(Withdrawn vide 359th meeting of the Council held on September 16-17, 2016)

GN(A) 20 (Issued 2005)

Guidance Note on Accounting for Fringe Benefits Tax

Foreword

Of all the sources of government receipts, the most important is tax-revenue. It is also the most important instrument for ensuring social justice, both in equitably distributing the burden of development, as also in reducing inequalities of incomes. Compared to other sources such as borrowing and deficit financing, it is preferable because, unlike borrowing, it involves no interest burden, and unlike deficit financing, it does not result in rise in prices.

In the recent years the Government has undertaken major reforms of the tax-system of the country. The several changes in the taxes, direct and indirect, subserve important goals of the Government as envisaged in its new economic policy. As another step in this direction, the Finance Act, 2005, has introduced Chapter XII-H on 'Income-tax on Fringe Benefits' in the Income-tax Act, 1961. With the introduction of Fringe Benefits Tax, the profession of Chartered Accountants is placed with the responsibility of ensuring proper financial reporting of the tax. Since the Fringe Benefits Tax has raised issues of accounting, I am happy that the Research Committee of the Institute has formulated this Guidance Note on Accounting for Fringe Benefits Tax which has been issued under the authority of the Council of the Institute.

I am confident that this Guidance Note would be useful not only to the members but also to others concerned.

New Delhi
July 15, 2005

Kamlesh S. Vikamsey
President

Preface

India has a well developed tax structure with a three-tier federal structure, comprising the Union Government, the State Governments, and the Urban/ Rural Local Bodies. The power to levy taxes and duties is distributed among the three tiers of Governments, in accordance with the provisions of the Indian Constitution. One of the main taxes/duties that the Union Government is empowered to levy is Income-tax. Recently, the Finance Act, 2005, has introduced Fringe Benefits Tax which is a new tax in the tax regime of India.

The Fringe Benefits Tax is an additional tax to be paid by an employer in addition to the income-tax payable for every assessment year starting from the assessment year 2006-07. The tax is to be paid in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees. Fringe Benefits Tax is a new law and as is the case with any new law, many issues arise not only in respect of its interpretation and application but also with regard to accounting for the tax for the purpose of preparation of financial statements. The Institute of Chartered Accountants of India, being the premier accounting body in the country, decided to pro-actively provide guidance on its accounting and for this purpose to issue a Guidance Note on the subject through its Research Committee. Accordingly, the Research Committee prepared the Guidance Note on Accounting for Fringe Benefits Tax, which has been subsequently approved by the Council of the Institute.

The Guidance Note deals with accounting for Fringe Benefits Tax, particularly with regard to the recognition and presentation of the Fringe Benefits Tax in the financial statements. The Guidance Note does not deal with accounting for 'fringe benefits' as such.

I am thankful to Shri S.C.Vasudeva, my esteemed senior colleague, on the Research Committee and the Central Council and the Chairman, Accounting Standards Board, for his invaluable support and contribution in the finalisation of the Guidance Note. I also place on record my sincere appreciation for the contribution made by Shri Ved Jain, my colleague on the Central Council and the Chairman of Fiscal Laws Committee. I would also like to thank all other members of the Research Committee, namely, Shri K.P.Khandelwal (Vice-Chairman), Shri Kamlesh S. Vikamsey (President), Shri T.N.Manoharan (Vice-President), Shri Shanti Lal Daga, Shri Anuj Goyal, Shri H.N.Motiwalla, Ms. Bulbul Sen, Shri T.G.Srinivasan, Shri Gobind Prasad Agrawal, Shri K.

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Nagarajan, Shri O.P. Maheshwari, Shri R.M. Kothari, Shri Rajiv Dave and Shri Sujal A. Shah for their invaluable suggestions and inputs.

Pankaj Jain
Chairman
Research Committee

New Delhi
July 15, 2005

(Withdrawn vide 359th meeting of the Council held on September 16-17, 2016)

GN(A) 20 (Issued 2005)

Guidance Note on Accounting for Fringe Benefits Tax

(The following is the text of the Guidance Note on Accounting for Fringe Benefits Tax, issued by the Council of the Institute of Chartered Accountants of India[1] .)

1. The Finance Act, 2005, has introduced Chapter XII-H on 'Income-tax on Fringe Benefits' [hereinafter referred to as 'Fringe Benefits Tax']. The relevant extracts from Chapter XII-H of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), governing the Fringe Benefits Tax, have been reproduced in the Annexure to this Guidance Note. This Guidance Note is being issued to provide guidance on accounting for Fringe Benefits Tax, particularly with regard to the recognition and presentation of Fringe Benefits Tax in the financial statements. The Guidance Note does not deal with accounting for 'fringe benefits' as such.

2. The salient features of Fringe Benefits Tax are as below:

(a) Fringe Benefits Tax is tax payable by an employer in respect of fringe benefits provided or deemed to have been provided by the employer to his employees during the previous year.

(b) Fringe Benefits Tax is in addition to the income-tax charged under the Act.

(c) Fringe Benefits Tax is payable at the specified rate on the value of fringe benefits. The value of fringe benefits is calculated in accordance with the provisions of section 115WC of the Income-tax Act, 1961, reproduced in the Annexure to this Guidance Note.

(d) An employer is required to pay Fringe Benefits Tax even if no income-tax on the total income is payable.

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[1] Recommendations contained in this Guidance Note are intended to apply only to items which are material.

(e) The term 'employer' means:

(i) a company;

(ii) a firm;

(iii) an association of persons or a body of individuals, whether incorporated or not, but excluding any fund or trust or institution eligible for exemption under clause (23C) of section 10 or registered under section 12AA of the Act;

(iv) a local authority; and

(v) every artificial juridical person, not falling within any of the preceding sub-clauses.

(f) The term 'fringe benefits' means any consideration for employment provided by way of –

(i) any privilege, service, facility or amenity, directly or indirectly, provided by an employer, whether by way of reimbursement or otherwise, to his employees (including former employee or employees);

(ii) any free or concessional ticket provided by the employer for private journeys of his employees or their family members; and

(iii) any contribution by the employer to an approved superannuation fund for employees.

The privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee.

(g) The fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in 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 stated in section 115WB(2) of the Act. Examples of the purposes stated under the said section are entertainment, festival celebrations, gifts, maintenance of guest house, employees' welfare, hotel, boarding and lodging, conveyance, tour and travel (including foreign travel), etc.

(h) Every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, is required to furnish a return of fringe benefits to the Assessing Officer in the prescribed form, on or before the due date, in respect of the previous year.

(i) Fringe Benefits Tax, like any other direct tax, is not an allowable expenditure for the purpose of computation of taxable income.

Nature of Fringe Benefits Tax

3. With a view to recommend a proper and uniform accounting treatment for the Fringe Benefits Tax, it is necessary to understand the nature of Fringe Benefits Tax which is discussed in paragraph 4.

4. The Fringe Benefits Tax has been introduced under the Income-tax Act, 1961, as 'additional income-tax', vide section 115WA(1) which provides as below:

> "In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent on the value of such fringe benefits."

Thus, the above stated tax is an additional income-tax payable by the employer on the value of fringe benefits provided or deemed to have been provided to its employees.

Recognition and Measurement of Fringe Benefits Tax

5. An employer becomes liable to pay Fringe Benefits Tax as soon as it incurs an expense which is considered to be a fringe benefit as per the requirements of Chapter XII-H of the Income-tax Act, 1961, even though the actual payment of the tax and/or assessment of the tax takes place on a later date. Accordingly, the employer should recognise, in the financial statements for the period, expense for the Fringe Benefits Tax paid/payable in respect of all expenses giving rise to such tax incurred during that period.

6. As discussed in paragraph 2(c) above, the Fringe Benefits Tax is payable at the specified rate on the value of fringe benefits. The value of fringe benefits is calculated in accordance with the provisions of section 115WC of the Act. The employer should, therefore, measure the amount of the Fringe Benefits Tax keeping in view the aforesaid provisions of the Act.

Presentation of Fringe Benefits Tax in Financial Statements

7. Paragraph 5 of Accounting Standard (AS) 5, 'Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies', issued by the Institute of Chartered Accountants of India, provides as below:

> ***"5. All items of income and expense which are recognised in a period should be included in the determination of net profit or loss for the period unless an Accounting Standard requires or permits otherwise."***

Since the Fringe Benefits Tax is an additional tax for the employer, it should be included in the determination of net profit or loss for the period, *i.e.*, the Fringe Benefits Tax, should be charged to the profit and loss account.

8. In the context of presentation of the Fringe Benefits Tax in the profit and loss account of companies, it has been considered whether the tax is covered by the requirement of clause 3(vi) of Part II of Schedule VI to the Companies Act, 1956, which provides as below:

> "The amount of charge for Indian income-tax and other Indian taxation on profits, including, where practicable, with Indian income-tax any taxation imposed elsewhere to the extent of the relief, if any, from Indian income-tax and distinguishing, where practicable, between income-tax and other taxation."

As discussed in paragraph 4 above, the Fringe Benefits Tax is an additional income-tax. Accordingly, the Fringe Benefits Tax is covered by the above clause and should be shown separately, if material.

9. Keeping in view the above, the Fringe Benefits Tax should be disclosed as a separate item after determining profit before tax on the face of the profit and loss account for the period in which the related fringe benefits are recognised. An illustration of the disclosure of Fringe Benefits Tax may be as below:

Profit before tax			xxx
Less: Income-tax expense:			
Current tax	xxx		
Deferred tax	xxx	xxx	
Fringe Benefits Tax		xxx	xxx
Profit after tax			xxx

10. The amount of the Fringe Benefits Tax (net of the advance tax thereon), outstanding if any, at the year-end, should be disclosed as a provision in the balance sheet.

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Annexure

The Relevant Extracts from Chapter XII-H of the Income-tax Act, 1961, Governing the Fringe Benefits Tax (For assessment year 2006-07)

A.—Meaning of certain expressions

Definitions

115W. In this Chapter, unless the context otherwise requires,—

(*a*) "employer" means,—

(*i*) a company;

(*ii*) a firm;

(*iii*) an association of persons or a body of individuals, whether incorporated or not, but excluding any fund or trust or institution eligible for exemption under clause (*23C*) of section 10 or registered under section 12AA;

(*iv*) a local authority; and

(*v*) every artificial juridical person, not falling within any of the preceding sub-clauses;

(*b*) "fringe benefit tax" or "tax" means the tax chargeable under section 115WA.

B.—Basis of charge

Charge of Fringe Benefit Tax

115WA. (1) In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided

by an employer to his employees during the previous year at the rate of thirty per cent on the value of such fringe benefits.

(2) Notwithstanding that no income-tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer.

Fringe Benefits

115WB. (1) For the purposes of this Chapter, "fringe benefits" means any consideration for employment provided by way of—

(*a*) any privilege, service, facility or amenity, directly or indirectly, provided by an employer, whether by way of reimbursement or otherwise, to his employees (including former employee or employees);

(*b*) any free or concessional ticket provided by the employer for private journeys of his employees or their family members; and

(*c*) any contribution by the employer to an approved superannuation fund for employees.

(2) The fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in 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 following purposes, namely:—

(*A*) entertainment;

(*B*) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade but does not include—

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(*i*) any expenditure on, or payment for, food or beverages provided by the employer to his employees in office or factory;

(*ii*) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets;

(*C*) conference (other than fee for participation by the employees in any conference).

Explanation.—For the purposes of this clause, any expenditure on conveyance, tour and travel (including foreign travel), on hotel, or boarding and lodging in connection with any conference shall be deemed to be expenditure incurred for the purposes of conference;

(*D*) sales promotion including publicity:

Provided that any expenditure on advertisement,—

(*i*) being the expenditure (including rental) on advertisement of any form in any print (including journals, catalogues or price lists) or electronic media or transport system;

(*ii*) being the expenditure on the holding of, or the participation in, any press conference or business convention, fair or exhibition;

(*iii*) being the expenditure on sponsorship of any sports event or any other event organised by any Government agency or trade association or body;

(*iv*) being the expenditure on the publication in any print or electronic media of any notice required to be published by or under any law or by an order of a court or tribunal;

(*v*) being the expenditure on advertisement by way of signs, art work, painting, banners, awnings, direct mail, electric spectaculars, kiosks, hoardings, bill boards or by way of such other medium of advertisement; and

(*vi*) being the expenditure by way of payment to any advertising agency for the purposes of clauses (*i*) to (*v*) above,

shall not be considered as expenditure on sales promotion including publicity;

(E) employees' welfare.

Explanation.—For the purposes of this clause, any expenditure incurred or payment made to fulfil any statutory obligation or mitigate occupational hazards or provide first aid facilities in the hospital or dispensary run by the employer shall not be considered as expenditure for employees' welfare;

(*F*) conveyance, tour and travel (including foreign travel);

(*G*) use of hotel, boarding and lodging facilities;

(*H*) repair, running (including fuel), maintenance of motor cars and the amount of depreciation thereon;

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

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

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

(*L*) festival celebrations;

(*M*) use of health club and similar facilities;

(*N*) use of any other club facilities;

(*O*) gifts; and

(*P*) scholarships.

(3) For the purposes of sub-section (1), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee.

Value of Fringe Benefits

115WC. (1) For the purpose of this Chapter, the value of fringe benefits shall be the aggregate of the following, namely:—

(*a*) cost at which the benefits referred to in clause (*b*) of sub-section (1) of section 1I5WB, is provided by the employer to the general public as reduced by the amount, if any, paid by, or recovered from, his employee or employees:

Provided that in a case where the expenses of the nature referred to in clause (*b*) of sub-section (1) of section 115WB are included in any other clause of sub-section (2) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (*b*) for computing the value of fringe benefits;

(*b*) actual amount of contribution referred to in clause (*c*) of sub-section (1) of section 115WB;

(*c*) twenty per cent of the expenses referred to in clauses (*A*) to (*K*) of sub-section (2) of section 115WB;

(*d*) fifty per cent of the expenses referred to in clauses (*L*) to (*P*) of sub-section (2) of section 115WB.

(2) Notwithstanding anything contained in sub-section (1),—

(*a*) in the case of an employer engaged in the business of hotel, the value of fringe benefits for the purposes referred to in clause (*B*) of sub-section (2) of section 115WB shall be “five per cent”

instead of "twenty per cent" referred to in clause (*c*) of sub-section (1);

(*b*) in the case of an employer engaged in the business of construction, the value of fringe benefits for the purposes referred to in clause *(F)* of sub-section (2) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (1);

(*c*) in the case of an employer engaged in the business of manufacture or production of pharmaceuticals, the value of fringe benefits for the purposes referred to in clauses (*F*) and (*G*) of sub-section (2) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (1)*;*

(*d*) in the case of an employer engaged in the business of manufacture or production of computer software, the value of fringe benefits for the purposes referred to in clauses *(F)* and (*G*) of sub-section (2) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (1);

(*e*) in the case of an employer engaged in the business of carriage of passengers or goods by motor car, the value of fringe benefits for the purposes referred to in clause *(H)* of sub-section (2) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (1);

(f) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (*I*) of sub-section (2) of section 115WB shall be taken as *Nil.*

C.— Procedure for filing of return in respect of fringe benefits, assessment and payment of tax in respect thereof

Return of Fringe Benefits

115WD. (1) Without prejudice to the provisions contained in section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

Explanation.—In this sub-section, "due date" means,—

(*a*) where the employer is—

(*i*) a company; or

(*ii*) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force,

the 31st day of October of the assessment year;

(*b*) in the case of any other employer, the 31st day of July of the assessment year.

Payment of Fringe Benefits Tax

115WI. Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of section 115WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that financial year, such fringe benefits being hereafter in this Chapter referred to as the "current fringe benefits".

Advance Tax in Respect of Fringe Benefits

115WJ. (1) Every assessee who is liable to pay advance tax under section 115WI, shall on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (2).

(2) The amount of advance tax payable by an assessee in the financial year shall be thirty per cent of the value of the fringe benefits referred to in section 115WC, paid or payable in each quarter and shall be payable on or before the 15th day of the month following such quarter:

Provided that the advance tax payable for the quarter ending on the 31st day of March of the financial year shall be payable on or before the 15th day of March of the said financial year.

(3) Where an assessee, has failed to pay the advance tax for any quarter or where the advance tax paid by him is less than thirty per cent of the value of fringe benefits paid or payable in that quarter, he shall be liable to pay simple interest at the rate of one per cent on the amount by which the advance tax paid falls short of, thirty per cent of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.