

FINANCE ACT, 1979

21 of 1979

[10th May, 1979]

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FINANCE ACT, 1979

[10th May, 1979]

An Act to give effect to the financial proposals of the Central Government for the financial year 1979-80 Be it enacted by Parliament in the Thirtieth Year of the Republic of India as follows :-

CHAPTER 1

PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called The Finance Act, 1979.

(2) Save as otherwise provided in this Act. section 2 to section 27 and section 44 , section 45 and section 46 shall be deemed to have come into force on the 1st day of April, 1979.

CHAPTER 2

RATES OF INCOME-TAX

2. Income-tax :-

(1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April. 1979. income-tax shall be charged at the rates specified in Part I of the First Schedule and shall be increased -

(a) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union;, and

(b) in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in each case in the manner provided therein.

(2) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year any net agricultural income, in addition to total income, and the total income exceeds ten thousand rupees, then,-

(a) the net agricultural income shall be taken into account, the manner provided in clause (b) (that is to say, as if the net agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:-

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph i or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income: Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (ii) of the proviso below Sub-Paragraph I as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in Sub-Paragraphs shall not apply:

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income:- Provided that for the purposes of determining the amount of income-tax in accordance with this sub-clause, the provisions of clause (i) and clause (ii) of proviso below Sub-Paragraph I or as the case may be sub-paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said sub-paragraphs shall not apply.

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii): Provided that where the sum so arrived at exceeds seventy per cent of the amount by which the total income exceeds ten thousand rupees, the excess shall be disregarded:

(iv) the amount of income-tax determined in accordance with sub-clause (iii) shall be increased by a surcharge for purposes of the Union calculated at the rate of fifteen per cent. of such income-tax and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Section 164 of the Income tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

(4) In cases in which tax has to be deducted under section 193. Section 194 OF THE INCOME TAX ACT, 1961 . Section 194A OF THE INCOME TAX ACT, 1961 . Section 194B OF THE INCOME TAX ACT, 1961 , Section 194BB OF THE INCOME TAX ACT, 1961 . Section 194D OF THE INCOME TAX ACT, 1961 and Section 195 of the Income Tax Act, 1961 at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(5) Subject to the provisions of sub-section (6), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of Section 132 of the Income tax Act, 1961 or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or Section 175 OF THE INCOME TAX ACT, 1961 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or deducted under sub-section (9) of section 80E of the said Act from any payment referred to in the said sub-section (9) or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force such income-tax, or as the case may be, "advance tax" shall be 50 calculated. charged, deducted or computed at the rate or rates specified in Part III of the First Schedule : Provided that in cases to which the provisions of Chapter XII or Section 164 of the Income tax Act, 1961 apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(6) In the cases to which Sub-Paragraph I or Sub-Paragraph II of Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or if by virtue of any provision of the Income-tax Act. income-tax is to be charged in respect of the income of a period other than the previous year. in such other period, any net agricultural income in addition to total income and the total income exceeds ten thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of Section 132 of the Income tax Act, 1961 or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force.--

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) (that is to say, as if the net

agricultural income were comprised in the total income after the first eight thousand rupees of the total income but without being liable to tax), only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income: and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows :--

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if such aggregate income were the total income: Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (ii) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply;

(ii) the net agricultural income shall be increased by a sum of eight thousand rupees and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in Sub-paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A, as if the net agricultural income as so increased were the total income: Provided that for the purposes of determining the amount of income-tax or "advance tax" in accordance with this sub-clause, the provisions of clause (i) and clause (ii) of the proviso below Sub-Paragraph I or, as the case may be, Sub-Paragraph II of the said Paragraph A and the provisions relating to surcharge on income-tax in the said Sub-Paragraphs shall not apply.

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii); Provided that where the sum so arrived at exceeds sixty per cent. of the amount by which the total income exceeds ten thousand rupees, the excess shall be disregarded;

(iv) the amount of income-tax or "advance tax" determined in

accordance with sub- clause (iii) shall be increased by a surcharge for purposes of the Union calculated at the rate of twenty per cent. of such income-tax or, as the case may be. "advance tax" and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(7) For the purposes of this section and the First Schedule.-

(a) "company in which the public are substantially interested" means a company which is such a company as is referred to in Section 108 of the Income tax Act, 1961 ;

(b) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1979. has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income in accordance with the provisions of section 194of that Act:

(c) "industrial company" means a company which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.

Explanation.-- For the purposes of this clause, a company shall be deemed to be mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining, if the income attributable to any one or more of the aforesaid activities included in its total income of the previous year (as computed before making any deduction under Chapter VIA of the Income-tax Act) is not less than fifty one per cent. of such total income:

(d) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(e) "net agricultural income", in relation to a person, means the total amount of agricultural income from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(f) "tax-free security" means any security of the Central Government issued or declared to be income-tax free. or any security of a State Government issued income-tax free, the income-tax whereon is payable by the State Government;

(g) all oilier words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER 3

Income-tax

3. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

4. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

5. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

6. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

7. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

8. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

9. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

10. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

11. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

12. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64;

80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

13. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

14. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

15. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

16. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

17. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

18. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

19. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

20. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

21. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

22. . :-

Amended the following sections of the Income-tax Act which have been incorporated in the principal Act and hence not printed hereat. Sections affected are: 10; 35B; 35CCA; 36; 37; 54E; 64; 80C: 80GGA (ins.): 80J; 80JJA (ins.): 80P; 80QQA (ins.); 208; 245D; 246 S. 22 made consequential amendments in certain sections.

23. . :-

Amendments to Wealth Tax Act would be found incorporated in the principal Act.

24. . :-

Amendments to Wealth Tax Act would be found incorporated in the principal Act.

25. :-

Amendments to Wealth Tax Act would be found incorporated in the principal Act.

26. :-

Amendments to Wealth Tax Act would be found incorporated in the principal Act.

27. **27** :-

Amendments to Gift Tax Act incorporated in the Act. Not printed therefore.

CHAPTER 4

INDIRECT TAXES

28. **S. 28 and Schedule Second** :-

Amendments made in the Customs Tariff Act, 1975 incorporated in the Act.

29. **S. 29 and Third Schedule** :-

Amendments made in Central Excises and Salt Act incorporated in the Act.

30. **Amendment of Act 58 of 1967** :-

Amendments made in the Additional Duties of Excise (Goods of Special Importance) Act, 1957 incorporated in the Act.

31. **Auxiliary duties of customs** :-

(1) In the case of goods mentioned in the First Schedule to the customs Tarrif Act, or in that Schedule as amended from time to time, there shall be levied and collected as an auxiliary duty of customs an amount equal to twenty per cent. of the value of the goods as determined in accordance with the provisions of S.14 of the Customs Act. 1962(hereinafter referred to as the Customs Act).

(2) Sub-section (1) shall cease to have effect after the 31st day of March. 1980, except as respects things done or omitted to be done before such cesser, and Section 6 of the General Clauses Act, 1897 , shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The auxiliary duties of customs referred to in sub-section (1) shall be in addition lo any duties of customs chargeable on such

goods under the Customs Act. or any other law for the time being in force.

(4) The provisions of the Customs Act and the rules and regulations made thereunder. including those relating to refunds and exemptions from duties, shall, as far as may be. apply in relation to the levy and collection of the auxiliary duties of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

32. Special duties of excise :-

(1) In the case of goods chargeable with a duty of excise under the Central Excises Act as amended from time to time. road with any notification for the time being in force issued by tlie Central Government in relation to the duty so chargeable. there shall be levied and collected a special duty of excise equal to five per cent. of the amount so chargeable on such goods.

(2) Sub-section (1) shall cease to have effect after the 31st day of March: 1980, except as respects things done or omitted to be done before such cesser, and Section 6 of the General Clauses Act, 1897 . shall apply upon such cesser as if the said sub-section had then been repealed by a Central Act.

(3) The special duties of excise referred to in sub-section (1) shall be in addition to any duties of excise cliargeable on such goods under the Central Excises Act. or any other law for the time being in force.

(4) The provisions of the Central Excises Act and the rules made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply inrelation to the levy and collection of the special duties of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or tliose rules as the case may be.

CHAPTER 5

FOREIGN TRAVEL TAX

33. Extent and commencement :-

(1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34. Definitions :-

In this Chapter, unless the context otherwise requires,- -

(a) "aircraft" means an aircraft as defined in S.2 of the Aircraft Act, 1934, which is used (whether exclusively or not) for the carriage of passengers;

(b) "carrier" means the person or authority undertaking the carriage of a passenger on an international journey and includes any agent, representative or other person acting on behalf of such person or authority;

(c) "customs port" and "customs airport" means, respectively, a port or an airport appointed as such under clause (a) of Section 7 of the Customs Act, 1962 ;

(d) "International journey", in relation to a passenger, means his journey from any customs port or customs airport on board any ship or aircraft to a place outside India;

(e) "passenger" means any person boarding, at any customs port or customs airport, a ship or an aircraft for performing an international journey, but does not include-

(a) a person who has arrived at such customs port or customs airport from a place outside India and is in transit through India: Provided that he continues his journey to a place outside India-

(i) on board the same ship and as part of the same voyage of the ship: or

(ii) by the same aircraft and the flight having the same number by which he arrived; or

(b) a person employed or engaged in any capacity on board the ship or aircraft on the business thereof;

(f) "ship" means a ship used (whether exclusively or not) for the carriage of passengers.

35. Foreign travel tax :-

(1) With effect from the date of commencement of this Chapter, there shall be levied on all passengers embarking on international journeys a tax (hereafter in this Chapter referred to as the foreign

travel tax)-

¹ (i) for every such journey to any place outside India other than a place in a neighbouring country-

(a) at the rate of seven hundred and fifty rupees on or after the 26th day of September, 1997 but before the 1st day of January, 1998;

(b) at the rate of five hundred rupees on or after the 1st day of January, 1998:

(ii) at the rate of fifty rupees for every such journey, where such journey is to any place in a neighbouring country

Explanation.- For the purposes of this sub-section, "neighbouring country" means any country which the Central Government may, having regard to the classes of person who generally perform journeys to such country, the distance between India and such country, the means of communications available for reaching such country and any other relevant circumstances specify in this behalf by notification in the Official Gazette.

(2) In accordance with the rules made under this Chapter, the foreign travel tax shall be collected by the officers of customs appointed under the Customs Act, 1962, or such officers of the Central Government or the State Government or the International Airports Authority of India constituted under the International Airports Authority Act, 1971, or such carriers, as may be, authorised in this behalf by the Central Government by notification in the Official Gazette and paid to the credit of the Central Government.

1. Substituted for "(i) at the rate of one hundred rupees for every such journey to any place outside India other than a place in a neighbouring country; ", vide The Finance (Amendment) Act, 1998 (16 Of 1998), Dt. July 7, 1998 Published in Received the assent of the President on July 7, 1998 and published in the Gazette of India, Extra., Part II, Section 1, dated 7th July, 1998, pp. 1-2, No. 31

35A. Interest for default in payment of foreign travel tax. :-

(1) Where any carrier or other person fails to pay the foreign travel tax to the credit of the Central Government under sub-section (2) of section 35 in accordance with the rules made under this Chapter, he shall pay an interest on the amount of tax not so paid

for the entire period for which payment of such tax has been delayed at such rate, not below twenty per cent. and not exceeding thirty per cent. per annum, as the Central Government may. by notification in the Official Gazette specify in this behalf.

(2) Where, on or before the date of commencement of Section 97 of the Finance Act, 1994 , the foreign travel tax had not been paid by any carrier or other person to the credit of the Central Government, in accordance with the rules made under this Chapter, the carrier or other person shall pay the amount of such tax within a period of thirty days of such commencement, failing which he shall be liable to pay the interest in accordance with the provisions of sub- section (1).

36. Power to exempt :-

Notwithstanding anything contained in this Chapter, the Central Government may. by notification in the Official Gazette and subject to such conditions and limitations as may be specified therein, exempt, wholly or to such extent as may be specified in the notification, any class or classes of passengers or any category or categories of passenger's under any such class from the payment of foreign travel tax if that Government is satisfied that it is necessary or expedient so to do, having regard to the place of destination, purposes of the journey and any other special circumstances.

37. Passenger not to be permitted to board ship or aircraft without payment of foreign travel tax :-

No carrier or other person in charge of a ship or an aircraft shall allow any passenger to board the ship or aircraft unless such passenger has paid the tax payable by him under this Chapter.

38. Penalties :-

(1) Every passenger who embarks or attempts to embark on an international journey without paying the tax payable by him under this Chapter shall, in addition to his liability to pay the tax, be liable to a penalty not exceeding two hundred rupees.

(2) Every carrier or other person in charge of a ship or an aircraft, who, in contravention of the provisions of section 37 , allows any passenger or passengers to board the ship or aircraft. shall be liable to a penalty not exceeding three times the amount or the aggregate amount of the tax payable by the passenger or passengers so allowed to board the ship or aircraft.

¹ [(3)Every carrier or other person who fails to pay the foreign travel tax to the credit of the Central Government under sub-section (2) of section 35 shall, in addition to the payment of such tax and the interest leviable thereon, be liable to pay penalty which shall not be less than one-fifth but which may extend to three times of the amount of the tax not so paid to the credit of the Central Government.

(4) Any rule made under this Chapter may provide that in case of breach thereof by the carrier or other person, he shall be liable to a penalty which shall not be less than five hundred rupees but which may extend to fifty thousand rupees, and where the breach is a continuing one, with further penalty which may extend to five hundred rupees for every day after the- first during which such breach continues.

(5) Any penalty under this section may be adjudged, collected and paid to the credit of the Central Government by such authority and in such manner as may be specified in the rules made under this Chapter. Provided that no order for imposing a penalty shall be passed by such authority unless the carrier or other person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

1. Act has been repealed by the Act (61 of 1981). S. 17 (b) [w.e.f. 1.5.1982)].

38A. Modes of recovery :-

(1) Where the foreign travel tax or interest or penalty is not paid by a carrier or other person, as required under the provisions of sub-section (2) of section 35 , section 35A or section 38 . the authority specified in the rules (hereinafter referred to as the authority) may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by any mode specified in sub-section (2) or sub-section (3).

(2) The authority may require any person from whom any amount is due to the carrier or other person to deduct the tax. interest or penalty so determined from the said amount and such person shall comply with any requisition by the authority and shall pay the amount so deducted to the credit of the Central Government. Provided that nothing in this sub-section,, shall apply to any part of

the amount exempt from attachment in execution of a decree of a civil court- under S.60 of the Code of Civil Procedure. 1908.

(3) The authority may prepare a certificate signed by it specifying the amount due and send it to the Collector of the district in which the carrier or other person owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier or other person, the amount specified thereunder as if it were an arrear of land revenue]

39. Protection of action taken in good faith :-

No suit or other legal proceeding shall lie against the Central Government and no suit, prosecution or other legal proceeding shall lie against any officer of the Central Government or the State Government or the International Airports Authority of India referred to in sub-section (2) of section 35 for anything in good faith done or intended to be done in pursuance of this Chapter or the rules made thereunder.

40. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -

(a) the collection of the foreign travel tax including the charges for collection payable to any State Government or the International Airports Authority of India referred to in sub-section (2) of section 35 or any carrier, the authorities by whom adjudication of penalties or other functions under this Chapter shall be discharged, in manner in which such tax, penalties or other sums due under this Chapter shall be payable, the manner in which such tax, penalties or other sums shall be collected and paid to the credit of the Central Government and the procedure for claiming refund of any amount paid under this Chapter.

(b) the powers of officers authorised under sub-section (2) of section 35 to enter, inspect and search any ship or aircraft for the purpose of carrying on any duty imposed on such officer by or under this Chapter: Provided that the provisions of Code Of Criminal Procedure, 1973 , relating to searches, shall, so far as they are applicable, apply in relation to searches under rules made under

this Chapter,

(c) the procedure for adjudication of penalties,

(d) appeals against orders made under this Chapter, the manner in which and the time within which such appeals may be preferred and the fees payable therefor;

(b) the returns and other particulars and information which may be required to be furnished for the purposes of this Chapter, the persons or authorities by or to whom or which, and the intervals at which, such returns, particulars and informations shall be furnished;

(f) any other matter which is to be, or may be, provided for by rules under this Chapter.

41. Rules and notifications to be laid before Parliament :-

Every rule made under this Chapter and every notification issued under the Explanation to sub-section (1) of section 35 or section 36 shall be laid as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

42. Cesser of operation of Chapter VII of Act 32 of 1971 and saving :-

Chapter VII of the Finance (No.2) Act, 1971 (relating to foreign travel tax) shall cease to have effect except as respects filings done or omitted to be done before such cesser; and Section 6 of the General Clauses Act, 1897 shall apply upon such cesser as if the said Chapter had then been repealed by a Central Act.

CHAPTER 6

MISCELLANEOUS

43. Amendment of Act 6 of 1898 :-

Incorporated in the Act.]

44. Amendment of Act 10 a of 1963 :-

In the Agricultural Refinance and Development Corporation Act, 1963 . after section 42 the following section shall be inserted, namely:- "42A. Corporation to be exempt from income-tax and surtax for a certain period. - Notwithstanding anything contained in the Income-tax Act, 1961 or the Companies (Profits) Surtax Act, 1964 . the Corporation shall not be liable to pay any tax under either of the said Acts on its income, profits or gains for the previous year relevant to the assessment year commencing on the 1st day of April, 1979 and for the four previous years next following that previous year".

45. Amendment of Act 21 of 1973 :-

Incorporated in the Principal Act].

46. Amendment of Act 38 of 1974 :-

Incorporated in the Principal Act].

SCHEDULE 1

SCHEDULE

1. Rule 1 :-

Agricultural income of the nature referred to in sub-clause (a) of clause (1) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to Section 59 of the Income Tax Act, 1961 of that Act shall, so far as may be, apply accordingly : Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to Section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

2. Rule 2 :-

Agricultural income of the nature referred to in sub-clause (h) sub-clause (c) of clause (1) of Section 2 of the Income tax Act, 1961 (other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of section 30 , Section 31 of the Income Tax Act, 1961 , Section 32 of the Income Tax Act, 1961 , Section 34 OF THE INCOME TAX ACT, 1961 , Section 36 of the Income Tax Act, 1961 , Section 37 of the Income Tax Act,

1961 , Section 38 of the Income Tax Act, 1961 , Section 40 of the Income Tax Act, 1961 Section 40A OF THE INCOME TAXACT, 1961 [other than sub-sections (3) and (4) thereof], Section 41 of the Income Tax Act, 1961 , Section 43 of the Income Tax Act, 1961 , and Section 43A of the Income Tax Act, 1961 shall, so far as may be, apply accordingly.

3. Rule 3 :-

Agricultural income of the nature referred to in sub-cl (c) of Cl. (1) of Section 2 of the Income tax Act, 1961 . being income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to Section 27 of the Income Tax Act, 1961 of that Act shall, so far as may be. apply accordingly; Provided that sub-section (2) of the said section 23 shall apply subject to the modifications that the references to ""total income" therein shall be construed as references to net agricultural income and that the words, figures and letter "and before making any deduction under Chapter VIA" shall be omitted.

4. Rule 4 :-

Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with R.8 of the Income-tax Rules, 1962. and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

5. Rule 5 :-

Where the assessee is a partner of a registered firm or an unregistered Firm assessed as a registered firm under clause (b) of Section 183 of the Income tax Act, 1961 which in the previous year has, any agricultural income, or is a partner of an unregistered firm which has not been assessed as a registered firm under clause (b) of the said section 183 and which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an unregistered firm but has any agricultural income, then the agricultural income or loss of the firm shall be computed in accordance with these rules and his share in the agricultural income

or loss of the firm shall be computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of Section 67 of the Income tax Act, 1961 and the share so computed shall be regarded as the agricultural income or loss of the assessee.

6. Rule 6 :-

Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

7. Rule 7 :-

Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income. Provided that where the assessee is a partner of an unregistered firm which has not been assessed as registered firm under clause (h) of Section 183 of the Income tax Act, 1961 or is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the firm, association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

8. Rule 8 :-

Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income

9. Rule 9 :-

(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April 1979, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the

previous year relevant to the assessment years commencing on the 1st day of April. 1974 or the 1st day of April 1975 or the 1st day of April. 1976 or the 1st day of April. 1977 or the 1st day of April. 1978. is a loss then, for the purposes of sub-section (2) of section 2 of this Act.---

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April. 1974. to the extent, if any. such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April. 1975 or the 1st day of April, 1976 or the 1st day of April. 1977. or the 1st day of April. 1975.

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April. 1975. to the extent, if any. such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April 1976 or the 1st day of April. 1977. or the 1st day of April. 1978.

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, to the extent, if any. such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the 1st day of April 1978.

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1978 and

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, 1st day of April, 1978. shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1979.

(2) where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1980 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net

result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1974 or the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979, is a loss, then, for the purposes of sub-section (6) of section 2 of this Act.

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1974, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1975 or the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979.

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1975, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1976 or the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979.

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1976, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1977 or the 1st day of April, 1978 or the 1st day of April, 1979.

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1977, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1978 or the 1st day of April, 1979,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1978, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, and

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1979, it any, such loss has not been set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1980 or the period aforesaid.

(3) Where a change has occurred in the constitution of a firm, nothing in sub-rule (1) or sub-rule (2) shall entitle the firm to set off so much of the loss proportionate to the share of a retired or deceased partner computed in the manner laid down in sub-section (1), sub-section (2) and sub-section (3) of Section 67 of the Income tax Act, 1961 as exceeds his share of profits, if any, of the previous year in firm, or entitle any apportionable to him.

(4) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss to have it set off under sub-rule (1), or as the case may be, sub-rule (2).

(5) Notwithstanding anything contained in this rule, no loss which has not been determined by the Income-tax officer under the provisions of these rules, or the rules contained in Part IV of the Finance Act, 1974, or of the Finance Act, 1975, or of the Finance Act, 1976, or of the Finance (No.2) Act, 1977, or of the Schedule to the Finance Act, 1978, shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

10. Rule 10 :-

Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

11. Rule 11 :-

The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

12. Rule 12 :-

For the purposes of computing the net agricultural income of the

assessee, the income-tax Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

SCHEDULE 2

3

(See Section 2K) (Incorporated in the Act)

SCHEDULE 3

3

(See section 29) (Incorporated in the Act)

SCHEDULE 4

4

(See section 30) (Incorporated in the Act)