

Companies Deposits ((Surcharge on Income tax) Scheme, 1983

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Companies Deposits ((Surcharge on Income tax) Scheme, 1983

In exercise of the powers conferred by sub-section (7) of Section 2 of the Finance Act, 1983 (11 of 1983), the Central Government hereby frames the following Scheme, namely :-

1. Short title, commencement and application :-

(1) This Scheme may be called the Companies Deposits (Surcharge on Income-tax) Scheme, 1983.

(2) It shall come into force at once.

(3) It applies to all companies to which the provisions of the Income-tax Act, 1961 (43 of 1961) apply.

2. Definitions :-

(1) In this Scheme, unless the context otherwise requires,-

(a) "account" means a Deposit Account under this Scheme ;

(b) "deposit office" means-

(i) in a case where the deposit under this Scheme is made at any place where a branch or office of the Development Bank is situated, such branch or office ; and

(ii) in any other case, a branch or an office of the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) specified in Appendix-1, hereto.

(c) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) ;

{d) "Income-tax Act" means the Income-tax Act, 1961 (43 of 1961) ;

(e) "paragraph" means a paragraph of this Scheme and "sub-paragraph" means a sub-paragraph of the paragraph in which it occurs;

(f) all other words and expressions used herein but not defined and in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

(2) All references to "Forms" in this Scheme shall be construed as references to the forms set out in Appendix II hereto.

3. Deposit when and how to be made :-

(1) A deposit in lieu of payment of one-half of the amount of surcharge on income-tax under the second proviso to sub-section (5) Section 2 of the Finance Act, 1983 (11 of 1983), may be made by a company at any time before the last installments of "advance tax" is due in its case : Provided that in a case where the date for furnishing the estimate of "advance tax" is extended by the Commissioner under the proviso to sub- section (4) of Section 209A of the Income tax Act, 1961 , such deposit, to the extent it is made in lieu of one-half of the amount of surcharge relatable to the amount of advance tax allowed to be paid before the date so extended, may be made on or before such extended date.

(2) A deposit in lieu of payment of one-half of the amount of surcharge on income-tax under sub-section (7) of Section 2 of the Finance Act, 1983 (11 of 1983), may be made by a company at any time during the financial year commencing on the 1st day of April, 1983.

(3) A deposit under sub-paragraph (1) or sub-paragraph (2) may be made either in one lump sum or in installments.

4. Manner of deposit :-

(1) Every company making a deposit under this Scheme for the first time shall apply to the deposit office in Form A, or as near thereto as may be, together with the amount of deposit payable in the manner specified in sub-paragraph (3).

(2) On receipt of an application under sub-paragraph (1), the deposit office shall open an account in the name of the company.

(3) Every subsequent deposit shall be made into the deposit office at which the account stands by a crossed cheque drawn in favour of such office on a bank at the place where the office is situated : Provided that where such deposit is made in a deposit office referred to in sub-clause (r) of clause (b) of sub-paragraph (1) of paragraph 2, such deposit may be made in cash.

(4) Every deposit shall be evidenced by a receipt issued in Form B, or as near thereto as may be) by the deposit office.

(5) The deposit office shall also issue, at the end of the financial year commencing on the 1st day of April, 1983, or, as the case may be, on the expiry of the period ending with the extended date referred to in the proviso to sub-paragraph (1) of paragraph 3, a certificate in Form G, or as near thereto as may be, to the company showing the amount of deposits made by it during the said financial year or, as the case may be, the period ending with the extended date.

5. Proof regarding deposit :-

(1) Where a deposit is made by a company under sub-paragraph (1) of paragraph 3, the receipt or as the case may be, the receipts referred to in sub-paragraph (4) of paragraph 4 shall be forwarded by the company to the Income-tax Officer within one week from the date on which the last installment of advance tax is due in its case, or, as the case may be, within one week of the extended date referred to in the proviso to sub-paragraph (1) of paragraph 3.

(2) Where a deposit is made by a company under sub-paragraph (2) of paragraph 3, the receipt or as the case may be, the receipts referred to in sub-paragraph (4) of paragraph 4 shall be forwarded by the company to the Income-tax Officer along with the return of income for the assessment year commencing on the 1st day of April, 1984.

(3) The Income-tax Officer may, for the purposes of verification,

require the company to produce the certificate issued to it by the deposit office.

6. Transfer of accounts :-

A company may apply for the transfer of its account from any branch or office at the Development Bank to any other branch or office of the same bank or from any branch or office of the bank referred to in sub-clause (ii) of clause (b) of sub-paragraph (1) of paragraph 2 to any other branch or office of the same bank.

7. Issue of duplicate, etc :-

(1) In the event of loss or destruction of a certificate issued by the deposit office, the deposit office may, on an application made to it in this behalf, issue a duplicate thereof.

(2) In the event of loss or destruction of the receipt referred to in sub-paragraph (4) of paragraph 4, the deposit office may, on an application made to it in this behalf, issue a duplicate thereof.

8. Interest :-

The deposit made under the Scheme shall carry simple interest at the rate of 7'5 per cent, per annum to be calculated from the 1st day of the month immediately following the month in which the amount of deposit is credited to the account of the company to the last day of the month immediately preceding the month in which the amount of the deposit becomes repayable (both days inclusive).

9. Repayment :-

(1) Subject to the provisions of paragraph 10, the amount of deposit together with interest thereon shall be repayable immediately after the expiry of five years from the end of the financial year commencing on the 1st day of April, 1983 by the deposit office at which the account of the company stands.

(2) The repayment of a deposit shall be made only on production of the certificate accompanied by an application in Form D, or as near thereto as may be.

(3) Where, in a scheme of amalgamation, the amalgamating company assigns or otherwise transfers the right to receive the deposit together with interest thereon to the amalgamated company, the deposit together with interest thereon shall be repaid to the amalgamated company.

10. Company in Liquidation :-

(1) Any person who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise, may, subject to the provisions of sub-paragraph (2), make an application to the Development Bank in Form E, or as near thereto as may be, for earlier repayment of the deposit together with interest thereon, if he considers that the affairs of the company are likely to be fully wound up before the expiry of the period specified in sub-paragraph (1) of paragraph 9.

(2) An application under sub-paragraph (1) shall be made only if the liquidator considers that the affairs of the company are likely to be fully wound up within a period of six months from the date of the application.

(3) If the Development Bank is satisfied that the affairs of the company are likely to be fully wound up within the period of six months specified in sub-paragraph (2) and that the period of six months aforesaid shall end before the expiry of the period referred to in sub-paragraph (1), it may make an order in writing requiring the deposit office concerned to forthwith repay the amount of the deposit together with interest due thereon to the liquidator and shall endorse a copy of such order to the liquidator.

(4) On production of the copy of the order of the Development Bank by the liquidator) the deposit office shall forthwith repay the deposit with interest due thereon.