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The
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Autonomy in the Profession.

It is a matter for satisfaction that the Government of India have at last veered round to the unanimous view of the Profession and have prepared a Bill for the regulation of the conduct of the Profession which places on the elected members the entire responsibilities of the management and advancement of this branch of Commerce. The Bill, we understand, has conceded all the demands of our Members in entirety, the Government retaining only very few powers with them.

The scope of the bill has now been proposed to extend to the Provinces in the Indian Dominion but not to the States. We, however, hope that the rapid constitutional changes in the States and in the relationship between the States and the Dominion will very soon reach a stage which will enable the Dominion Parliament to legislate in this matter for the benefit of our brethren in the States, as well. Until such time the Provisions of the new bill is necessarily restricted to the Provinces only.

As regards the name, various opinions have been expressed by the members of our profession, some preferring to retain the present name, 'Registered Accountant' while a few others insisting on the introduction of the name "Chartered Accountant" failing which the name as mentioned in the latest English Bill, "Public Accountant" has been suggested. For our part we would prefer the continuation of the present name in as much as it has now earned a reputation of its own among the public.

We further learn that the bill incorporates all the provisions of the present Auditor's Certificates Rules and will also provide for the constitution of Regional Councils to enable representatives in the various constituencies to have a direct say in the management and conduct of the profession in their respective constituencies. No provision we understand has been made in the bill which will prohibit the practice of Accountancy by persons other than those who are qualified under the Provisions of the new Bill. This is a very important point and definite steps should be taken to prohibit unqualified persons from entering the field. It is all the more necessary in view of certain provisions in the bill which may have the effect of cutting down the revenue available to the Profession. We trust that Government will not overlook this point and will provide for the prevention of unqualified men from entering the field.

On the whole we believe that the introduction of this long-awaited bill will give the much needed status to the profession and the Profession will go up in public esteem, as is the case in other advanced countries.

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Circular by the Incometax Investigation Commission.

We have had an occasion to go through a questionnaire which has been circulated by the Commission for eliciting public opinion on the various suggestions they have put forth for tightening up the provisions of the Income-tax Act in order to reduce tax evasion. Some of the methods suggested in the questionnaire have been the subject of heated discussion in the Central Legislature and we do not understand why they are sought to be re-introduced at the present stage in spite of the opposition they have previously encountered. Some other questions are really helpful and will have effect of preventing tax evasion while certain others clarify some of the misconceptions that have arisen both in the public mind and in the minds of the Departmental authorities.

The question regarding stock valuation is of particular interest to the members of the profession. The question reads "Will it not be expedient to empower the Central Board of Revenue to provide by rules the methods by which the principles according to which stock valuation should be made for arriving at profits for the purpose of taxation?". In our opinion, the answer to this is an emphatic "no" since the Central Government will not have before them all the data necessary for such valuation and only the men on the spot will be the best authority. We can imagine many instances where the goods will have deteriorated in toto or partially and it is naturally only the Proprietor or the people in management of the business who can certify to the extent of deterioration and the consequent rate of value. We are also interested very much in the questions which relate to the accounts (keeping and production). We believe that the Central Government should insist that every person carrying on business should keep sufficient records of income and expenditure to enable the income to be readily ascertained. Further steps should be taken to have all such accounts to be audited and certified by duly qualified Accountants, as now enforced in the case of joint stock companies. We propose to publish the entire questions as well as our observations in our subsequent issues.

Antiquity of the Auditors' Profession.

Although the Accountants' profession has now come to occupy an important place among the leading professions, very little or no effort seems to have been taken in the direction of ascertaining its antiquity. It appears that the double entry system of Book-keeping was invented by one Fra Fuca Pacioli as early as 1494 and this invention has been characterised by Goethe as "one of the finest discoveries of the human intellect." Considering the importance that this system has attained in the modern business world, it will be no exaggeration to regard this invention as of the greatest importance ranking with the great discoveries of Columbus & Copernicus or of Galileo & Newton. Sombart states as follows:—"Double-entry book-keeping is born of the same spirit as the system of Galileo and Newton... With the same means as these, it orders the phenomenon into an elegant system, and it may be called the first Cosmos built up on the basis of a mechanistic thought. Double entry book-keeping discloses to us the Cosmos of the economic world by the same method as later the Cosmos of the stellar universe was unveiled by a great investigation of natural philosophy. ...Double-entry book keeping rests on the basic principle, logically carried out, of comprehending all phenomena purely as quantities". It may be that the profession of the Auditor came into existence even before the double-entry system came to be evolved. This is a subject worthy of investigation.

Tax Relief In Respect of Insurance Premia.

According to Section 15 of the Indian Income-tax Act, no tax is payable in respect of any sums paid by an assessee to effect an insurance on the life of the assessee or on the life of a wife or husband of the assessee or in respect of a contract for deferred annuity. The section not only gives some relief to the assessee in respect of tax, but also encourages thrift and has actually contributed to the increase in the volume of insurance business in this country. It must, however, be noted that the benefit of this provision has been reaped not only by Indian insurance companies, but also by foreign companies. In this connection, we find that according to the English Law of Income-tax, relief is granted only in respect of premiums paid for an insurance on a man or woman's own life or on that of his wife or husband with any insurance company legally established in the United Kingdom or British possession or lawfully carrying on business in the United Kingdom with a registered friendly society or with underwriters. There is no such restriction under the Indian Income-tax Act. While it is necessary to encourage savings by way of insurance, better protection is afforded by introducing in the Indian Income-tax Act a provision similar to what is found in the English Law. Such restriction will also be a direct encouragement to the Indian Insurance concerns.

We take this opportunity of expressing our deep apologies for the non-publication of the Journal in the recent past since we were prevented from regular publication due to various circumstances. We are now resuming our publication and are confident of bringing forth the journal more regularly in future. We may mention that the subscription already received and still remain with us will be adjusted for the future issues.

SPECIAL ARTICLE.

The Companies Act, 1947.

by Eric F. Wilkins, F. C. A.

(This Article appeared in the "Accountant" dated 18th October 1947 and is reproduced here with their kind permission).

The Companies Act, 1947, is a complex piece of legislative machinery which has been built on to the old machinery of the Companies Act, 1929. Although the new Act is now on the Statute Book, it will not come into operation until some future day or days as the Board of Trade may by order appoint, when the two mechanisms will function as an interlocking unit until such time as a consolidating Bill has been passed.

It has been stated by the Lord Chancellor that at least six months' notice will be given before the clauses relating to accounts become operative, and it is probable that other sections will be discussed with industrial bodies before coming into force.

It is particularly gratifying to note that the provisions of the Act which are of greatest interest to the profession (Sections 13-16 and the First Schedule which relate to accounts; and sections 22-24 and the Second Schedule affecting auditors) embody so fully the recommendations of the Institute.

The scope of this introductory survey must necessarily be limited to indicating the salient features of the new Act: reference must be made to the Act itself to appreciate fully the practical application of its provisions.

ACCOUNTS

The First Schedule contains numerous provisions as to the contents of the balance sheet (Part I-A) and the profit and loss account (Part I-B) including, *inter alia:*

(1) Classification under headings appropriate to the business of reserves, provisions, liabilities and fixed and current assets.

(2) Fixed assets to be distinguished from current assets;and method of arriving at amount of fixed assets.

(3) Disclosure of reserves and provisions.

(4) Disclosure of appropriations of profit.

(5) Statement of investments.

And, if not otherwise shown, there shall be stated by way of note, or in a statement or report annexed, *inter alia,*

(6) Where practicable, the amount outstanding, if material, not otherwise provided for, under contracts for capital expenditure.

(7) The basis on which amount set aside for United Kingdom income-tax computed.

(8) Balance Sheet comparative figures.

The foregoing is not a complete summary and, furthermore, there are sections of the Act itself which require matters to be disclosed (e.g. Section 38—directors' emoluments, etc., Section 39—loans to officers.)

A holding company, when presenting its own accounts, must also prepare and annex to its balance sheet and lay before the company in general meeting "group accounts", dealing with the state of affairs and profit or loss of the company and its subsidiaries. Group accounts shall not be required where the holding company is itself a wholly owned subsidiary of another body corporate incorporated in Great Britain, or where the directors have specified discretionary power to omit them (Section 14). Group accounts shall be in the form of a consolidated balance sheet and a consolidated profit and loss account unless the directors are of opinion that an alternative form is preferable (Section 15). Where the financial year of a subsidiary does not coincide with that of the holding company, the group accounts must, unless the Board of Trade otherwise direct, deal with the subsidiary's accounts for the financial year ending with or last before that of the holding company (Section 16). Further special provisions relating to the accounts of a holding company and the consolidated accounts of a holding company and subsidiaries are laid down in the First Schedule, Part II. The meaning of 'holding company' and 'subsidiary' is set out in Section 18.

The scope of the director's report is extended by Section 19 to deal

'so far as is material for the appreciation of the state of the company's affairs by its members and will not in the directors' opinion be harmful to the business of the company or of any of its subsidiaries, with any change during the financial year in the nature of the company's business, or in the company's subsidiaries, or in the classes of business in which the company has an interest, whether as member of another company or otherwise.

The profit and loss account and, so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before a company in general meeting must be annexed to the balance sheet and approved by the Board of directors before the balance sheet is signed on their behalf and a copy of the balance sheet and other documents required to be annexed must be sent to all members and deben ture holders of private as well as public companies (Sectiont 21.)

AUDITORS.

The qualification of an auditor of a company (other than an exempt private comany) is that either he must be a member of a body of accountants recognised by the Board of Trade for such purpose, or he must be authorised by the Board of Trade so to act. Disqualification under Section 133 (1) of the Act of 1929 is extended in that there may not be appointed as auditor a servent of the company or (except in the case of an exempt private company) a partner or employee of any director, officer or servant (Section 23).

An important provision facilitating the reappointment of an auditor is that although the office continues to be held from one annual general meeting until the conclusion of the next, reappointment will be automatic unless he is unwilling, or unqualified, to act and in the absence of a resolution being passed appointing some one in his place or that he be not reappointed. Special notice (28 days (Section 2 (6))) is required for such a resolution, a copy of which must be sent to the retiring auditor who is permitted to make written representations to the company which are to be circulated to the members (Section 24).

The requirements of the principal Act as to the scope of the auditor's report are superseded by the Second Schedule. The auditor is expressly charged with the duty of reporting not only upon the balance sheet, as hitherto, but also on the profit and loss account, and group accounts as to whether they present a 'true and *fair* view' and proper books of accounts have been kept (Section 22 and Second Schedule).

Notice of any general meeting shall be given to the auditor, who shall have the right to attend and be heard on any part of the business concerning him as auditor (Section 22(2) (c)).

Directors.

Minimum number. A private company must have at least one director (Section 26).

Removal and retirement. A director may be removed by an ordinary resolution regardless of contrary provisions in the articles or service agreement subject to a claim for damages (Section 29). A director of a public company, or a private company which is a subsidiary of a public company must retire at 70, but a company may overcome this restriction by its articles or by a resolution in general meeting of which special notice has been given (Section 30).

Remuneration, loans, &c. Remuneration may not be paid tax-free (Section 34). A company other than an exempt private company or a company whose business includes the lending of money, may not subject to exceptions, make or guarantee loans to directors (Section 35). Compensation for loss of office or payment on retirement require prior detailed disclosure to and approval by members (Section 36).

There must be disclosed in the annual accounts the aggregate amount of the directors' emoluments including expenses allowance subject to United Kingdom income-tax (distinguishing between emoluments in respect of services as director and other emoluments), pensions, and compensation paid by a company as well as such payments by its subsidiaries and any other person (Section 38).

The requirements of Section 128 of the principal Act (loans to officers to be shown in the accounts) are extended to loans to a person who has been an officer of the company during the financial year made prior to appointment and to loans made or guaranteed by subsidiaries (Section 39).

Register of shares and debentures. Every company must keep a register showing as respects each director of the company (not being its holding company) the number, description and amount of any shares in or debentures of the Company or any other body corporate, being the company's subsidiary or holding company, or a subsidiary of the company's holding company which are held by or in trust for him or of which he has any right to become the holder (whether on payment or not). There must also be specified the date and price of any transactions by the director in any such holdings. The register shall be open to inspection by any member or debenture holder for specified periods, and by the Board of Trade at any time (Section 37).

Secretary.

Every company must have a secretary. A sole director may not be the secretary and any act required to be done by a director and a secretary may not be performed by one person acting in the dual capacity of director and secretary (Section 26).

ANNUAL RETURN

(Sections 52-55).

Inter alia, the return must :

(*a*) state where the register of members is kept, if not at the registered office ;

(*b*) give particulars of secretary ;

(c) include copy of the accounts and directors' report (unless an exempt private company) ;

(*d*) be signed by a director and the secretary.

A *full* list of members is required only triennially.

Allotment of Shares and Debentures:

PROSPECTUSES.

No allotment shall be made of any shares or debentures in pursuance of a prospectus (i. e. issued to persons who are not members or debenture holders of the company) until the beginning of the third day after that on which the prospectus is first issued, or such later time as may be specified in the prospectus.

Section 60 (1) provides that where a prospectus states that application has been or will be made for permission for dealings on the Stock Exchange, any allotment made on the prospectus shall be void if the permission has not been applied for before the third day after the first issue of the prospectus, or if permission refused within specified periods, and any money received will be returnable to the subscribers.

The requirements of the Act of 1929 are materially increased by Sections 61 and 62, and the auditor is required to report upon assets and liabilities of the company and its subsidiaries and also report on profits and losses of the last five (instead of three) years.

Statements by experts (accountants, valuers, &c) require their written consent (Section 63) and in the event of an expert's statement being untrue, he may be liable to persons subscribing on their faith in the prospectus (Section 65).

Numbering of Shares.

So long as:

'all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank *pari passu* for all purposes'
they need not carry distinguishing numbers (Section 69).

Share Premiums.

Section 72, which is in part retrospective, provides that premiums on a share issue shall be transferred to a premium account and disclosed on the balance sheet, and may be applied only (1) in paying up unissued shares of the company to be issued to members as fully paid bonus shares; (2) in writing off preliminary expenses and the expenses of, or commission or discount on, any issue of shares or debentures of the company; or (3) to provide for the premium payable on redemption of redeemable preference shares or debentures of the company.

Memorandum of Association.

Sections 76 and 77 provide for certain alterations to the objects clause of the memorandum by special resolution without sanction by the court, subject to the right of dissenting shareholders and debenture holders to apply to the Court.

General Meetings.

Apart from the requirements of Section 113 of the 1929 Act relating to the statutory meeting, every company shall in each year hold an annual general meeting and not more than fifteen months shall elapse between one annual general meeting and the next.

So long as a company holds its first annual general meeting within eighteen months of incorporation, it need not hold it in the year of its incorporation or in the following year (Section 1.)

Annual general meetings require 21 days' notice, unless waived by all members entitled to attend (Section 2(1) (a)).

Apart from meetings called for passing a special resolution, for which 21 days' notice continues to apply. notice for all other meetings is 14 days, but such periods may be waived by a majority in number of members entitled to attend and vote holding not less than 95 percent of shares carrying a vote. Provisions to the contrary in the articles will be void (Section 2).

On the requisition in writing of not less than one twentieth of the total voting rights, or not less than one hundred members holding shares on which there has been paid up an average sum, per member, of not less than £100, a company must at the expense of the requisitionists, give to members entitled to receive notice of the next annual general meeting notice of any intended resolution which may properly be moved at that meeting, and circulate to members entitled to have notice of any general meeting any statement of not more than 1,000 words relevant to any proposed resolution or business to be dealt with at that meeting (Section 3).

Shareholders will in future enjoy a statutory right to appoint a proxy who need not be a member, and such right must be specified in every notice of a meeting (Section 5).

Articles may not exclude the right to demand a poll (election of chairman and adjournment of meeting excepted) or reduce the minimum numbers required to demand a poll (Section 4).

Private Companies.

After the coming into force of Section 54, a private Company (which continues to be as defined by Section 26 of the Act of 1929) shall no longer be exempt from the obligation to include in its annual return a copy of the balance sheet and other documents, which documents will include the profit and loss account and group accounts, required by Section 110 (3) of the Act of 1929, unless it satisfies the conditions as set out in Section 54 and the Third Schedule, *i, e.*, is an 'exempt private company'.

Broadly speaking, the small family business in which all the shares are beneficially owned by the registered holders and no corporate body is a shareholder or director, will be an exempt private company and free from the provisions of Section 35 (loans to directors) and Section 23 (disqualification of auditor).

Winding Up (Part—V).

The statutory declaration of solvency required by Section 230 of the Act of 1929 shall be ineffective unless (a) made within five weeks immediately preceding the passing of the winding-up resolution; and (b) it embodies a statement of the company's assets and liabilities as at the last practicable date (Section 94 (1)).

In the event of a liquidator in a members' winding-up being of the opinion that debts will *not* be paid in full, he must forthwith summon a meeting of creditors and lay before the meeting a statement of assets and liabilities (penalty £50) (Section 94 (3)). The provisions of Sections 244 and 245 of the Act of 1929 requiring annual meetings and a final meeting both of the company and of the creditors in a creditors' voluntary winding-up, will then apply instead of Sections 235 and 236 of that Act which, in a members' voluntary winding-up require corresponding meetings of the company only.

Under preferential payments, no distinction is made as between wages and salary, the maximum amount being extended to £200 and the period of service in either instance to be four months (Section 91).

Acts of fraudulent preference will be void if committed within six instead of three months (Section 92). Floating charges invalidated under Section 266 of the principal Act will be invalidated if created within twelve (instead of six) months before the winding-up (Section 93).

Receivers and Managers (Part IV).

A receiver or manager of substantially the whole of the property of a company appointed on behalf of debenture-holders secured by a floating charge must forthwith send a notice of his appointment to the company, and within fourteen days after receipt of such notice the officers of the company must furnish him with a statement of the company's assets and liabilities and details of creditors, such statement to be filed with the Registrar

and a summary sent to the debenture holders (Sections 84 and 85).

A receiver appointed out of Court is personally liable in respect of contracts entered into by him, even though acting as agent for the debenture holders (Section 87).

Investigation (Sections 42—49).

Attention should be paid to the considerable extension of the powers of the Board of Trade. Applications for an investigation may be made in future by not less than two hundred shareholders notwithstanding that they hold less than one-tenth of the issued shares as required by Section 135 of the 1929 Act. Furthermore, it will be the duty of all officers and agents, present and past, of the company, to produce relevant books and documents. The expression 'agents' will include bankers, solicitors and auditors to the company, but a solicitor will not be required to divulge any privileged communication made to him in that capacity except the name and address of his client, nor will a company's bankers be required to disclose information as to the affairs of any of their customers other than the company.

Minorities.

A valuable remedy is made available to the shareholder who complains that the affairs of the company are being conducted in a manner oppressive to some of the members including himself, in that he may petition the Court, where upon the Court may, with a view to bringing to an end the matters complained of, make such order as it thinks fit, which may include an order for the purchase of the shares of any members (Section 9).

In concluding this general survey, it must again be stressed that the new Act is not yet operative, and, when operative, must be read in conjunction with the Act of 1929, pending the passing of a consolidating Bill—' a consummation devoutly to be wished".

Case Law.

I. **In Davies Vs. Premier Investment Co., Ltd.**— 15 I.T.R. Supplement 116. the King's Bench Division held that premiums on notes that were issued by a Company and which were redeemable at the end of a fixed period after payment of a premium or if earlier at a primium calculated at 2½% for every period of six months were assessable as the premiums were in the nature of interest money.

II. **In Leeland & Vs. Boarland**— 15 I.T.R. Supplement 118 the King's Bench Division following Wales Vs. Tilley (1943) II I.T.R. Suppl. I, held that payments to a Director of Company as a compensation for the premature termination of their contract with the company were profits arising from the assessee's office of Director and as such assessable to tax.

III. **In Jordon Vs. Limmer & Trinidad Lake Asphalt Co.**—15 I.T.R. Supplement 84. the King's Bench Division relying on Fairholme Vs. Thomas Firth & John Brown Ltd. (1933) 49. L.R. 470 decided in favour of the plaintiff in an action for damages that no deduction from the amount of damages could be made on the ground that if the plaintiff had continued in employment he would have paid it.

IV. Interest awarded to a successful litigant in an action for damages is not damages but interest and as such assessable. **Riches Vs. Westminister. Bank Ltd.** 15-I.T.R. Suppl. 86- overruling **National Bank of Wales Ltd. In re** ((1899) 2. Ch.629,650) .

V. Section 4-B fell to be considered in **Swaminathan Chettiar Vs. Commissioner of Incometax, Madras**—15 I.T.R. 418 and it was there held that a person was not ordinarily resident in British India if [illegible] the preceding [illegible]ven years he ha[illegible] for more th[illegible] years in British India.

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NOTIFICATIONS.

ACT. NO. XX of 1948

An Act to give effect to the financial proposals of the Central Government for the year beginning on the first day of April, 1948

WHEREAS it is expedient to discontinue the duty on salt manufactured in, or imported into, the Provinces of India, to fix maximum rates of postage uuder the Indian Post office Act, 1898, to alter certain duties of customs and excise, to levy certain additional duties of customs and excise, to fix rates of, and make certain provisions relating to income-tax and super-tax and to continue, subject to certain modifications, for a period of one year the tax imposed by the Business Profits Tax Act, 1947; XXI of 1947

It is hereby enacted as follows :—

1. (*1*) This Act may be called the Indian Finance Act, 1948.

Short title and extent. (*2*) It extends to all the Provinces of India.

* * *

Amendment of Act XI of 1922. 8. The following amendments shall be made in the Indian Income-tax Act, 1922 :—

(*1*) In section 2, after clause (*7*), the following clause shall be inserted, namely : —

"(*7A*) 'Indian company' means a company as defined in the Indian Companies Act, 1913, the registered office of whch is situated in British India;". **VII of 1913**

(*2*) In *Explanation* 3 to sub-section (*1*) of section 4, after the words "dividend paid", the words "by an Indian company" shall be inserted.

(*3*) In clause (*xii*) of sub-section (*3*) of section 4, for the figures "1948" the figures "1950" shall be substituted.

(*4*) In sub-clause (*a*) of clause (*vi*) of sub-section (2) of section 10, for the figures "1948" the figure "1950" shall be substituted.

(*5*) After section 15A, the following section shall be inserted, namely :—

"15B. *Exemption on account of donations for charitable purposes.*—(*1*) The tax shall not be payable by an assessee in respect of any sums paid by him as donations to any institution or fund which is established in British India for a charitable purpose and is approved by the Central Government for the purposes of this section.

Provided that the total, of the sums so paid is not less than two hundred and fifty rupees :

Provided further that in the case of a company this exemption shall apply only in respect of the income-tax, and not in respect of any super-tax, payable by it.

Explanation.—In this section, 'charitable purpose' includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

(*2*) The aggregate of any sums exempted under this section shall not exceed—

(*a*) one-twentieth in the case of a company, and one-tenth in any other case, of the assessee's total income as reduced by any portion thereof exempt from tax under any other provision of this Act, or

(*b*) two hundred and fifty thousand rupees, whichever is less.

(3) The amount by which the tax payable by an assessee is reduced on account of an exemption under this section shall not in any case exceed half the amount in respect of which the exemption is allowed under this section."

(*6*) In section 16, in clause (*a*) of sub-section (*1*), for the words and figures "section 14 and section 15", the words, figures and letter "Section 14, Section 15 and section 15B" shall be substituted; and in sub-section (*2*), for the words "of a company" the words and brackets "of the company" (without taking into account any rebate allowed or additional income-tax charged)" shall be substituted.

(*7*) In sub-section (*3*) of section 17, after the words and figures "of section 14" the words, figures and letter "or under section 15B" shall be inserted.

(*8*) In sub-section (*3E*) of section 18, for the words "by a company" the words "by an Indian company or by a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from such dividends" shall be substituted.

(*9*) In section 19A, after the words "every company", the words "which is an Indian company or a company which has made such effective arrangements as may be prescribed for the declaration and payment of dividends in British India" shall be inserted.

(*10*) In section 49B, for the words "such person shall be deemed" the words "such person shall, if the dividend is included in his total income, be deemed" shall be substituted, and for the words "total income of a company" the words "total income of the company" shall be substituted.

Income-tax and super-tax. 9. (*1*) Subject to the provisions of sub-sections, (3), (*4*), (5) and (6), for the year beginning on the 1st day of April, 1948,—

(*a*) income-tax shall be charged at the rates specified in Part I of the Second Schedule to this act, and

(*b*) rates of super-tax shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (hereafter in this section referred to as "the Income-tax Act"), be those specified in Part II of the Second Schedule to this Act. **X of 1922.**

(2) In making any assessment for the year ending on the 31st day of March, 1949, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15A of the Income-tax Act, an amount equal to one-fifth of the earned income, if any, included in his total income, but not exceeding in any case four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1949,—

(*a*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on securities", or any income from dividends in respect of which he is deemed under section 49B of the Income-tax Act to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1947, on his total income the same proportion as the amount of such inclusions bears to his total income; **XX of 1947.**

(*b*) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Income-tax Act, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable, according to the rates applicable under the operation of the Indian Finance Act, 1947, on his total income the same proportion as the amount of such inclusion bears to his total income. **XX of 1947.**

(*4*) In making any assessment for the year ending on the 31st day of March 1949, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(*i*) on that part of the earned income chargeable under the head "Salaries" to which clause (*b*) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that sub-section, *plus*

(*ii*) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, *plus*

(*iii*) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) In making any assessment for the year ending on the 31st day of March, 1949,—

(*a*) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of two annas in the rupee on that part of its total income which consists of such inclusion;

(*b*) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942, on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggragate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee. **XII of 1942.**

(6) In cases to which section 17 of the Income-tax Act applies, the tax chargeable shall be determined as provided in that section, but with reference to the rates imposed by sub-section (1), and in accordance, where applicable, with the provisions of sub-sections (3), (4) and (5) of this section.

(7) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1948, under sub-section (2) or sub-section (2B) of section 18 of the Income-tax Act from any earned income chargeable under the head 'Salaries" the estimated total income of the

assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income, but not exceeding in any case four thousand, rupees; but no abatement shall be allowed by the person responsible for paying the salary in respect of any donations made by the assessee to which section 15B of the Income-tax Act is or may be applicable.

(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, and the expression "earned income" has the meaning assigned to it in clause (6AA) of section 2 of that Act.

Amendment of Act XXI of 1947.

10. The following amendments shall be made in the Business Profits Tax Act 1947:—

(1) In clause (1) of section 2, after the words "chargeable accounting period" the words and figures "ending on or before the 31st day of March, 1947," shall be inserted, and after the words "the period of one year" the following shall be inserted, namely:—

"and, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, such sum as may be fixed by the annual Finance Act."

(2) In sub-clause (a) of clause (4) of section 2, for the figures "1947" the figures "1948" shall be substituted, and to the said clause (4), the following proviso shall be added, namely:—

"Provided that where an accounting period falls partly before, and partly after, the end of March, 1947, so much of that accounting period as falls before, and so much of that accounting period as falls after, the end of March, 1947, shall be deemed each to be a separate chargeable accounting period".

(3) In section 4, for the words "which shall be equal to sixteen and two-thirds per cent. of the taxable profits", the following shall be substituted, namely:—

"which shall, in respect of any chargeable accounting period ending on or before the 31st day of March, 1947, be equal to sixteen and two-thirds per cent. of the taxable profits, and in respect of any chargeable accounting period beginning after that date, be equal to such percentage of the taxable profits as may be fixed by the annual Finance Act."

Business Profits Tax XXI of 1947

11. (1) The tax imposed by section 4 of the Business Profits Tax Act, 1947, shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, be an amount equal to ten percent. of the taxable profits.

(2) For the purposes of the said Act, "abatement" shall mean, in respect of any chargeable accounting period beginning after the 31st day of March, 1947, a sum which bears—

(a) in the case of a company not being a company deemed for the purposes of section 9 of the said Act to be a firm, to a sum equal to six per cent. of the capital of the company on the first day of the said period, computed in accordance with Schedule II to the said Act, or two lakhs of rupees, whichever is greater, or

(b) in any other case, to two lakhs of rupees, the same proportion as the said period bears to the period of one year.

THE SECOND SCHEDULE

(See *section* 9)

Part I

Rates of income-tax

A. In the case of every individual, Hindu undivided family unregistered firm and other association of persons, not being a case to which paragraph B, C or D of this Part applies—

	Rate
1. On the first Rs. 1,500 of total income ...	Nil.
2. On the next Rs. 3,500 of total income ...	One anna in the rupee.
3. On the next Rs. 5,000 of total income ...	Two annas in the rupee.
4. On the next Rs. 5,000 of total income ...	Three and a half annas in the rupee.
5. On the balance of total income ...	Five annas in the rupee:

Provided that—

(i) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 3,000;

(ii) the income-tax payable shall in no case exceed half the amount by which the total income before deduction of the said allowance, if any, for earned income exceeds Rs. 3,000;

(iii) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(a) a sum bearing to half the amount by which the total income before deduction of the allowance for earned income exceeds Rs. 3,000 the same proportion as such reduced total income bears to the unreduced total income, or,

(b) the income-tax payable on the income so reduced at the rates herein specified,—whichever is less.

B. In the case of every company, not being a company to which paragraph C of this Part applies—

	Rate
On the whole of total income	Five annas in the rupee:

Provided that in the case of an Indian company—

(a) where the total income, as reduced by seven annas in the rupee and by the amount if any, exempt from income-tax, exceeds the amount of any dividends including dividends payable at a fixed rate declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, a rebate shall be allowed at the rate of one anna per rupee on the amount of such excess;

XI of 1922.

(b) where the amount of dividends referred to in clause (a) above exceeds the total income as reduced by seven annas in the rupee and by the amount, if any, exempt from income-tax, there shall be charged on the total income an additional income-tax equal to the sum, if any, by which the aggregate amount of income-tax actually borne by such excess hereinafter referred to as "the excess dividend" falls short of the amount calculated at the rate of five annas per rupee on the excess dividend; and

(c) the income-tax payable, after deducting any rebate permissible under clause (a), but without including any additional income-tax chargeable under clause (b), shall not exceed the aggregate of—

(i) the income-tax which would have been payable under the provisions of paragraph C of this Part if the total income had been Rs. 25,000, and

(ii) half the amonnt by which the total income exceeds Rs. 25,000.

For the purposes of clause (b) of the above proviso, the aggregate amount of income-tax actually borne by the excess dividend shall be determined as follows:—

(i) the excess dividend shall be deemed to be out of the whole or such portion of the undistributed profits of one or more years immediately preceding the previous year as would be just sufficient to cover the amount of the excess dividend and as have not likewise been taken into account to cover an excess dividend of a preceding year;

(ii) such portion of the excess dividend as is deemed to be out of the undistributed profits of each of the said years shall be deemed to have borne tax,—

(a) if an order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, in respect of the undistributed profits of that year, at the rate of five annas in the rupee, and

(b) in respect of any other year, at the rate applicable to the total income of the company for that year reduced by the rate at which rebate, if any, was allowed on the undistributed profits.

C. In the case of every, Indian company the total Income of which does not exceed Rs. 25,000—

	Rate
On the whole of total income	Two and a half annas in the rupee.

Provided that where the total income, as reduced by four and a half annas in the rupee and by the amount, if any, exempt from income-tax, exceeds the amount of any dividends including dividends payable at a fixed rate declared in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March. 1949, and no order has been made under sub-section (1) of section 23A of the Indian Income-tax Act, 1922, a rebate shall be allowed at the rate of half anna per rupee on the amount of such excess.

D. In the case of every local authority and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	Five an[illegible] the rupee

Explanation.—For the purposes of this Part,—

(a) the expression "dividend" shall be deemed to include any distribution included in that expression as defined in clause (6A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1949, shall be deemed to have been made in respect of the whole or part of the previous year;

(b) the expression "Indian company" shall have the meaning assigned to it in clause (7A) of section 2 of the Indian Income-tax Act, 1922.

PART II

Rates of Super-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which any other paragraph of this Part applies—

	Rate, if income wholly earned	Rate, if income wholly unearned
1. On the first Rs. 25,000 of total income.	Nil	Nil
2. On the next Rs. 15,000 of total income.	Two annas in the rupee.	Three annas in the rupee.
3. On the next Rs. 15,000 of total income.	Three annas in the rupee.	Four and a half annas in the rupee.
4. On the next Rs. 15,000 of total income.	Five annas in the rupee.	Six annas in the rupee.
5. On the next Rs. 15,000 of total income.	Six annas in the rupee.	Seven annas in the rupee.
6. On the next Rs. 15,000 of total income.	Six and a half annas in the rupee.	Eight annas in the rupee.
7. On the next Rs. 50,000 of total income.	Seven annas in the rupee.	Nine annas in the rupee.
8. On the next Rs. 1,00,000 of total income.	Nine and a half annas in the rupee.	Nine and a half annas in the rupee.
9. On the next Rs. 1,00,000 of total income.	Ten annas in the rupee.	Ten annas in the rupee.
10. On the balance of total income.	Ten and a half annas in the rupee.	Ten and a half annas in the rupee.

B. In the case of every local authority—

	Rate
On the whole of total income ...	Two annas in the rupee.

C. In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912 or under an Act of a Provincial Legislature governing the registration of co-operative societies—

II of 1912.

	Rate
(1) On the first Rs. 25,000 of total income ...	Nil
(2) On the balance of total income ...	Two annas in the rupee.

D. In the case of every company—

	Rate
On the whole of total income ...	Three annas in the rupee.

Provided that a rebate at the rate of one anna per rupee of the total income shall be allowed in the case of any company which, in respect of its profits liable to tax under the Indian Income-tax Act, 1922, for the year ending on the 31st day of March, 1949, has made the prescribed arrangements—

(a) for the declaration and payment in the Provinces of India of the dividend payable out of such profits, and

(b) for the deduction of super-tax from dividends in accordance with the provisions of sub-section (3D) or (3E) of section 18 of the said Act.

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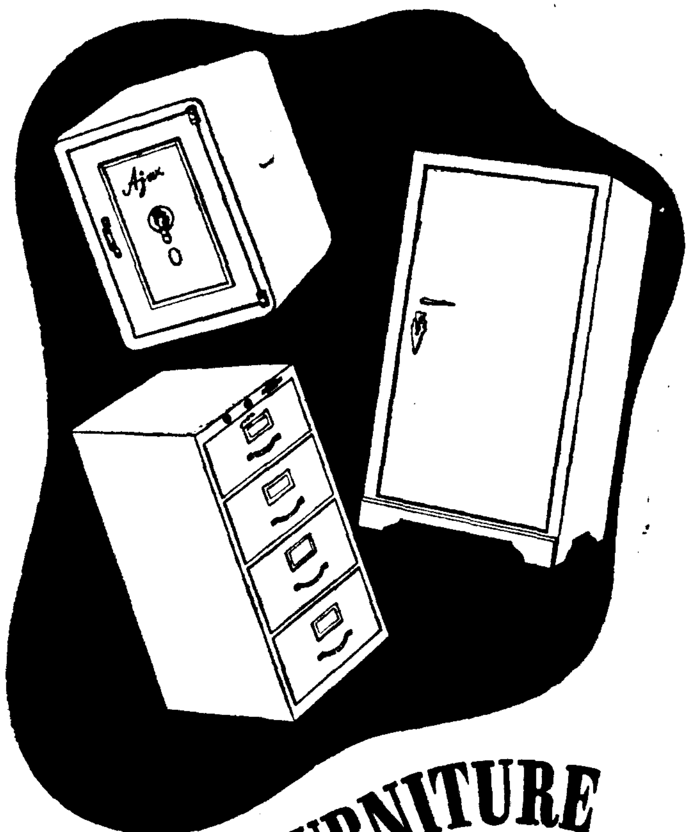

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