

CIRCULAR NO. 3/2005



THE FINANCE ACT, 2005

EXPLANATORY NOTES ON THE PROVISIONS RELATING TO BANKING CASH TRANSACTION TAX

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Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

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Subject:- The Finance Act, 2005 – Explanatory Notes on the provisions relating to banking cash transaction tax

The Finance Act, 2005 (hereafter referred to as Act) has introduced a new levy, namely, the banking cash transaction tax (hereafter referred to as BCTT) on certain banking transactions. The provisions relating to levy of this tax are contained in Chapter VII (sections 93 to 112) of the Act. Section 111 of the Act empowers the Central Government to make the rules for carrying out the provisions of this Chapter. The rules have since been formulated and notified vide S.O. 737(E) dated 30th May, 2005. The salient features of this levy are explained in the following sections.

2. Objective

2.1 The Finance Minister, in para 177 of his speech while presenting the Budget 2005-2006, stated as under:-

“The NCMP requires the Government to introduce special schemes to unearth black money and assets. I am obliged to carry out the mandate, but without giving undeserved relief or an amnesty. I am concerned about large cash transactions, especially withdrawals of cash, when there is no ostensible purpose to withdraw such large amounts of cash. These cash withdrawals leave no trail, and presumably become part of the black economy. Therefore, I propose to introduce two anti tax-evasion measures: Firstly, I propose to levy a tax on withdrawal of cash on a single day of over Rs. 10,000 or more from banks at the rate of 0.1 per cent. Thus, a person withdrawing Rs. 10,000 in cash would have to pay a small sum of Rs. 10.”

2.2 The Finance Minister while replying to the debate on the Finance Bill, 2005 in both Houses of Parliament, reiterated this objective. Undoubtedly, therefore, the objective of the banking cash transactions tax is to prevent generation and laundering of black money through the banking channels.

3. Tax Base (What is liable to tax?)

3.1 The tax base for the purposes of BCTT is the value of taxable banking transaction. A taxable banking transaction has been defined in clause (8) of section 94 of the Finance Act, 2005. Broadly, there are two categories of transactions: cash withdrawal and receipt of cash on encashment of term deposits.

3.2 A cash withdrawal would fall within the scope of a taxable banking transaction if it satisfies the following conditions:

- (i) The cash withdrawal (by whatever mode) is from an account other than a savings bank account.
- (ii) The account is maintained with any scheduled bank.
- (iii) The amount of cash withdrawn on a single day from the same account should exceed Rs. 25,000 in the case of an individual or a HUF or Rs. 1,00,000 in the case of any other person.

Similarly, a receipt of cash on encashment of term deposits would fall within the scope of a taxable banking transaction if it satisfies the following conditions:

- (i) The cash is received on encashment of a term deposit or deposits.
- (ii) The term deposit or deposits are in any scheduled bank.

- (iii) The amount of cash received in a single day exceeds Rs. 25,000 in the case of a deposit or deposits in the name of an individual or a HUF or Rs. 1,00,000 in case of any other person.

For this purpose “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934.

3.3 The **value of the taxable banking transaction** shall be the **amount** of cash withdrawal or the **amount** of cash received on encashment of a term deposit or deposits, as the case may be, on any single day.

3.4 Multiple withdrawals of cash from the same account or multiple receipts of cash on encashment of a term deposit or deposits in the name of the same person on any single day shall be treated as a single taxable banking transaction. Therefore, if an individual were to withdraw Rs. 80,000 in a single day in multiples of Rs. 20,000 from one account, he would be liable to BCTT on the aggregate cash withdrawal of Rs. 80,000. However, if the individual maintains two or more accounts in a bank and withdraws upto Rs. 25,000 from each account in a single day, he would not be liable to the banking cash transaction tax.

3.5 Transactions of withdrawal of cash from a bank account or receipt of cash on encashment of term deposit or deposits (with a scheduled bank) on any single day not exceeding Rs. 25,000 in the case of individuals and HUFs and one lakh rupees in the case of any other person, are exempt from levy of this tax. However, in respect of transactions in excess of these limits, no benefit is available in respect of the exemption limit. For example, in respect of a transaction of withdrawal of cash of thirty thousand rupees on any single day from a current account maintained by an individual

with a scheduled bank, BCTT is leviable on the amount of Rs. 30,000 and not on the excess of Rs. 5,000 over the exemption limit.

3.6 It is also clarified that where the cash withdrawals are from different branches of a bank on a single day, such withdrawals will not be aggregated for the purposes of levy of BCTT. Similarly, cash receipts on encashment of term deposits with different branches of a bank on a single day will also not be aggregated for the purposes of this levy. Further, transactions of cash withdrawal and cash receipts on encashment of term deposits on a single day will also not be aggregated for the purposes of this levy.

3.7 Further, if cash is withdrawn by using a credit card, such withdrawals will not be subject to BCTT. However, if cash is withdrawn by using a debit card, such withdrawals from any account other than a savings bank account will be liable to BCTT.

4. Taxable Entities (Who is liable to pay the tax?)

4.1 The banking cash transaction tax is payable by every “**person**” as defined in clause (31) of section 2 of the Income-tax Act. It also includes an office or establishment of the Central Government or the Government of a State. Therefore, amongst others, the following persons are liable to the banking cash transaction tax:-

- (i) an individual,
- (ii) a Hindu undivided family,
- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority,
- (vii) every artificial juridical person, not falling within any of the preceding items, and
- (viii) an office or establishment of the Central Government or the Government of a State.

4.2 If the transaction relates to withdrawal of cash from an account with a scheduled bank, the BCTT is payable by the person in whose name such account is maintained. Similarly, if the transaction relates to receipt of cash on encashment of term deposit or deposits, the BCTT is payable by the person who receives such cash.

5. Territorial jurisdiction

5.1 BCTT is applicable to the whole of India except the State of Jammu and Kashmir [sub-section (1) of section 93]. Thus, BCTT shall not be charged in respect of transactions in an account maintained in any branch of a scheduled bank if such branch is situated in the State of Jammu and Kashmir. Similarly, if a term deposit has been made in a branch of a scheduled bank and if such branch is situated in the State of Jammu and Kashmir, the receipt in cash on encashment of such deposit will not attract the BCTT. However, it may be clarified that if the scheduled bank is incorporated in the State of Jammu and Kashmir, the taxable banking transactions will be liable to BCTT if the account is maintained or the deposit is made, in a branch of such bank situated outside the State of Jammu and Kashmir.

5.2 If a person withdraws cash outside India but the debit for such withdrawal is in an account in India, such withdrawal will attract the provisions of BCTT. However, if the withdrawal is in India but the account is maintained outside India, the provisions of BCTT will not be applicable.

6. Tax rate

6.1 The rate of BCTT is 0.1 percent (10 basis points) of the value of the taxable banking transaction.

7. Point of collection (When is the tax to be collected by the bank?)

7.1 The tax is to be collected by the bank at the time of the transaction. For example, when cash is withdrawn in excess of the specified limit, the bank will debit the amount of cash withdrawn and also the amount of BCTT payable thereon. Similarly, in the case of receipt of cash on encashment of term deposit, the bank is required to deduct the amount of BCTT payable thereon and pay the balance to the person encashing the term deposit.

7.2 The responsibility for collecting the BCTT rests with the bank in which the transaction takes place. In the event of failure to do so, the amount of BCTT, which was otherwise collectible, is required to be paid by that Bank to the credit of the Central Government.

8. Remittance of tax (When is the tax payable to the account of the Central Government?)

8.1 The BCTT collected by a scheduled bank during a calendar month will have to be paid by the bank to the credit of the Central Government by the fifteenth day of the month immediately following that month. For example, the tax collected/collectible by the bank during the month of June 2005 will have to be paid by 15th July 2005.

8.2 Further, it is clarified that the scheduled bank will have to pay to the Central Government the tax collected by all its branches. The branches are not required to directly remit the tax collected by them to the account of the Central Government. For example, if a bank has ten branches, a single remittance of the aggregate collection is required to be made and not ten separate remittances to the account of the Central Government.

9. Commencement

9.1 The BCTT is applicable in respect of all taxable banking transactions entered into on or after 1st June 2005.

10. Information system

10.1 The information system will comprise of three databases: the primary database, secondary database, and the tertiary database. The primary database will comprise of the original transaction records, like bank ledger, cheques and daily scrolls of the bank. This will not be required to be transmitted to the tax authorities. However, it will have to be made available to the tax authorities as and when required. Since the banks are otherwise required to maintain these details/records, no additional responsibility has been cast under the BCTT.

10.2 The **secondary database** will comprise of a computerized banking scroll summarizing the primary data so as to reflect transaction-wise information relating to BCTT. The secondary database is designed so as to provide such information as provided in Form No 1 notified under the BCCT Rules 2005. This database will not be required to be transmitted to the tax authorities. However, it will have to be made available to the tax authorities as and when required .

10.3 The **tertiary data** will be a monthly summary of the secondary data and will be structured along the pattern indicated in **Form No 2**. This database does not provide for transaction wise details. The tertiary data will be required to be furnished by a bank in respect of all its branches on a magnetic media like a computer floppy or CD-ROMs, etc., every month to a designated authority, namely Director General of Income Tax (Investigation), Delhi within one month from the end of the relevant month.

10.4 The annual return required under section 98 shall be the annual summary of secondary data as in Form No 3 and shall be furnished on a computer media by 31st July immediately following the Financial Year in respect of which such return is to be furnished. If the bank fails to file the annual return, the Assessing Officer is required to send him a notice calling for such annual return.

11. Assessment

11.1 The law provides for assessment on the basis of annual return filed by the bank. For this purpose, the Assessing Officer shall make an assessment of the value of taxable banking transactions entered into in a scheduled bank during the relevant financial year on the basis of the return filed by the bank (assessee) and on the basis of such accounts or documents or other evidence as may be submitted by the assessee. Assessing Officer shall determine the amount of BCTT payable or refundable on the basis of such assessment. Forms of notice of demand have been prescribed in rule 9.

12. Refund of Taxes

12.1 If a bank deposits to the account of the Central Government BCTT in excess of its final liability determined on assessment, the excess amount will be refunded to the bank. However, the bank is required to refund the same to the persons from whom it was collected within 30 days of receipt of refund from the Government.

13. Appeal

13.1 The law provides for appeal against the assessment order to the Commissioner of Income-tax (Appeals). Further, where the assessee is aggrieved by the order of the Commissioner of Income-tax (Appeals), he can file an appeal to the Appellate Tribunal. The forms for filing of appeal are prescribed in the rules.

14. Applicability of the provisions of the Income- tax Act

Section 106 of the said Chapter provides that sections 120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961, shall apply in relation to the banking cash transaction tax as they apply in relation to income-tax.

15. Miscellaneous

Other provisions of Chapter VII of the Act and the rules are self explanatory and are not being explained here.

16. Deduction under Income- tax Act

15.1 Consequent upon levy of BCTT, section 36 of the Income-tax Act has been amended so as to provide that the BCTT paid during a year by a person on taxable banking transactions entered into by him during the course of business or profession shall be allowed as deduction in computing the income from business or profession for the purposes of the Income tax Act

[F.No. 142/14/2005-TPL]

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