviable on a company (registered under section 25 of Companies Act) if it is registered u/s 12AA or its income is exempt u/s 10(23C) (4). ■

Did you know ?

An amount of Rs. 583 crore has been collected as Fringe Benefit Tax and an amount of Rs. 20 crore has been collected as Banking Cash Transaction Tax for the first quarter of the current financial year.

This information was given by Shri S.S. Palanimanickam, Minister of State for Finance in reply to a question raised by Shri Murli Deora in Rajya Sabha.

▶ Latest Trade Circulars under MVAT - Bhushan Khot

LATEST CIRCULAR UNDER MVAT, CST AND LUXURY TAX

Trade Circular No. 22 T of 2005 Dt. 6th Aug. 2005

Designation of the officers under Maharashtra Value Added Tax Act, 2002

By this notification, the Government of Maharashtra has appointed different officers working under Bombay Sales Tax Act, 1959 to be the officers for carrying out the purposes of Maharashtra Value Added Tax Act, 2002.

Trade Circular No. 23 T of 2005 Dt:8th Aug. 2005

Agricultural Implements (Schedule Entry A-I.)

"Agricultural implements manually operated or animal driven as may be notified by the State Government from time to time in the Official Gazette".

In other words, agriculture is an implement used to sow seeds in the earth and that planters alone will be covered by the scope of this entry whether it is manually operated or animal driven. The earthen or plastic containers in which plants are grown do not require manual operation and are not animal driven. Such planters will not, therefore, be covered by the scope of this notification.

Trade Circular No. 24 T of 2005 Dt. 8th Aug. 2005

Extension of date:-

- 1) Submission of closing stock Statement.
- 2) Filing of application in Form-107.

Due to unprecedented rainfall and flood conditions in Maharashtra, the date for submitting the statement of closing stock of goods and capital assets as on the 31st March 2005, was extended to 15th September 2005. However, in the case of the dealers who wish to claim the set-off of closing stock as on 31st March, 2005 in the return for the month of July 2005, the last date for submitting the closing stock statement will be 25th of August 2005.

The date for submission of Form-107 was extended to 15th September 2005 due to unprecedented rainfall and flood conditions in Maharashtra.

The author is a chartered accountant. He can be reached at bpkhot@vsnl.net

Trade Circular No. 25 T of 2005 Dt. 24th Aug. 2005.

Filing of returns for the month of July 2005.

Due to unprecedented rainfall and flood conditions in Maharashtra in the month of July and August 2005 the date of filing of return for the month of July 2005 under Maharashtra Value Added Tax Act, 2002; Central Sales Tax Act, 1956 and other Acts administered by the Sales Tax Department is extended to 31st August 2005.

Trade Circular No. 16 T of 2005 Dt. 8th Aug. 2005

Release of Bank Guarantees or securities in the form of National Saving Certificate.

The assessments of dealers furnishing the Bank Guarantees or securities in the form of National Saving Certificate should be completed for a period ending on the last day of the year following the year in which the Bank Guarantees or Securities are deposited before the expiry of the guarantee period and Bank Guarantees or National Savings Certificates should be released immediately within 30 days, after the expiry of the period for which they are kept.

Trade Circular No. 17 T of 2005 Dt.17th Aug. 2005

Levy of Luxury Tax on Luxury provided to the officials and employees of Consulate's of different Countries.

The exemptions from payment of tax under the Maharashtra Value Added Tax Act, 2002 and The Maharashtra Tax on Luxuries and tax by way of cess on other Facilities, Services, Enjoyments, Utilities, Consumption, etc. Act, 1987 are totally different and separate and are not coterminous. It may be noted that the employees of consulates availing of exemption from payment of tax under Maharashtra Value Added Tax Act 2002 are not necessarily entitled for exemption of payment of tax under Luxury Tax Act, 1987, unless notified specifically under the latter Act for that purpose and the Hoteliers are requested to verify the entitlement of any particular diplomatic or consular officer for benefits under each Act strictly in terms of the notifications issued under the respective Act otherwise, their claim of tax exemption will be untenable. ■

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Central PAN Ledger Generation System - Team FFB

Tax Information Network (TIN) has a key subsystem called Central PAN Ledger Generation System (CPLGS). Under this system all available information for each PAN is consolidated. This is what your electronic PAN Ledger will look like :

LEDGER FOR PAN : -----

<ul style="list-style-type: none"> towards Advance Tax towards Self Assessment Tax 	Tax Deposited by you : as Reported by OLTAS
<ul style="list-style-type: none"> Cash deposited in a saving accounts with a bank :Rs. 10 Lacs or more Payments made against credit cards : Rs. 2 Lacs or more Investments in units of a mutual fund : Rs. 2 Lacs or More Investments in debentures or bonds of a company : Rs. 5 Lacs or more Investment in IPO / Rights issue of a company : Rs. 1 Lac or more Purchase of immovable property : Rs. 30 Lacs or more Sale of immovable property : Rs. 30 Lacs or more Investments in RBI Bonds : Rs. 5 Lacs or more 	Major Investments and Expenses by you : as Reported by AIR
<ul style="list-style-type: none"> Interest on Securities Interest other than interest on Securities Winnings from lotteries and crossword puzzles Winnings from horse race Payment against Contracts Insurance Commission Payments in respect of Deposits under National Savings Schemes Payments on account of Re-purchase of Units by Mutual Funds or UTI Commission, prize etc. on sale of Lottery tickets Commission or Brokerage Rent Fees for Professional or Technical Services Payment of compensation on Acquisition of Certain Immovable Property 	Payments Received and TDS Deducted thereon : as Reported by eTDS Statements
<ul style="list-style-type: none"> Alcoholic Liquor for Human Consumption Timber / Forest Produce Scrap Contractors or licensee or lease relating to Parking Lots Contractors or licensee or lease relating to toll plaza Contractors or licensee or lease relating to mine or quarry Tendu leaves 	Payments and TCS made thereon: As Reported by eTCS Statements
<ul style="list-style-type: none"> Interest Received from banks, companies 	More to Come

PAN STRUCTURE VALIDITY

- Many users are getting "invalid PAN" message while filing their Quarterly eTDS Return. Although apparently, the PAN looks correct.
- Please read the following rules about PAN, to solve this problem.
 - PAN must be 10 characters
 - PAN must be in the "AAAAA9999A" format. Where A stands for alphabet and 9 stands for number. Hence first five characters must be alphabets, next four characters numbers and last character alphabet.
 - Fourth character must be valid character. This can be seen from STATUS of applicant as given in the old format of Form 49A. Such valid characters are C P H F A T B L J G. If you have mentioned any other character in the fourth place, it will amount to invalid PAN.

Other important points to remember about PAN are

- If deductee has applied for PAN, mention : PANAPPLIED.
- If PAN is not available, mention : PANNOTAVBL.
- IF PAN available but invalid, mention : PANINVALID.

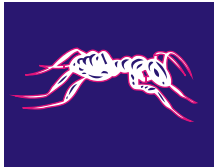
► A guide to invest wisely - N.K. Jain

Take the cue from the nature



The **zebra** foal gets a head start in life as it stands up within an hour of birth.

INVEST EARLY: To get a head start in life



The **Ants** regularly store more food than they can consume.

INVEST REGULARLY: To create wealth over a period of time. Invest small sums regularly.



The baby **kangaroo** is well protected and safe in its mother pouch even when she leaps.

ENSURE SAFETY: By investing in schemes that provide adequate safety



The **squirrel** hides its nuts in different places in woods.

DIVERSIFY INVESTMENTS: To minimise risks and maximise returns.



The **crane** stands absolutely still in water for hours together for its catch. The **Dog** dies while crossing the road as he tries to come back from halfway

BE PATIENT: Stay invested to reap better rewards.



The **giraffe** feasts on the food stored in one of its four chambers when it is hungry

ENSURE LIQUIDITY: To get your money back when you need it most.

Time Tested Principles

- Do not put all your eggs in one basket: Diversify your portfolio.
- Insure yourself before you invest
- Invest Early: Invest Regularly
- KISS: Keep Investment Simple & Straight
- Beware of 'Tip mentality' in your investment decisions
- Plan for Retirement
- Review your portfolio regularly
- Always invest not trade
- Tax saved is money earned
- Beat the inflation
- Greed and Fear causes pain
- Safety of principal should be of prime importance. Believe in a controlled (risk) approach to investments
- Keep a reasonable amount of liquid cash to meet your emergency needs
- Take a balanced approach to investing. Avoid risky investments as well as an overly cautious approach of investing
- Do not try to time the entry and exit of your investments
- Every time is a good time to invest if you have a long-term outlook and keep investing regularly
- Learn to buy when others sell and vice versa ■

The author is a chartered accountant. He can be reached at nkjca@rediffmail.com



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**Quarterly Statements
For Financial Yr. 2005-06**



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Cost Inflation Index

Cost inflation index for the financial year 2005-2006 is as under :

2005-2006 497

Notification No: 189 Dated 12-Aug-05

Date Extension : eTDS Return

Due date for filing of Annual eTDS Return and Quarterly eTDS Statement for the quarter ended 30th June 2005 by Government Deductors has been extended to 30th Sept 2005.

File 385/35/2005 Dated 30th Aug 2005

eTDS Statement : Clarifications for Govt Deductors

Form 24Q

In challan details, enter one entry for each month. Hence in one quarter there will be three entries in the challan details

Whether Tax deposited by Book Entry column must be marked "Yes"

No need to provide BSR Code

Date on which tax deposited must have last date of the month. So for tax deposited in April 05 enter 30-04-2005

Transfer Voucher No Not applicable

For Government employees, salary gets due on the first of subsequent month. Hence, Salary for March is paid in April and gets accounted in April. However, in quarterly eTDS Statement, the month of payment is to be considered.

Deductee wise break-up for each deductee must be provided for each month.

Form 26Q

In challan details, enter one entry for each month. Hence in one quarter there will be three entries in the challan details. For this purpose, all entries other than Payment of salaries and payment to non-residents will be clubbed.

Whether Tax deposited by Book Entry column must be marked "Yes"

No need to provide BSR Code

Date on which tax deposited must have last date of the month. So for tax deposited in April 05 enter 30-04-2005

Transfer Voucher No Not applicable

Deductee wise break-up for each deductee must be provided for each month.

Form 24Q Quarterly eTDS Statement : Clarifications

- For the Quarter 1, 2 and 3 , the details of salary and perquisites are not mandatory. Only the details of Challan and deductee are required to be given.
- In the column "Taxable Amount on which tax deducted", the actual monthly gross payslip salary is to be mentioned.
- Particulars of only those employees whose total taxable income (after deduction under chapter VIA) is above Rs. 1 Lac need to be given.
- The columns pertaining to sections 88, 88B, 88C and 88D may be left blank. Deduction under section 80C can be shown in the column 342 pertaining to "Amount deductible under any other provision of Chapter VI-A.
- Where an employee has worked with a deductor for part of the financial year only, the deductor should report the same in the quarterly Form 24Q of the respective quarter(s) up to the date of employment with him. Further, while submitting Form 24Q for the last quarter, the deductor should include particulars of that employee in Annexures II & III irrespective of the fact that the employee was not under his employment on the last day of the year.

Form 26QA : Date extension

Due date of filing of Form 26QA under section 206A of the Act for the quarter ended 30th June, 2005 is extended to 30th Sept. 2005

F No 385/35/2005 Dated 25-08-2005-A ■

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