

First Draft

Direct Tax Act, 2011

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Direct Tax Bill, 2011

A Bill

to consolidate and amend the law relating to income tax, gift tax, travel tax and wealth tax.

WHEREAS it is expedient to consolidate and amend the law relating to income tax, gift tax, travel tax and wealth tax;

It is hereby enacted as follows:

Chapter I

Preliminary

1. Short title, extent and commencement.-

- (1) This Act may be called the Direct Tax Act, 2012.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on the 1st day of July, 2012.

2. Definitions.-

In this Act, unless there is anything repugnant in the subject or context,—

- (1) "accrual" in relation to expenditure, income, liability or receipt, with its grammatical variations, shall include expenditure, income, liability or receipt which has arisen;
- (2) "accumulated profits" in relation to dividend, includes—
 - (a) any reserve made up wholly or partly of any allowance, deduction or exemption admissible under this Act;
 - (b) as used in sub-clauses (a), (b) and (d) of clause (41), includes all profits of the company up to the date of such distribution; and
 - (c) as used in sub-clause (c) of clause (41), includes all profits of the company up to the date of its liquidation;
- (3) "advance tax" means the advance income tax payable in accordance with the section 58;
- (4) "Additional Director General of Taxes" means a person appointed to be an Additional Director General of Taxes under section 220;
- (5) "agricultural income" means as agricultural income as defined in section 21;
- (6) "amalgamation", in relation to companies, means the merger of one or more companies with another company, or the merger of two or more companies to form one company, if-
 - (a) all the property of the amalgamating company or companies immediately before the merger, becomes the property of the amalgamated company;
 - (b) all the liabilities of the amalgamating company or companies immediately before the merger, become the liabilities of the amalgamated company; and
 - (c) the shareholders holding not less than nine-tenths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the merger by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company;

- (7) "amalgamated company" means-
 - (a) a company which amalgamating company or companies merge; or
 - (b) a company formed as a result of merger of two or more amalgamating companies;
- (8) "amalgamating company" means a company which -
 - (a) merges with another company, or
 - (b) merges with another company to form a new company;
- (9) "annual value" in relation to any property let out, shall be deemed to be—
 - (a) the sum for which property might reasonably be expected to let from year to year and any amount received by letting out furniture, fixture, fittings etc appurtenant thereto ; or
 - (b) where the annual rent in respect thereof is in excess of the sum referred to in sub-clause (a), the amount of the annual rent;
- (10) "Appellate Additional Commissioner of Taxes" means a person -
 - (a) appointed to be an Appellate Additional Commissioner of Taxes under section 220; and
 - (b) appointed to hold current charge of an Appellate Additional Commissioner of Taxes;
- (11) "Appellate Joint Commissioner of Taxes" means a person -
 - (a) appointed to be an Appellate Joint Commissioner of Taxes under section 220; and
 - (b) appointed to hold current charge of an Appellate Joint Commissioner of Taxes;
- (12) "Taxes Appellate Tribunal" means the Taxes Appellate Tribunal established under section 240;
- (13) "Approved gratuity fund" means a gratuity fund which has been and continues to be approved by the Board in accordance with the provisions of **Part C of the Ninth Schedule**;
- (14) "Approved superannuation fund or Pension Fund" means a superannuation fund which has been and continues to be approved by the Board in accordance with the provisions of **Part B of the Ninth Schedule**;
- (15) "assessee", means a person-
by whom any tax or other sum of money is payable under this Act, and includes—
 - (a) who is required to file a return of income under this Act;
 - (b) who desires to be assessed and submits his return of income under this Act;
 - (c) in respect of whom any proceeding under this Act has been initiated;
 - (d) who is deemed to be a person under this Act;
 - (e) by whom any tax, or any other sum of money, is payable under this Act;
 - (f) to whom any amount of refund is payable under this Act; or
 - (g) who is a person in default;

- (16) "assessee in default" means-
- (a) a person who has failed to fulfill his obligation under this Act or has failed to make payment of any amount due from him; or
 - (b) a person who is deemed to be person in default under any provision of this Act;
- (17) "assessment", with its grammatical variations and cognate expressions, includes re-assessment and amended or further assessment;
- (18) "Assistant Commissioner of Taxes " means a person appointed to be an Assistant Commissioner of Taxes under section 220;
- (19) "Assistant Director General of Taxes" means a person appointed to be an Assistant Director General of Taxes under section 220;
- (20) "Bangladeshi company" means a company formed and registered under the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন), and includes a body corporate established or constituted by or under any law for the time being in force in Bangladesh having in either case its registered office in Bangladesh;
- (21) "Banking company" has the same meaning as in ব্যাংক কোম্পানী আইন, ১৯৯১ (১৯৯১ সনের ১৪ নং আইন), and includes any body corporate established or constituted by or under any law for the time being in force which transacts the business of banking in Bangladesh;
- (22) "Board" means the National Board of Revenue constituted under the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972);
- (23) "books" or "books of account" includes journals, ledgers, day-books, cash books, account books, stock register and other books, kept-
- (a) in the written form;
 - (b) as data stored in a disc, floppy, or flash drive, tape or any other form of electro-magnetic data storage device; or
 - (c) as print outs or image of the data stored in any of the form referred to in clause (b);
- (24) "business" means business as defined in section 24;
- (25) "business connection" in relation to a non-resident shall include any business activity carried out through a person who, acting on behalf of the non resident,-
- (a) has an authority to conclude a contract on behalf of the non-resident in Bangladesh, and habitually exercises it , unless his activities are limited to purchase of goods or merchandise for the non-resident;
 - (b) has no such authority, but habitually maintains in Bangladesh a stock of goods or merchandise from which he regularly delivers them on behalf of the non-resident; or
 - (c) habitually secures orders in Bangladesh, mainly or wholly for the non-resident or for that non-resident and its associated enterprise;
- (26) "capital asset" means capital asset as defined in section 41;

- (27) “charitable purpose” includes relief of the poor, education, medical relief and the advancement of any object of general public utility;
- (28) “chartered accountant” means a chartered accountant as defined in the Bangladesh Chartered Accountants Order, 1973 (P.O. No. 2 of 1973);
- (29) “child”, in relation to any individual, includes a step-child and an adopted child of that individual;
- (30) “Commissioner of Taxes” means a person appointed to-
- be a Commissioner of Taxes under section 220; or
 - hold current charge of a Commissioner of Taxes ;
- (31) “Commissioner of Taxes (Appeals)” means a person appointed to-
- be a Commissioner of Taxes (Appeals) under section 220; or
 - hold current charge of a Commissioner of Taxes (Appeals);
- (32) “company” means—
- a company as defined in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন); or
 - a body corporate established or constituted by or under any law for the time being in force; or
 - any nationalised banking or other financial institution, insurance body and industrial or business enterprise; or
 - an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন); or
 - any association or body incorporated by or under the laws of a country outside Bangladesh; or
 - any foreign association or body, not incorporated by or under any law, which the Board may, by general or special order, declare to be a company for the purposes of this Act;
- (33) “co-operative society” means a co-operative society registered under the Co-operative Societies Act, 1940 (Beng. Act XXI of 1940), or মগেব মগেব আইন, ২০০১ (২০০১ সনের ৪৭ নং আইন) or under any other law for the time being in force governing the registration of co-operative societies;
- (34) “cost and management accountant” means a cost and management accountant as defined in the Cost and Management Accountants Act, 1977 (LIII of 1977);
- (35) “deduction of tax at source” or “collection of tax at source” means deduction or collection of tax under Chapter VI of this Act, with all their grammatical variations;
- (36) “deductor” or “collector” means a person responsible for making any payment in respect of which he is liable to deduct or collect tax source under Chapter VI of this Act;

- (37) “Deputy Commissioner of Taxes” means a person appointed to be a Deputy Commissioner of Taxes under **section 220**, and includes-
- (a) an Assistant Commissioner of Taxes; or
 - (b) an Extra Assistant Commissioner of Taxes;
- (38) “Deputy Director General of Taxes” means a person appointed to be a Deputy Director General of Taxes under **section 220**;
- (39) “director” and “manager” in relation to a company have the meanings assigned to them in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);
- (40) “Director General of Taxes” means a person appointed to be a Director General of Taxes under **section 220**;
- (41) “dividend” includes—
- (a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;
 - (b) any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;
 - (c) any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;
 - (d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalized or not;
 - (e) any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);
 - (f) any payment by a private company of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profit; but does not include—
 - (i) a distribution made in accordance with **sub-clause (c) or sub-clause (d)** in respect of any share including preference share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
 - (ii) any advance or loan made to a shareholder in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
 - (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as dividend within the meaning of **sub-clause (e)** to the extent to which it is so set off;

- (iv) any bonus share issued by a company;
- (42) “employer” means any person who engages an employee and is obliged to pay compensation to him, and also includes a former employer;
- (43) “employee” means any individual engaged in employment;
- (44) “employment” includes-
 - (a) a directorship or any other office involved in the management of the company; or
 - (b) a position entitling the holder to a fixed or ascertainable remuneration; or
 - (c) the holding or acting in any public office;
- (45) “Extra Assistant Commissioner of Taxes” means a person appointed to -
 - (a) be an Extra Assistant Commissioner of Taxes under **section 220**; or
 - (b) hold current charge of an Extra Assistant Commissioner of Taxes;
- (46) “fair value” means, in relation to capital asset—
 - (a) the price which such asset would ordinarily fetch on sale in the open market on the relevant day; or
 - (b) where the price referred to **sub-clause (a)** is not ascertainable, the price which the Deputy Commissioner of Taxes may, with the approval in writing of the Inspecting Joint Commissioner of Taxes, determine; or
 - (c) the residual value received from the lessee in case of an asset leased by a financial institution having license from the Bangladesh Bank on termination of lease agreement on maturity or otherwise subject to the condition that such residual value plus amount realised during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution;
- (47) “financial institution” means any financial institution as defined in "আবৃঔ cȳZȳb AvBb, 19930 (1993 সনের 27 bs AvBb);
- (48) “firm” has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932);
- (49) “foreign company” means a company which is not a Bangladeshi company;
- (50) ‘gift’ means wilful transfer of movable or immovable property by one person to another without receiving any money or equivalence to monetary value of the property so transferred;
- (51) “income” includes—
 - (a) any amount chargeable to tax under this Act;
 - (b) any amount subject to collection or deduction of tax at source under this Act;
 - (c) any loss of such income;
 but does not include bonus share;
- (52) “Inspecting Additional Commissioner of Taxes” means-

- (a) a person appointed to be an Inspecting Additional Commissioner of Taxes under [section 220](#);
 - (b) a person appointed to hold current charge of an Inspecting Additional Commissioner of Taxes;
- (53) “Inspecting Joint Commissioner of Taxes” means-
 - (a) a person appointed to be an Inspecting Joint Commissioner of Taxes under [section 220](#);
 - (b) a person appointed to hold current charge of an Inspecting Joint Commissioner of Taxes;
- (54) “Inspector of Taxes” means -
 - (a) a person appointed to be an Inspector of Taxes under [section 220](#);
 - (b) a person appointed to hold current charge of an Inspector of Taxes;
- (55) “interest” means -
 - (a) any amount payable to any person, in any manner, in respect of any money borrowed or debt incurred;
 - (b) any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilised;
 - (c) any amount payable to any person against a deposit, claim or other similar right or obligation;
- (56) “Joint Director General of Taxes” means a person appointed by a Joint Director General of Taxes under [section 220](#);
- (57) “legal representative” has the same meaning as assigned to it in section 2(11) of the Code of Civil Procedure, 1908 (Act V of 1908);
- (58) “local authority” means as local authority as defined in The General Clauses Act, 1897 (Act no. X of 1897);
- (59) “money borrowed” includes, in the case of a banking company, money received by way of deposit;
- (60) “non-resident” means a person who is not a resident;
- (61) “partner” has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932), and includes a person who, being a minor, has been admitted to the benefits of partnership;
- (62) “partnership” has the same meaning as assigned to it in the Partnership Act, 1932 (IX of 1932);
- (63) “perquisite” means, for the purpose of employee —
 - (i) any payment made to an employee by an employer in the form of cash or in any other form excluding basic salary, festival bonus, incentive bonus, arrear salary, advance salary, leave encashment or leave fare assistance in cash or kind and overtime, and
 - (ii) any benefit including fringe benefits, whether convertible into money or not, provided to an employee by an employer, called by whatever name, other than contribution to a

recognised provident fund, approved pension fund, approved gratuity fund and approved superannuation fund ;

- (64) “person” includes—
- (a) a company;
 - (b) a firm;
 - (c) a local authority;
 - (d) an association of persons;
 - (e) an individual; and
 - (f) every other artificial juridical person;
- (65) “prescribed” means prescribed by rules made under this Act;
- (66) “principal officer”, used with reference to a local authority, a company, any other public body or any association of persons, includes—
- (a) managing director, manager, secretary, treasurer, agent or accountant (by whatever designation known), or any officer responsible for management of the affairs, or of the accounts, of the authority, company, body or association; and
 - (b) any person connected with the management or the administration of the local authority, company, body or association upon whom the Deputy Commissioner of Taxes has served a notice of his intention to treat him as principal officer thereof ;
- (67) “profession” includes a vocation;
- (68) “public servant” has the same meaning as in section 21 of the Penal Code (Act XLV of 1860);
- (69) “recognised provident fund” means a provident fund which has been, and continues to be, recognised by the Commissioner of Taxes in accordance with the provisions of **Part A of the Ninth Schedule**;
- (70) “relative”, in relation to an individual, means the husband, wife, brother, sister or any lineal ascendant or descendant of that individual;
- (71) “resident”, in respect of any tax year, means—
- (a) an individual who has been in Bangladesh—
 - (i) for a period of, or for periods amounting in all to, one hundred and eighty-two days or more in that year; or
 - (ii) for a period of, or periods amounting in all to, ninety days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, three hundred and sixty-five days or more during four years preceding that year;
 - (b) an individual who is a citizen of Bangladesh and employee or official of the government of Bangladesh;
 - (c) a firm or other association of persons, the control and management of whose affairs is situated wholly or partly in Bangladesh in that year; and
 - (d) a company is resident in Bangladesh if it –
 - (i) is incorporated under the laws of Bangladesh; or
 - (ii) has its centre of control and management in Bangladesh at any time in the tax year.

- (72) “royalty” means consideration (including any lump sum consideration but excluding any consideration which is classifiable as income of the recipient under the head “Capital gains”) for—
- (a) transfer of all or any rights, including the granting of a licence in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (b) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (c) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (d) the imparting of any information concerning technical, industrial, commercial, or scientific knowledge, experience or skill;
 - (e) the use or right to use of transmission by satellite cable, optic fibre or similar technology;
 - (f) the transfer of all or any rights, including granting of a licence, in respect of-
 - (i) any copyright, literary, artistic or scientific work; or
 - (ii) cinematographic films or work on films, tapes or any other means of reproduction of cinematograph films but does not include any consideration for its sale, distribution or exhibition;
 - (iii) live coverage of any event;
 - (g) the rendering of any services in connection with any of the aforesaid activities;
- (73) “rules” means rules made under this Act;
- (74) “salary” means as defined in [section 16](#);
- (75) “scheduled bank” has the same meaning as in the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);
- (76) “security” means security as defined in The Securities Act, 1920 (Act No. X of 1920);
- (77) “shareholder” includes a preference shareholder;
- (78) “tax” means the income tax payable under this Act and includes any additional tax, penalty, interest, fee or other charges leviable or payable under this Act;
- (79) “tax year” means tax year as defined in [section 14](#) and includes a special tax year that the person is permitted to use under [section 14](#);
- (80) “total income” means the total income of a person for a tax year shall be the sum of the person's income under each of the heads of income for the year;
- (81) “transfer”, in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishments or compulsory acquisition of any right therein, but does not include—
- (a) any transfer of the capital asset under a gift, bequest, will or an irrevocable trust;

- (b) any distribution of the assets of a company to its shareholders on its liquidation; and
 - (c) any distribution of capital assets on the dissolution of a firm or other association of persons;
- (82) 'trust' means trust as defined in Trust Act, 1882 (11 of 1882);.
- (83) "written down value" means-
 - (a) where the assets were acquired in the tax year, the actual cost thereof to the person;
 - (b) where the assets were acquired before the tax year, the actual cost thereof to the person as reduced by the aggregate of the allowances for depreciation allowed under this Act, or the Income Tax Ordinance, 1984 (Ord. No. XXXVI of 1984), in respect of the assessments for earlier year or years;
- (84) "year" means a tax year.

Chapter II

Basis of tax

Part A

Basis of charge

3. Liability to pay, and charge of, income-tax.-

- (1) In accordance with the provisions of this Act, every person shall be liable to pay income-tax in respect of his total income of the tax year.
- (2) Subject to the provisions of this Act, income-tax, including additional income-tax as described in section 4 and surcharge under section 5 shall be charged in respect of the total income of a tax year of every person.
- (3) Where the income tax referred to in sub-section (2) is to be charged in respect of the income of a period other than the tax year, the income-tax for such period shall be charged accordingly.
- (4) The income-tax referred to in sub-section (2) shall be charged at the rate specified in the **First Schedule** in the manner provided therein.
- (5) In respect of the income chargeable under sub-section (2), income tax shall be deducted or collected at source or paid in advance, in accordance with the provisions of this Act.
- (6) The chargeability of income-tax on the income of a tax year under the foregoing provisions shall be determined in accordance with the provisions of this Act.

4. Charge of additional tax.-

Notwithstanding anything contained in any other provisions of this Act or any other law for the time being in force, in addition to tax payable under section 3, the following additional tax shall be charged:

- (a) at the rate of five per cent on the aggregate sum of accumulated profit and free reserve, where a public limited company, not being a banking or insurance company, listed with any stock exchange in Bangladesh, has not issued, declared or distributed dividend or bonus share equivalent to at least fifteen percent of its paid up capital to its share holders within a period of six months immediately following any tax year; and
- (b) at the rate of fifteen per cent on so much of profit as it exceeds fifty per cent of the aggregate sum of the capital and reserve, where a banking company operating under eVSK কোম্পানী আইন, ১৯৯১ (১৯৯১ সালের ১৪নং আইন) shows profit in its return of income for a tax year at an amount exceeding fifty per cent of its capital as defined under the said Act together with reserve; and
- (c) at the rate of three per cent on the difference between the value at which a share of a company is sold and its face value, where the company raises its share capital through book building or public offering or rights offering or placement or preference share or in any other way at a value in excess of face value of the share.

5. Charge of surcharge.-

- (1) A surcharge on income shall be charged for any tax year at any rate or rates as specified in First Schedule;

- (2) All the provisions of this Act relating to charge, assessment, deduction at source, payment in advance, collection, recovery and refund of income tax shall, so far as may be, apply to the charge, assessment, deduction at source, payment in advance, collection, recovery and refund of the surcharge.

6. Scope of total income.-

- (1) Subject to the provisions of this Act, the total income of any tax year of a person, who is a resident, shall include all income from whatever source derived which—
- (a) accrues, or is deemed to accrue, to him in Bangladesh during the year;
 - (b) accrues to him outside Bangladesh during the year;
 - (c) is received, or is deemed to be received, by him, or on his behalf, in Bangladesh during the year; or
 - (d) is received by him, or on his behalf, outside Bangladesh during the year.
- (2) Subject to the provisions of this Act, the total income of any tax year of a person, who is a non-resident, shall include all income from whatever source derived which—
- (a) accrues, or is deemed to accrue, to him in Bangladesh during the year; or
 - (b) is received, or is deemed to be received, by him, or on his behalf, in Bangladesh during the year.
- (3) Any income which accrues to a resident outside Bangladesh during the year, or is received outside Bangladesh during the year by, or on behalf of, such resident, shall be included in the total income of the resident, whether or not such income has been charged to tax outside Bangladesh.

7. Resident in Bangladesh.-

- (1) An individual shall be resident in Bangladesh in any tax year, if he is in Bangladesh—
- (a) for a period, or periods, amounting in all to one hundred and eighty-two days or more in that year; or
 - (b) for a period, or periods, amounting in all to—
 - (i) ninety days or more in that year; and
 - (ii) three hundred and sixty-five days or more within the four years immediately preceding that year.
- (2) The provisions of clause (b) of sub-section (1) shall not apply in respect of an individual who is—
- (a) a citizen of Bangladesh and who leaves Bangladesh in that year as a member of the crew of an Bangladeshi ship; or
 - (b) a citizen of Bangladesh and who leaves Bangladesh in that year for the purposes of employment outside Bangladesh.
- (3) A company shall be resident in Bangladesh in any tax year, if—
- (a) it is a Bangladeshi company; or
 - (b) its place of effective management, at any time in the year, is in Bangladesh.

- (4) Every other person shall be resident in Bangladesh in any tax year, if the place of control and management of its affairs, at any time in the year, is situated wholly, or partly, in Bangladesh.

8. Income deemed to accrue in Bangladesh.-

- (1) The income shall be deemed to accrue in Bangladesh, if it accrues, whether directly or indirectly, through or from:
- (a) any business connection in Bangladesh;
 - (b) any property in Bangladesh;
 - (c) any asset or source of income in Bangladesh; or
 - (d) the transfer of a capital asset situated in Bangladesh.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the following income shall be deemed to accrue in Bangladesh, namely:—
- (a) income from employment, if it is for—
 - (i) service rendered in Bangladesh;
 - (ii) service rendered outside Bangladesh by a citizen of Bangladesh and the income is receivable from the Government; or
 - (iii) the rest period, or leave period, which precedes, or succeeds, the period of service rendered in Bangladesh and forms part of the service contract of employment;
 - (b) any dividend paid by a domestic company outside Bangladesh;
 - (c) any insurance premium including re-insurance premium accrued from or payable by any resident or non-resident in respect of insurance covering any risk in Bangladesh;
 - (d) interest accrued from or payable by any resident or the Government;
 - (e) interest accrued from or payable by any non-resident, if the interest is in respect of any debt incurred and used for the purposes of—
 - (i) a business carried on by the non-resident in Bangladesh; or
 - (ii) earning any income from any source in Bangladesh;
 - (f) royalty accrued from or payable by any resident or the Government;
 - (g) royalty accrued from or payable by a non-resident, if the royalty is for the purposes of—
 - (i) a business carried on by the non-resident in Bangladesh; or
 - (ii) earning any income from any source in Bangladesh;
 - (h) fees for technical services accrued from or payable by any resident or the Government;
 - (i) fees for technical services accrued from or payable by any non-resident, in respect of services utilised for the purposes of—
 - (i) a business carried on by the non-resident in Bangladesh; or

- (ii) earning any income from any source in Bangladesh;
 - (j) transportation charges accrued from or payable by any resident or the Government;
 - (k) transportation charges accrued from or payable by any non-resident, if the transportation charges are in respect of the carriage to, or from, a place in Bangladesh.
- (3) For the purposes of clause (a) of sub-section (1), in the case of a business of which all the operations are not carried out in Bangladesh, the income of the business deemed to accrue in Bangladesh shall be only such part of the income as is reasonably attributable to the operations carried out in Bangladesh.
- (4) The income deemed to accrue in Bangladesh under sub-section (1) shall, in the case of a non-resident, not include the following, namely:—
- (a) any income accruing through, or from, operations which are confined to the purchase of goods in Bangladesh for the purposes of export out of Bangladesh;
 - (b) interest accrued from or payable by a resident, in respect of any debt incurred and used for the purposes of—
 - (i) a business carried on by the resident outside Bangladesh; or
 - (ii) earning any income from any source outside Bangladesh;
 - (c) royalty accrued from or payable by a resident for the purposes of—
 - (i) a business carried on by the resident outside Bangladesh; or
 - (ii) earning any income from any source outside Bangladesh;
 - (d) fees for technical services accrued from or payable by a resident, in respect of services utilised for the purposes of—
 - (i) a business carried on by the resident outside Bangladesh; or
 - (ii) earning any income from any source outside Bangladesh;
 - (e) transportation charges for the carriage by aircraft or ship accrued from or payable by any resident, if the transportation charges are in respect of the carriage from a place outside Bangladesh to another place outside Bangladesh, except where the airport or port of origin of departure of such carriage is in Bangladesh;
 - (g) income from transfer, outside Bangladesh, of any share or interest in a foreign company unless at any time in twelve months preceding the transfer, the fair value of the assets in Bangladesh, owned, directly or indirectly, by the company, represent at least fifty per cent. of the fair value of all assets owned by the company;
 - (h) interest accrued from or payable by a non-resident as referred to in sub-clause (ii) of clause (e) of sub-section (2), if such interest has not been claimed by the non-resident as a deduction from his tax bases chargeable in Bangladesh.
- (5) The provisions of clauses (c) to (k) of sub-section (2) shall be applicable, whether or not,—
- (a) the payment is made in Bangladesh;
 - (b) the services are rendered in Bangladesh;

- (c) the non-resident has a residence or place of business or any business connection in Bangladesh; or
 - (d) the income has accrued in Bangladesh.
- (6) Where the income of a non-resident, in respect of transfer, outside Bangladesh, of any share or interest in a foreign company, is deemed to accrue in Bangladesh under clause (d) of sub-section (1), it shall be computed in accordance with the following formula—

$$A \times B/C$$

Where-

A = Income from the transfer computed in accordance with provisions of this Code as if the transfer was effected in Bangladesh;

B = fair value of the assets in Bangladesh, owned, directly or indirectly, by the company;

C = fair value of all assets owned by the company.

9. Income deemed to be received in a tax year.-

The following income shall be deemed to be received in the tax year, namely:—

- (a) any contribution made by an employer, in the tax year, to the account of an employee under a pension fund;
- (b) any contribution made by an employer, in the tax year, to the account of an employee in any other fund;
- (c) the annual accretion, in the tax year, to the balance at the credit of any employee in a fund referred to in clause (b) to the extent it exceeds the limit as may be prescribed.

10. Dividend income.-

For the purposes of inclusion in the total income of an assessee—

- (a) any dividend declared, distributed or paid by a company within the meaning of **sub-clauses (a) or (b) or (c) or (d) or (e) of clause (41) of section 2** shall be deemed to be the income of the tax year in which it is so declared, distributed or paid, as the case may be;
- (b) any interim dividend shall be deemed to be the income of the tax year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.

11. Total income to include income of any other person.-

- (1) The total income of any person, being a transferor, shall include the following, namely:-
 - (a) any income accruing to any other person, by virtue of a transfer, whether revocable or not, without transfer of the asset from which the income accrues; or
 - (b) any income accruing to any other person, by virtue of a revocable transfer of an asset.
- (2) The provisions of clause (b) of sub-section (1) shall not apply in a case where-
 - (a) any income accrues from an asset transferred to any trust, if the transfer is not revocable during the life time of the beneficiary of the trust; or
 - (b) any income accrues from an asset transferred to any other person, not being a trust, if the transfer is not revocable during the lifetime of such other person.

- (3) In this section,—
 - (a) a transfer shall be deemed to be revocable if—
 - (i) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or assets to the transferor; or
 - (ii) it, in any way, gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the income or assets;
 - (b) a transfer shall include any settlement, trust, covenant, agreement or arrangement.

12. Income of individual to include income of spouse, minor child and others.-

- (1) The total income of any individual shall include—
 - (a) all income which accrues, directly or indirectly,—
 - (i) to the spouse, by way of salary, commission, fees or any other form of remuneration, whether in cash or in kind, from a concern in which the individual has a substantial interest;
 - (ii) from assets transferred, directly or indirectly, to the spouse by the individual, otherwise than for adequate consideration, or in connection with an agreement to live apart;
 - (iii) from assets transferred, directly or indirectly, to the son's wife by the individual, otherwise than for adequate consideration; or
 - (iv) from assets transferred, directly or indirectly, to any other person by the individual otherwise than for adequate consideration, to the extent to which the income from such assets is for the immediate or deferred benefit of the spouse or son's wife;
 - (b) all income which accrues to a minor child (other than a minor child being a person with disability or person with severe disability) of the individual, other than income which accrues to the child on account of any—
 - (i) manual work done by the child; or
 - (ii) activity involving application of the skill, talent or specialised knowledge and experience of the child;
 - (c) all income derived from any converted property or part thereof;
 - (d) all income derived from any converted property which is received by the spouse or minor child upon partition of the Hindu undivided family of which the individual is a member.
- (2) Subject to sub-section (3) and without prejudice to sub-section (1), where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the tax year increased or decreased respectively by his share in the balance of the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income and such share shall be included in his total income:
- (3) If the share of income so computed under sub-section (2) is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of **Chapter V**.

- (4) The provisions of sub-clause (i) of clause (a) of sub-section (1) shall not apply in relation to any income accruing to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of the technical or professional knowledge and experience of the spouse.
- (5) The income referred to in sub-clause (i) of clause (a) of sub-section (1) shall, notwithstanding anything contained therein, be included in the total income of the spouse whose total income (excluding the income referred to in that sub-clause) is higher.
- (6) The Board may prescribe the method for determining the income referred to in sub-clause (ii) and sub-clause (iii) of clause (a) of sub-section (1).
- (7) The income referred to in clause (b) of sub-section (1) shall be included in the total income of—
 - (a) the parent who is the guardian of the minor child; or
 - (b) the parent whose total income (excluding the income referred to in that clause) is higher, if both the parents are guardians of the child.
- (8) Where any income referred to in clause (b) of sub-section (1) is once included in the total income of a parent, any such income arising in the succeeding year shall not be included in the total income of the other parent, unless the Deputy Commissioner of Taxes considers it necessary to do so after giving an opportunity of being heard to the other parent.
- (9) In this section, “property” includes any interest in property whether movable or immovable, the sale proceeds of such property, in whichever form and where the property, is converted into any other form of property by any method, such other property.

13. Income not included in the total income.-

Subject to the provisions of this Act, the total income of a tax year of a person shall not include the income enumerated in the Tenth Schedule.

Part B

Tax year

14. Tax year.-

- (1) The tax year is a period of twelve months ending on the 30th day of June or the special tax year determined under sub-section (2).
- (2) A company may apply to use a twelve-month period other than the financial year as the company's tax year, or change its tax year, if –
 - (i) the company requests in writing permission to use a special tax year or change its tax year;
 - (ii) it can show a compelling business reason for the use of a special tax year or for a change in its tax year; and
 - (iii) the Commissioner of Taxes approves, subject to whatever conditions the Commissioner of Taxes may prescribe, the use of a special tax year or the change.

- (3) Permission for the use of a special tax year granted under sub-section (2) may be withdrawn by written notice issued by the Commissioner of Taxes.
- (4) If there is a change in control of a company during a tax year, there is a deemed tax year end at the date of the change in control, and the company must report its income for the period from the last tax year end up until the deemed tax year end.
- (5) If sub-section (4) applies, the company shall obtain approval from the Commissioner of Taxes for the selection of the new tax year for which the company will report its income in future years, unless the company chooses to use the financial year as its tax year.
- (6) Where a company's tax year changes as a result of permission being granted or withdrawn under sub-sections (3) or (4) or as a result of a change in control under sub-section (5), the period between the end of the previous tax year and the beginning of the next tax year, or between the end of the previous tax year and the beginning of a new tax year, as the case may be, is treated as a separate tax year.

Chapter III

Computation of income

Part A

Heads of income

15. Heads of income.-

Save as otherwise provided in this Act, all incomes shall, for the purpose of charge of income tax and computation of total income, be classified and computed under the following heads of income, namely:-

- (a) Salaries;
- (b) Income from property;
- (c) Agricultural income;
- (d) Income from business;
- (e) Capital gains;
- (f) Income from other sources.

Part B

Salaries

16. Salaries.-

- (1) A salary received by an employee in a tax year, other than salary that is exempt from tax under this Act, shall be chargeable to tax for that year under the head 'salaries'.
- (2) Salary means any amount received by an employee from any employment whether of a revenue or capital nature, including-
 - (a) any pay, wages or other remuneration provided to an employee, including leave pay in cash or kind, payment in lieu of leave, overtime payment, bonus, commission, fees, honourarium, consultant fee, ex-gratia or work condition supplements;
 - (b) any perquisite, whether convertible to money or not;
 - (c) the amount of any allowance provided by an employer to an employee including a cost of living, subsistence, rent, utilities, education, entertainment or travel allowance, but shall not include any allowance solely expended in the performance of the employee's duties of employment;
 - (d) the amount of any expenditure incurred by an employee that is paid or reimbursed by the employer, other than expenditure incurred on behalf of the employer in the performance of the employee's duties of employment;
 - (e) the amount of any profits in lieu of, or in additional to, salary or wages, including any amount received-
 - (i) as consideration for a person's agreement to enter into employment relationship;

- (ii) as consideration for an employee's agreement to any conditions of employment or any changes to the employee's conditions of employment;
 - (iii) on termination of employment, whether paid voluntarily or under an agreement, including any compensation for redundancy or loss of employment and golden handshake payments;
 - (iv) from a provident or other fund, to the extent to which the amount is not a repayment of contributions made by the employee was not entitled to a deduction; and
 - (v) as consideration for an employee's agreement to a restrictive covenant in respect of any past, present or prospective employment;
- (f) any pension or gratuity or annuity or any supplement to a pension or annuity; and
- (g) any other amount chargeable to tax as salary.
- (3) No deduction shall be allowed for any expenditure incurred by an employee in deriving the amounts chargeable to tax under the head salary.
- (4) For the purpose of this Act, an amount or perquisite shall be treated as received by an employee from any employment regardless of whether the amount or perquisite is paid or provided-
 - (i) by a past employer or a prospective employer;
 - (ii) by the employer or by a third person on his behalf; or
 - (iii) to the employee or to an associate of the employee or to a third person that the employee wishes to benefit.
- (5) Value of perquisites-
 - (a) Determination of value of perquisites – For the purposes of computing an employee's salary income under this section, the value of a perquisite received by the employee is determined in accordance with this section. The amount included in the employee's salary income is the value of the perquisite minus any payment made by the employee for the perquisite.
 - (b) Motor vehicle – If a motor vehicle is provided by an employer to an employee wholly or partly for the personal use of the employee, the value of the perquisite is computed as may be prescribed.
 - (c) Loan – If an employer makes a loan to an employee and the rate of interest charged on the loan is less than the prescribed rate of interest, the value of the perquisite is the amount that the employee would have paid to the employer for the tax year if the prescribed rate of interest had been charged on the loan.
 - (d) Discharge of indebtedness – If an employee has an obligation to pay an amount owing to an employer, or another person, and the employer forgives the amount, or pays the amount owing by the employee to another person, the value of the perquisite is the amount forgiven by the employer, or the amount the employer pays to the other person to discharge the obligation.
 - (e) Stock option – If an employer grants an employee an option to purchase shares in the employer, or a company that is an associate of the employer, and the employee

exercises that option at any time during or after the termination of the employment, the value of the perquisite, which is included in the employment income of the employee for the tax year in which the option is exercised, is the amount by which—

- (i) the market value of the shares at the time the option is exercised, exceeds
- (ii) the price paid by the employee under the option.

- (f) Accommodation : where, in the tax year, accommodation or housing is provided by an employer to an employee, the amount chargeable to tax to the employee under the head salary for that year shall include an amount computed as may be prescribed.
- (6) Notwithstanding anything contained in the previous sub-sections the following income shall not constitute income from salary- tax on salary paid by the employer;
- (i) transport allowance to the extent as may be prescribed;
 - (ii) special allowance or benefit to meet expenses wholly and exclusively to incur in the performance of duty to the extent actually incur.
 - (iii) compensation under voluntary retirement scheme;
 - (iv) gratuity received on retirement or death;
 - (v) amount received on commutation of pension;
 - (vi) pension;
 - (vii) a meal or refreshment provided by the employer to the employee in premises operated by or on behalf of the employer solely for the benefit of employees and which is available to all full-time employees on equal terms.

Part C

Income from property

17. Income from property.-

- (1) A person's income from property whether used for commercial or residential purpose is the person's 'rent received or receivable from property' in a tax year minus deductions allowable for that year under this chapter.
- (2) Where a property is owned by two or more persons and their respective shares are definite and ascertainable, only such part of such income as is proportionate to the share of that person shall be reckoned as his income from that property.

18. Meaning of 'rent received or receivable from property'.-

- (1) For the purpose of this Part 'rent received or receivable from property' means-
 - (a) amount received or receivable by the owner of land or building as consideration for the use or occupation of, or the right to use or occupy, the land or building;
 - (b) forfeited deposit paid under a contract for the sale of land or a building;
 - (c) amount received or receivable by any person in respect of the lease of a land or building where plant and machinery is not appurtenant to this land or building;

- (d) amount received or receivable by any person for amenities, utilities or any other service connected with the renting of the building.
- (2) Where the rent received or receivable by a person is less than the fair rent for the property, the person shall be treated as having derived the fair rent for the period the property is let out in the tax year.
- (3) Where a person receives an amount from another person to whom a property or any part thereof is let out and such amount is not adjustable against the rent payable, subject to sub-section (4) and (5), the amount so received shall be deemed to be the income of the person for the tax year in which it is received.
- (4) The amount mentioned in sub-section (3) may be allocated in four equal proportion, at the option of the person, and the income is to be assessed in the year the amount received and the following three years accordingly.
- (5) Where such amount mentioned in sub-section (3) and (4) or part thereof is refunded by the person in a subsequent tax year the amount so refunded shall be deducted in computing the income of the person in respect of that tax year.

19. Deductions from income from property.-

- (1) In computing the income under the head “Income from property”, the following allowances and deductions shall be made, namely:-
 - (a) in respect of a building, expenditure for repairs, collection of rent, water and sewerage, electricity and salary of darwan, security guard, pump-man, lift-man and caretaker and all other expenditure related to maintenance and provision of basic services :
 - (i) actual amount spent for this purpose subject to maximum limit equal to one fourth of the rent of the property where the property is used for residential purpose;
 - (ii) actual amount spent for this purpose subject to maximum limit equal to thirty per cent of the rent of the property where the property is used for commercial purpose;
 - (b) in respect of a building, any premium paid or payable by the person in the year to insure the building against the risk of damage or destruction;
 - (c) In respect of building, which has been constructed with borrowed capital and no income under **section 17** was earned from that property during the period of such construction, the interest payable during that period on such capital, in three equal proportionate instalments for subsequent first three years for which income is assessable from that property;
 - (d) any local rate, tax or charge in respect of the property or the rent from the property paid or payable by the person to any local authority or government in the year, not being any tax payable under this Act;
 - (e) any ground rent paid or payable by the person in the year in respect of the property;
 - (f) any profit or interest paid or payable by the person in the year on any money borrowed including by way of mortgage, to acquire, construct, renovate, extend, or reconstruct the property;

- (g) any expenditure paid or payable by the person in the tax year for legal services acquired to defend the person's title to the property or any suit connected with the property in a Court;
- (h) where there are reasonable grounds for believing that any unpaid rent in respect of the property is irrecoverable, an allowance equal to the unpaid rent where –
 - (i) the tenancy was bona fide, the defaulting tenant has vacated the property or steps have been taken to compel the tenant to vacate the property, and the defaulting tenant is not in occupation of any other property of the person;
 - (ii) the person has taken all reasonable steps to institute legal proceedings for the recovery of the unpaid rent or has reasonable grounds to believe that legal proceedings would be useless; and
 - (iii) the unpaid rent has been included in the income of the person chargeable to tax under the head "Income from Property" for the tax year in which the rent was due and tax has been duly paid on such income.
- (2) Where any unpaid rent allowed as a deduction under sub-clause (i) of clause (h) of sub-section (1) is wholly or partly recovered, the amount recovered shall be chargeable to tax in the tax year in which it is recovered.
- (3) Where a person has been allowed a deduction for any expenditure incurred in deriving rent chargeable to tax under the head "Income from Property" and the person has not paid the liability or a part of the liability to which the deduction relates within three years of the end of the tax year in which the deduction was allowed, the unpaid amount of the liability shall be chargeable to tax under the head "Income from Property" in the first tax year following the end of the three years.
- (4) Where an unpaid liability is chargeable to tax as a result of the application of sub-section (3) and the person subsequently pays the liability or a part of the liability, the person shall be allowed a deduction for the amount paid in the tax year in which the payment is made.
- (5) Any expenditure allowed to a person under this section as a deduction shall not be allowed as a deduction in computing the income of the person chargeable to tax under any other head of income.

Part- D

Agricultural income

20. Agricultural income.-

- (1) A person's income shall be classified as income from agriculture in a tax year minus deductions allowable for that year under this chapter.
- (2) Agricultural income derived from the sale of tea, rubber, tobacco, sugar or any other produce grown and manufactured by the person may be computed in the manner prescribed for the purpose.

21. Meaning of Agricultural income.-

- (1) "agricultural income" includes any income from —
 - (a) cultivation of agricultural land; or
 - (b) horticulture; or

- (c) pisciculture; or
- (d) floriculture; or
- (e) granting a right to any person to use the land for agriculture ;
- (f) any income derived from any building which—
 - (i) is occupied by the cultivator of any such land as is referred to in clause (a) in which any process is carried on to render marketable any such produce as aforesaid;
 - (ii) is on, or in the immediate vicinity of such land; and
 - (iii) is required by the cultivator as the dwelling house or store-house or other out-house by reason of his connection with such land;
- (2) The difference between the sale proceed and the written down value as does not exceed the difference between the original cost and the written down value of any machinery or plant exclusively used by a person for agricultural purposes has been disposed of in any tax year shall be treated as agricultural income.
- (3) Any insurance, salvage or compensation money received in any tax year in respect of any machinery or plant which having been used by a person exclusively for agricultural purpose is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such machinery or plant, so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be treated as agricultural income.

22. Deductions from agricultural income.-

- (1) Subject to sub-section (2), the following allowances and deductions shall be made in computing the income under the head “agricultural income”:-
 - (a) any land development tax or rent paid in respect of the land used for agricultural purposes;
 - (b) any tax, local rate or cess paid in respect of the land used for agricultural purposes, if such tax, rate or cess is not levied on the income arising or accruing, or deemed to accrue or arise, from agricultural operations or is not assessed at a proportion or on the basis of such income;
 - (c) subject to clause (d), any expenditure incurred for the cost of production for the following purposes-
 - (i) for cultivating the land or raising livestock thereon;
 - (ii) for performing any process ordinarily employed by a cultivator to render marketable the produce of the land;
 - (iii) for transporting the produce of the land or the livestock raised thereon to the market; and
 - (iv) for maintaining agricultural implements and machinery in good repair and for providing upkeep of cattle for the purpose of cultivation, processing or transportation as aforesaid;
 - (d) where books of accounts in respect of agricultural income derived from the land are not maintained, the cost of production to be deducted shall, instead of the

expenditure mentioned in clause (c), be sixty per cent of the market value of the produce of the land;

- (e) any sum paid as premium in order to effect any insurance against loss of, or damage to, the land or any crop to be raised from, or cattle to be reared on, the land;
 - (f) any sum paid in respect of the maintenance of any irrigation or protective work or other capital assets; and such maintenance includes current repairs and, in the case of protective dykes and embankments, all such work as may be necessary from year to year for repairing any damage or destruction caused by flood or other natural causes;
 - (g) a sum calculated at the rate as provided in **the Eighth Schedule** on account of depreciation in respect of irrigation or protective work or other capital assets constructed or acquired for the benefit of the land from which agricultural income is derived or for the purpose of deriving agricultural income from the land, if the required particulars are furnished by the person;
 - (h) where the land is subject to a mortgage or other capital charge for purposes of reclamation or improvement, the amount of any interest paid in respect of such mortgage or charge;
 - (i) where the land has been acquired, reclaimed or improved by the use of borrowed capital, the amount of any interest paid in respect of such capital;
 - (j) where any machinery or plant which has been used by the person exclusively for agricultural purposes has been discarded, demolished or destroyed in the tax year, the amount actually written off on that account in the books of accounts of the person,—
 - (i) subject to the maximum of the amount by which the written down value of the machinery or plant exceeds the scrap value thereof if no insurance, salvage or compensation money has been received in respect of such machinery or plant; and
 - (ii) subject to the maximum of the amount by which the difference between the written down value and the scrap value exceeds the amount of insurance, salvage or compensation money received in respect of such machinery or plant;
 - (k) where any machinery or plant which has been used by the person exclusively for agricultural purposes has been sold or transferred by way of exchange in the tax year, the amount actually written off on that account in the books of accounts of the person, subject to the maximum of the amount by which the written down value of the machinery or plant exceeds the amount for which it has been actually sold or transferred; and
 - (l) any other expenditure, not being in the nature of capital expenditure or personal expenditure, laid out wholly and exclusively for the purpose of deriving agricultural income from the land.
- (2) No deduction on account of cost of production shall be admissible under sub-section (1), if the agricultural income is derived by the owner of the land from the share of the produce raised through any system of sharing of crop generally known as adhi, barga or bhag;

Part- E

Income from business

23. Net business income.-

A person's net business income is the person's gross income from business minus the deductions allowable under this Part.

24. Meaning of Business.-

"Business" includes a profession, vocation, trade, commerce, industry, or undertaking of any kind, and an adventure or concern in the nature of trade, commerce or industry.

25. Computation of business income.-

(1) The profits of the business specified in column (2) of the following Table shall be computed in accordance with the rules contained in the schedule specified in the corresponding entry in column (3) of the said Table.

Sl. No.	Nature of business	Schedule
(1)	(2)	(3)
(i)	Business of certain categories	The Fourth schedule
(ii)	Business of exploration and production of petroleum or natural gas	Part-A of the Sixth schedule
(iii)	Business of extraction of mineral deposit (other than petroleum or natural gas)	Part-B of the Sixth schedule
(iv)	Business of insurance	The Seventh schedule
(v)	Fixed tax for new and small business and profession	The Tenth Schedule

(2) Income from speculation business shall be computed separately.

(3) For the purpose of sub-section (2), "speculation-business" means business in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips, but does not include business in which—

- (a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;
- (b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; and
- (c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member;

26. Gross income from business.-

- (1) A person's gross income from business includes all amounts, whether of a revenue or capital nature, accrues or arises or deemed to have been accrued or arisen from the conduct of a business, including –
- (a) consideration received from the disposal of trading stock;
 - (b) gains on the disposal of assets used in a business for the generation of income;
 - (c) interest derived in respect of trade receivables or interest accruing to a person engaged in the business of banking or money lending;
 - (d) rent derived by a person from a business which consists wholly or mainly in the holding and letting of property;
 - (e) gains realized on the cancellation of a business debt, whether or not the debt is on capital or revenue account, unless the discharge is made in the course of an insolvency in which case instead of being included in income the gain reduces the amount of any losses carried forward;
 - (f) payments received as consideration for accepting a restriction on the capacity to carry on business;
 - (g) the fair value of gifts or any other benefit, whether convertible into money or not, derived by a person in the course of, or by virtue of, a past, present, or prospective business relationship;
 - (h) any remuneration or fees received or deemed to have been received by a managing agent as defined in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);
 - (i) amounts included in income under the following sections, if the amounts in question are related to a business:
 - (i) foreign currency debt gains and losses referred to in **section 51**;
 - (ii) balancing charge from the sale of depreciable property referred to in the **Eighth Schedule**;
 - (iii) balancing charge from the sale of intangible property referred to in the **Eighth Schedule**; and
 - (iv) recouped deductions referred to in **section 34**.
 - (j) Any profit on debt derived by person where person's business is to derive such income shall be chargeable to tax under the head "income from business".

27. Deduction for expenses incurred to earn business income.-

Subject to provisions under **section 28 to 39**, in computing the income under the head "income from business", the following deductions shall be allowed, namely:-

- (b) expenditures accrued or incurred for the year to the extent that they are accrued or incurred in deriving business income;
- (c) losses suffered in the year on the disposal of assets used in a business for the generation of income, as determined under **section 42**; and
- (c) allowance for depreciation or amortization as per **the Eighth Schedule**.

28. No deduction for personal or living expense.–

- (1) In computing an individual's net business income, no deduction is allowed for any expenditure incurred to the extent that it is a personal or living expense.
- (2) For the purposes of this section, a personal or living expense is an expense -
 - (a) from which the individual incurring the expense derives a personal benefit; or
 - (b) that is incurred as the result of a decision the individual makes for a personal (as opposed to a business) reason.

29. Illustrations of personal and living expenses.–

For greater certainty, personal or living expenses include –

- (a) the cost of maintenance of an individual and of the individual's family and dependants;
- (b) the cost of commuting between an individual's residence and work;
- (c) the cost of providing meals, refreshment, or entertainment unless –
 - (i) the value of the meals, refreshment, or entertainment is included in the employment income of an employee or would be so included except for the operation of **section 16**; or
 - (ii) the person's business includes the provision of meals, refreshment, or entertainment and the persons to whom the meals, refreshments or entertainment are provided have paid reasonable consideration.
- (d) the cost of clothing worn to work, other than clothing that is not suitable for wearing outside of work; and
- (e) the cost of education not directly relevant to the individual's business and the cost of education leading to a degree or diploma, whether or not directly relevant to the individual's business.

30. Capital expenditures must be amortized.-

- (1) In computing net business income, no deduction is allowed for a capital expenditure, except as provided under **clause (c) of section 27**.
- (2) For the purpose of this section, a capital expenditure is an expense that is made primarily for the acquisition, development, or improvement, as distinguished from the preservation or maintenance, of an asset or interest that has a useful life that is estimated to extend over a period longer than one year.

31. No deduction for expenses against public policy.-

In computing the net business income, no deduction shall be allowed for –

- (a) an amount paid as a bribe, kickback, or similar illegal amount, or
- (b) a fine or penalty imposed for violation of a law or regulation.

32. No deduction for unreasonable expenses.-

In computing net business income, no deduction shall be allowed in respect of an expenditure or loss otherwise deductible under this Part except to the extent, as may be prescribe by the Board, that the expenditure or loss is reasonable in the circumstances.

33. No deductions until withholding obligations discharged.-

In computing net business income, no deduction shall be allowed for expenditure until the person has paid any required withholding taxes under **Chapter VI** relating to the expenditure.

34. Recouped deductions.-

(1) Where, for the purpose of computation of income of an assessee under this Part, any deduction has been made for any year in respect of any loss, bad debt, expenditure or trading liability incurred by the assessee, and—

- (a) subsequently, during any income year, the assessee has received, except as provided in clause (b) whether in cash or in any other manner whatsoever, any amount in respect of such loss, bad debt, or expenditure, the amount so received shall be deemed to be his income from business or profession during that income year;
- (b) such amount on account of any interest which was to have been paid to any commercial bank or the Bangladesh Development Bank Limited on account of any share of profit which was to have been paid to any bank run on Islamic principles and which was allowed as a deduction in respect of such expenditure though such interest or share of profit was not paid by reason of the assessee having maintained his accounts on mercantile basis, within three years after expiry of the income year in which it was allowed, shall, to such extent as it remains unpaid, be deemed to be income of the assessee from business or profession during the income year immediately following the expiry of the said three years;
- (c) the assessee has derived, during any income year, some benefit in respect of such trading liability, the value of such benefit, if it has not already been treated as income under clause (d), shall be deemed to be his income from business or profession during that income year;
- (d) such trading liability or portion thereof as has not been paid within three years of the expiration of the income year in which deduction was made in respect of the liability, such liability or portion, as the case may be, shall be deemed to be the income of the assessee from business or profession during the income year immediately following the expiry of the said three years;

and the business or profession in respect of which such allowance or deduction was made shall, for the purposes of this Part, be deemed to be carried on by the assessee in that year:

- (2) Where any interest or share of profit referred to in clause (b) or a trading liability referred to in clause (d) is paid in a subsequent year, the amount so paid shall be deducted in computing the income in respect of that year.

35. Limitations on specific expenses.-

In computing a person's net business income, no deduction is allowed for the following expenditures except as specifically provided for in this Act –

- (a) interest expenses, except as provided by [section 36](#);
- (b) losses in respect of bad debts, except as provided by [section 37](#);
- (c) research and development costs, except as provided by [section 38](#);
- (d) repairs, except as provided by [section 39](#);
- (e) expenses incurred to acquire trading stock or raw materials to be incorporated into trading stock, except as provided by [section 48](#); and
- (f) foreign currency debt losses, except as provided by [section 51](#).

36. Deduction and capitalisation of interest.-

- (1) Subject to provisions of **Chapter- XIX**, a taxpayer is entitled to a deduction for interest paid in respect of a debt obligation incurred by the taxpayer to produce taxable business or property income.
- (2) The deduction allowed under sub-section (1) shall be reduced by the amount of any interest paid or payable during the acquisition, production, or construction period of an asset, if this period exceeds one year.

37. Bad debts.-

- (1) A deduction shall be allowed for a bad debt that is not a debt in respect of money lent in the ordinary course of business by a financial institution if –
 - (a) the bad debt is written off in the person's accounts;
 - (b) a reasonably prudent commercial person would conclude that there is no reasonable likelihood that the debt will be paid;
 - (c) the person has taken all reasonable steps to pursue payment; and
 - (d) the amount represented by the debt is included in the person's income in a previous tax year.
- (2) A financial institution shall be allowed a deduction for a bad debt claim in respect of loans made by the taxpayer in accordance with Generally Accepted Accounting Principles (GAAP) and relevant directives issued by appropriate authority such as Bangladesh Bank or prudential supervisory body.

38. Research and development.-

- (1) Subject to sub-section (2), a deduction is allowed for research and development expenditure incurred in the generation of business income.
- (2) No deduction is allowed under sub-section (1) for the acquisition of a depreciable asset or of land.
- (3) This section does not apply to an expense incurred for ascertaining the existence, location, extent, or quality of a natural deposit.

39. Repairs and improvements.-

- (1) A deduction is allowed for an expenditure incurred by a taxpayer in a tax year to repair a non-depreciable asset or to repair or improve a depreciable asset used in the generation of business income.
- (2) For a depreciable asset, the deduction under sub-section (1) for each tax year is limited to 5 percent (or in the case of a building 3 percent) of the written down value at the beginning of the tax year.
- (3) The excess, if any, of the amount described in sub-section (1) over the limit in sub-section (2) is treated as the cost of an asset added thereto during the tax year.

Part- F

Capital gains

40. Net income from capital assets.-

A person's income from transfer of capital assets shall be the proceeds received or deemed to be received from transfer of capital assets in a tax year minus deductions allowable for that year under this Part.

41. Meaning of capital assets. –

- (1) Subject to sub-section (2), “capital asset” means property of any kind held by a person, whether or not connected with a business, but does not include –
 - (a) any stock-in-trade, consumable stores or raw materials held for the purpose of business;
 - (b) any movable property exclusively used for the personal purposes ;
- (2) any security held by a person for more than 365 consecutive days shall be treated as 'capital asset'.

42. Computation of capital gains.-

- (1) The income under the head “Capital gains” shall be computed after making the following deduction from the full value of the consideration received or accruing from the transfer of the capital asset or the fair value thereof, whichever is higher, namely:-
 - (a) any expenditure incurred solely in connection with the transfer of the capital asset; or
 - (b) the cost of acquisition of the capital asset and any capital expenditure incurred for any improvements thereto but excluding any expenditure in respect of which any allowance is admissible under any provisions of [sections 27 and 44](#).
- (2) For the purpose of this section, “cost of acquisition of the capital asset” means—
 - (a) where it was acquired by the person by purchase, the actual cost of acquisition; and
 - (b) where it became the property of the person—
 - (i) under a deed of gift, bequest or will; or
 - (ii) under a transfer on a revocable or irrevocable trust; or
 - (iii) on any distribution of capital assets on the liquidation of a company; or
 - (iv) on any distribution of capital assets on the dissolution of a firm or other association of persons;

the actual cost of acquisition to the previous owner of the capital asset as reduced by the amount of depreciation, if any, allowed to the previous owner; and where the actual cost of acquisition to the previous owner cannot be ascertained, the fair value at the date on which the capital asset became the property of the previous owner;
- (3) Where the capital asset is an asset in respect of which the person has obtained depreciation allowance in any year, the cost of acquisition of the capital asset to the person shall be its written down value increased or diminished, as the case may be, by any adjustment made under [section 22\(1\)\(k\)](#), [22\(2\)](#), or [section 26\(1\)\(b\)](#);

- (4) Where the capital asset became the property of the person by succession, inheritance or devolution, the actual cost of acquisition of the capital asset to the person shall be the fair value of the property prevailing at the time the person became the owner of such property.
- (5) Where in the opinion of the Deputy Commissioner of Taxes the fair value of a capital asset transferred by an person as on the date of transfer exceeds the full value of the consideration declared by the person by an amount of not less than fifteen per cent of the value so declared, the fair value of the capital asset shall be determined with the previous approval of the Inspecting Joint Commissioner of Taxes.
- (6) Where in the opinion of the Deputy Commissioner of Taxes the fair value of a capital asset transferred by an person as on the date of the transfer exceeds the declared value thereof by more than twenty five per cent of such declared value, the Government may offer to buy the said asset in such manner as may be prescribed.
- (7) Where a capital gain arises from the transfer of a capital asset which immediately before the date on which the transfer took place was being used by the person for the purposes of his business or profession and the person has, within a period of one year before or after that date, purchased a new capital asset for the purposes of his business or profession, then, instead of the capital gain being charged to tax as income of the tax year in which the transfer took place, it shall, if the person so elects in writing before the assessment is made, be dealt with in accordance with the following provisions of this sub-section, that is to say—
 - (a) if the amount of the capital gains is greater than the cost of acquisition of the new asset,—
 - (i) the difference between the amount of the capital gain and the cost of acquisition of the new asset shall be charged under [section 40](#) as income of the tax year, and
 - (ii) for the purposes of computing in respect of the new asset any allowance under [the Eighth Schedule](#) or the amount of any capital gain arising from its transfer, the cost of acquisition or the written down value, as the case may be, shall be nil, or
 - (b) if the amount of the capital gain is equal to or less than the cost of acquisition of the new asset,—
 - (i) the capital gain shall not be charged under [section 40](#), and
 - (ii) for the purposes of computing in respect of the new asset any allowance under [the Eighth Schedule](#) or any income under [section 26\(1\)\(b\)](#) or the amount of any capital gain arising from its transfer, the cost of acquisition or the written down value, as the case may be, shall be reduced by the amount of the capital gain:

where in respect of the purchase of a new capital asset consisting of plant or machinery, the person satisfies the Deputy Commissioner of Taxes that despite the exercise of due diligence it has not been possible to make the purchase within the period specified in this sub-section, the Deputy Commissioner of Taxes may, with the prior approval of the Inspecting Joint Commissioner of Taxes, extend the said period to such date as he considers reasonable.
- (8) Notwithstanding anything contained in this section or [section 41](#), where a capital gain arises from the transfer of a capital asset being Government securities, then no tax shall be charged under [section 40](#).

Part-G

Income from other sources

43. Income from other sources.-

Income of every kind received by or credited to a person in a tax year, if it is not included in any other head, other than income exempt from tax under this Act, shall be chargeable to tax in that year under the head “income from other sources”, including the following namely:—

- (a) dividend;
- (b) royalty;
- (c) interest or profit on any deposit;
- (d) interest on securities, bonds or debt claims;
- (e) ground rent;
- (f) rent from the sub-lease of land or a building;
- (g) income from the lease of any building together with plant or machinery;
- (h) income from provision of amenities, utilities or any other service connected with renting of building;
- (i) any annuity or pension;
- (j) any prize bond, or winnings from a raffle, lottery, gambling, horse racing, prize on winning a quiz, or cross-word puzzle;
- (k) any amount received by a person as consideration for vacating the possession of a building or part thereof, reduced by any amount paid by the person to acquire possession of such building or part thereof.
- (l) income from machinery, plant or furniture belonging to the person and let on hire, if the income is not included under the head "income from business" or "income from property";
- (m) any sum received in excess of premium paid under a life insurance policy;
- (n) any amount received, or retained, on account of settlement or breach of any contract, if not included under the head "income from business";
- (o) the value of any investment made by the person in the tax year to the extent for which,
 - (i) the person offers no explanation about the nature and source of the investments; or
 - (ii) the person offers an explanation but fails to substantiate the explanation; or
 - (iii) the explanation offered by him is not satisfactory;
- (p) under-statement of the value of any investment made by the person in the tax year to the extent for which,
 - (i) the person offers no explanation about the nature and source of the investments; or

- (ii) the person offers an explanation but fails to substantiate the explanation; or
- (iii) the explanation offered by him is not satisfactory;
- (q) the value of any money, bullion, jewellery or other valuable articles owned by the person to the extent for which,-
 - (i) the person offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable articles; or
 - (ii) the person offers an explanation but fails to substantiate the explanation; or
 - (iii) the explanation offered by him is not satisfactory;
- (r) the amount of any expenditure incurred by the person in the tax year, if-
 - (i) the person offers no explanation about the source of such expenditure or part thereof; or
 - (ii) the explanation, if any, offered by him is not satisfactory;
- (s) any amount accrued or received on account of the cessation, termination, forfeiture of any agreement entered by the person, if the amount is not included under the head from "income from business";
- (t) any amount credited in the books of account of the person in the tax year, if-
 - (i) the person offers no explanation about the source of such amount; or
 - (ii) the person offers an explanation but fails to substantiate the explanation; or
 - (iii) the explanation offered by him is not satisfactory;
- (u) any lump sum amount is received or receivable by a person in the tax year on account of salami or premium received by virtue of any lease, if it is not considered under the head "income from property";
- (v) any cancellation of indebtedness in the hand of the creditor;
- (w) **subject to section 34**, any sum, or aggregate of sums exceeding taka two hundred thousand is claimed or shown to have been received as loan by a person during any tax year from any person, not being a banking company or a financial institution, otherwise than by a crossed cheque drawn on a bank, and has not been paid back in full within three years from the end of the tax year in which it is claimed or shown to have been received, the said sum or part thereof which has not been paid back, shall be deemed to be the income of the person for the tax year immediately following the expiry of the said three years ;

44. Deductions in computing income chargeable under the head “Income from other sources”.-

- (1) In computing the income of a person chargeable to tax under the head “Income from other sources” for a tax year, a deduction shall be allowed for any expenditure incurred by the person in the year to the extent to which the expenditure is paid or payable in deriving income chargeable to tax.
- (2) Where the loan referred to in **clause (w) of section 43** is paid back in a subsequent tax year, the amount so paid shall be deducted in computing the income in respect of that subsequent year.

- (3) No deduction under sub-section (1) shall be allowed to a person under this section for following expenditures,:
- (a) expenditure to the extent which is deductible in computing the income of the person under any other head of income;
 - (b) expenditure of a capital nature;
 - (c) personal expenditure.

Chapter- IV

Method of accounting

45. Method of accounting.-

- (1) Subject to this Act, a person's income chargeable to tax shall be computed in accordance with the method of accounting regularly employed by such person.
- (2) Subject to sub-section (3), a company shall account for income chargeable to tax under the head "Income from Business" on an accrual basis, while other persons may account for such income on a cash or accrual basis.
- (3) In case of any business or profession, or class of business or profession, or any other source of income, or any class of persons, the Board may direct by a general or special order that-
 - (a) accounts and other documents shall be maintained in prescribed or specified manner and form; and
 - (b) receipts or payments of commercial transactions shall be recorded in prescribed or specified manner.
- (4) A person may apply, in writing, for a change in the person's method of accounting and the Commissioner of Taxes may, by order in writing, approve such an application but only if satisfied that the change is necessary to clearly reflect the person's income chargeable to tax under the head "Income from Business."
- (5) If a person's method of accounting has changed, the person shall make adjustments to items of income, deduction, or credit, or to any other items affected by the change so that no item is omitted and no item is taken into account more than once.
- (6) Where—
 - (a) no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Deputy Commissioner of Taxes, the income of the assessee cannot be properly deducted therefrom; or
 - (b) in any case to which sub-section (3) applies, the assessee fails to maintain accounts, make payments or record transactions in the manner directed under that sub-section; or
 - (c) a company has not complied with the requirements of sub-section (2);

the income of the assessee shall be computed on such basis and in such manner as the Deputy Commissioner of Taxes may think fit.

46. Cash-basis accounting.-

- (1) A person accounting for income chargeable to tax on a cash basis shall derive income when it is received and shall incur expenditure when it is paid.
- (2) For the purposes of sub-section (1), a person receives an amount if it is –
 - (a) applied on behalf of the person either at the instruction of the person or under any law;
 - (b) reinvested, accumulated, capitalized, or credited to an account for the benefit of the person; or
 - (c) made available to the person.

47. Accrual-basis accounting.-

- (1) A person accounting for income chargeable to tax under the head “Income from Business” on an accrual basis shall derive income when it is due to the person and shall incur expenditure when it is payable by the person in accordance with International Financial Reporting Standards (IFRS) or Generally Accepted Accounting Principles (GAAP) .
- (2) An amount shall be due to a person when the person becomes entitled to receive it even if the time for discharge of the entitlement is postponed or the amount is payable by instalments.
- (3) Subject to this Act, an amount shall be payable by a person when all the events that determine liability have occurred and the amount of the liability can be determined with reasonable accuracy, but not before economic performance occurs.
- (4) For the purposes of sub-section (3), economic performance occurs –
 - (a) in the case of the acquisition of services or assets, at the time the services are provided or assets are delivered;
 - (b) in the case of the use of assets, at the time the assets are used; and
 - (c) in any other case, at the time payment is made in full satisfaction of the liability.

48. Stock-in-trade.-

- (1) For the purposes of determining a person’s income chargeable to tax under the head “Income from Business” for a tax year, the cost of stock-in-trade disposed of by the person in the year shall be computed in accordance with the following formula, namely:–

$$(A + B) - C$$

where –

A is the opening value of the person’s stock-in-trade for the year;

B is cost of stock-in-trade acquired by the person in the year; and

C is the closing value of stock-in-trade for the year.

- (2) The opening value of stock-in-trade of a person for a tax year shall be the closing value of the person’s stock-in-trade at the end of the previous year.
- (3) The closing value of a person’s stock-in-trade for a tax year shall be computed in accordance with the absorption-cost method.
- (4) Where particular items of stock-in-trade are not readily identifiable, a person may account for that stock on the first-in-first-out method or the average cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner of Taxes and in accordance with any conditions that the Commissioner of Taxes may impose.
- (5) In this section,-
 - (a) “absorption-cost method” means the method of accounting under which the cost of an item of stock-in-trade is the sum of direct material costs, direct labour costs, and factory overhead costs;
 - (b) “average-cost method” means the method of accounting under which the valuation of stock-in-trade is based on a weighted average cost of units on hand;

- (c) “first-in-first-out method” means the method of accounting under which the valuation of stock-in-trade is based on the assumption that stock is sold in the order of its acquisition; and
- (d) “stock-in-trade” means anything produced, manufactured, purchased, or otherwise acquired for manufacture, sale or exchange, and any materials or supplies to be consumed in the production or manufacturing process.

49. Long-term contracts.-

- (1) A person accounting for income chargeable to tax under the head “Income from Business” on an accrual basis shall compute such income arising for a tax year under a long-term contract on the basis of the percentage of completion method.
- (2) The percentage of completion of a long-term contract in a tax year shall be determined by comparing the total costs allocated to the contract and incurred before the end of the year with the estimated total contract costs as determined at the commencement of the contract.
- (3) In this section,-
 - (a) “long-term contract” means a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services, which is not completed within the tax year in which work under the contract commenced.
 - (b) “percentage of completion method” means the method of accounting under which revenue and expenses arising under a long-term contract are recognised by reference to the stage

50. Finance leases.-

- (1) “Application” –This section applies to an asset that is leased under a finance lease.
- (2) “Finance lease” –A lease of an asset is a “finance lease” if –
 - (a) the lease agreement provides for transfer of ownership at the end of the lease term, or the lessee has an option to acquire the asset at the end of the lease term for a fixed or determinable amount;
 - (b) the lease term exceeds seventy-five percent (75%) of the useful life of the asset;
 - (c) the estimated fair value of the asset at the end of the lease term is less than twenty five percent (25%) of its cost at the commencement of the lease;
 - (d) in the case of a lease that commences before the last twenty-five percent (25%) of the useful life of the asset, the present value of the minimum lease payments equals or exceeds ninety percent (90%) of the cost of the asset at the commencement of the lease term;
 - (e) the amount of total payments over the lease term by lessee as per lease agreement equals or exceeds eighty percent (80%) of the cost of the asset at the commencement of the lease term; or
 - (f) the asset is custom-made for the lessee and at the end of the lease term the asset will not be of practical use to any person other than the lessee;
- (3) For the purposes of sub-section (2), the lease term includes any additional period of the lease under an option to renew.

- (4) The Finance lease shall be treated as sale where-
 - (a) the lessee is the owner of the asset;
 - (b) the lessee acquired the asset at the commencement of the lease, except in cases where the lessee already was the owner of the asset; or
 - (c) the lessor has made a blended loan to the lessee at the commencement of the lease and each lease payment is in part repayment of principal and in part payment of interest under that loan.
- (5) “Blended Loan” – In this section “blended loan” means a loan under which payments by the borrower represent in part a payment of interest and in part a repayment of principal.
- (6) “Cost of asset” - The cost of the asset treated as owned by the lessee under sub-section (4)(a) is –
 - (a) if lessor and lessee are not related persons and an amount is stated as the cost or value of the asset in the lease agreement, that amount; or
 - (b) in any other case, the fair value of the asset at the commencement of the lease.

51. Foreign currency debt gains and losses.-

- (1) Foreign currency debt gains are included in income and foreign currency debt losses are deductible only under this section.
- (2) A foreign currency debt gain derived during a tax year is included in –
 - (a) business income where the debt was incurred for the purposes of earning income from business; or
 - (b) property income where the debt was incurred for the purposes of earning income from property.
- (3) A deduction is allowed for a foreign currency debt loss in the tax year in which it is incurred, but only to the extent that the person realizes foreign currency gains in the tax year.
- (4) A foreign currency debt loss that is not deductible in a tax year as a result of sub-section (3) is treated as incurred in the following tax year.
- (5) A person realizes a foreign currency debt gain or loss in the tax year in which the foreign currency debt or part thereof is settled.

Chapter- V

Losses

52. Set off of losses.-

- (1) Subject to **sections 56 and 57**, where a person sustains a loss for any tax year under any head of income specified in **section 15**, the person shall be entitled to have the amount of the loss set off against the person's income, if any, chargeable to tax under any other head of income for the year.
- (2) Except as provided in this Chapter, where a person sustains a loss under a head of income for a tax year that cannot be set off under sub-section (1), the person shall not be permitted to carry the loss forward to the next tax year.
- (3) Where, in a tax year, a person sustains a loss under the head income from business and a loss under another head of income, the loss under the head income from business shall be set off last.
- (4) Any loss in respect of any speculation business or any loss under the head capital gains or any loss from any other source, income of which is exempted from tax shall not be so set off, but shall, excluding any loss from any other source, income of which is exempted from tax, in accordance with the provisions of this Act, be set off, or be carried forward to succeeding tax year or years for set off, against any income in respect of speculation business or any income under the head capital gains.

53. Carry forward of business losses.-

- (1) The assessed loss (excluding capital loss), for the tax year, other than brought forward and capital loss, of the amalgamating company or companies shall be set off against business profits and gains of the amalgamated company, and vice versa, in the year of amalgamation and where the loss is not adjusted against the profits and gains for the tax year the unadjusted loss shall be carried forward for adjustment up to a period of six tax years succeeding the year of amalgamation.
- (2) If a loss sustained by a person for a tax year under the head income from business is not wholly set off under sub-section (1), then the amount of the loss not so set off shall be carried forward to the following tax year and applied as specified in sub-section (1) in that year, and so on, but no loss can be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.
- (3) Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.
- (4) Where the loss referred to in sub-section (1) includes deductions allowed under **section 27** that have not been set off against income, the amount not set off shall be added to the deductions allowed under those sections in the following tax year, and so on until completely set off.
- (5) In determining whether a person's deductions under **section 27** have been set off against income, the deductions allowed under those sections shall be taken into account last.

54. Set off of business loss consequent to amalgamation. –

- (1) The assessed loss (excluding capital loss) for the tax year, other than brought forward and capital loss, of the amalgamating company or companies shall be set off against business profits and gains of the amalgamated company, and vice versa, in the year of

amalgamation and where the loss is not adjusted against the profits and gains for the tax year the unadjusted loss shall be carried forward for adjustment upto a period of six tax years succeeding the year of amalgamation.

- (2) Subject to sub-section (3), the provisions of **sub-section (2) and (3) of section 54** shall apply for the purposes of allowing unabsorbed depreciation of amalgamating company or companies in the assessment of amalgamated company and *vice versa*.
- (3) The losses referred to in sub-section (1) and unabsorbed depreciation referred to in sub-section (2) shall be allowed set off subject to the condition that the amalgamated company continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation.

55. Carry forward of speculation business losses.-

- (1) Where a person sustains a loss for a tax year in respect of a speculation business carried on by the person (hereinafter referred to as a “speculation loss”), the loss shall be set off only against the income of the person from any other speculation business of the person chargeable to tax for that year.
- (2) If a speculation loss sustained by a person for a tax year is not wholly set off under sub-section (1), then the amount of the loss not so set off shall be carried forward to the following tax year and applied against the income of any speculation business of the person in that year and applied as specified in sub-section (1) in that year, and so on, but no speculation loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.
- (3) Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.

56. Carry forward of capital losses.-

- (1) Where a person sustains a loss for a tax year under the head capital gains (hereinafter referred to as a capital loss), the loss shall not be set off against the person’s income, if any, chargeable under any other head of income for the year, but shall be carried forward to the next tax year and set off against the capital gain, if any, chargeable under the head capital gains for that year.
- (2) If a capital loss sustained by a person for a tax year under the head capital gains is not wholly set off under sub-section (1), then the amount of the loss not set off shall be carried forward to the following tax year, and so on, but no loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was first computed.
- (3) Where a person has a loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be set off first.

57. Limitations on set off and carry forward of losses.-

- (1) In case of an association of persons or firm, any loss which cannot be set off against any other income of the association of persons or firm in accordance with **section 52**, shall be dealt with as provided under **sections 53, 55 and 56** and the share of loss shall not be allowed to set off by any member of association of persons or any partner of the firm against his other income.
- (2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, no person, other than the

person incurring the loss, shall be entitled to have the loss in such business or profession set off against his income under any other head.

- (3) Where, in making an assessment for any year, full effect cannot be given to the allowances referred to in **section 27 (c)** owing to there being no profits or gains chargeable for that year or such profits or gains being less than the allowance then, subject to the provisions of sub-section (4), the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and be deemed to be part of that allowance or if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years.
- (4) Where, under sub-section (3), depreciation allowance is also to be carried forward, effect shall first be given to the provisions of **sections 53 and 55 (2)**.

Chapter VI

Payment of tax on income before assessment

58. General provisions for deduction at source and advance payment of tax.-

- (1) Notwithstanding that regular assessment in respect of any income is to be made later in any tax year, and without prejudice to the charge and recovery of tax under this Act after such assessment, the tax on income shall be payable by deduction or collection at source, or by way of advance payment, in accordance with the provisions of this Chapter.
- (2) Any sum deducted or collected, or paid by way of advance payment, in accordance with the provisions of this Chapter, shall, for the purpose of computing the income of an assessee, be deemed to be the income received, and be treated as payment of tax in due time, by the assessee.
- (3) Tax to be deducted at source in respect of any income shall be deducted in accordance with the provisions of this Chapter by the person responsible for making payment which constitutes the income of the payee.
- (4) For the purpose of this Chapter, “person responsible for making payment”, with its grammatical variations and cognate expressions, means—
 - (a) in the case of payments constituting income classifiable under the head “Salaries,” not being payments made by the Government, the employer himself or, if the employer is a local authority, company or institution, such authority, company or institution, including the principal officer thereof;
 - (b) in the case of payments constituting income classifiable under the head “Interest on securities,” not being payment made by or on behalf of the Government, the authority, company or other institution issuing the security or the principal officer thereof; and
 - (c) in the case of payment of any other sum which constitutes an income of the payee chargeable to tax under this Act, the payer himself, or if the payer is a company or other institution, such company or institution including the principal officer thereof.

59. Deduction at source from salaries.-

- (1) The person responsible for making any payment which constitutes income of the payee classifiable under the head “Salaries” shall, at the time of making such payment, deduct tax on the amount so payable at a rate representing the average of the rates applicable to the estimated total income of the payee under that head.
- (2) At the time of making any deduction under sub-section (1), the amount to be deducted may be increased or decreased for the purpose of adjusting any excess or deficiency arising out of any previous deductions or failure to make deductions.
- (3) For the purposes of deduction under sub-section (1) in respect of salary payable in a foreign currency, the value in taka of such salary shall be calculated at such rate as the Board may prescribe.

60. Deduction at source from interest or profit.-

- (1) Subject to sub-sections (2) and (3), any person responsible for paying any interest or profit on the following account shall deduct or collect tax at the rate of ten percent of the interest or profit thereof at the time of payment or giving credit, whichever is earlier

- (a) any deposit in a bank, financial institution or a cooperative bank or post office;
 - (b) any debenture;
 - (c) any savings instrument.
- (2) No tax shall be deducted or collected under this section where the account holder is the government of Bangladesh or local government or any recognised provident fund or recognised pension fund, gratuity fund or superannuation fund or workers' profit participation fund.
 - (3) The Board may, on an application made in this behalf, give a certificate in writing that the person is not likely to have any assessable income during the tax year or the income is otherwise exempted from tax under any provision of this Act, payment referred to in this section shall be made without any deduction or collection until the certificate is cancelled.

61. Deduction at source from discount of real value of Bangladesh Bank bills interest —

- (1) Subject to sub-section (2), any person responsible for paying any amount on account of discount on the real value of Bangladesh Bank bills shall, at the time of making such payment, deduct tax at the maximum rate on the amount so payable or the rate applicable to such amount, whichever is greater.
- (2) No tax shall be deducted under this section where the said bill is purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund, or a workers' profit participation fund.

62. Deduction at source from interest on securities.-

- (1) Subject to sub-section (2) in the case of the security of the Government, or security approved by the Government, unless the Government otherwise directs, the person responsible for issuing any security, shall collect income tax at the rate of ten per cent (10%) upfront on interest or discount, receivable on maturity, from the purchaser of the securities.
- (2) The provision of this section shall not apply to the Treasury bond or Treasury bill issued by the Government.

63. Deduction of tax from dividends.-

- (1) The principal officer of a company registered in Bangladesh, or of any other company, shall, subject to the provisions of sub-section (2), at the time of paying any cash dividend to a shareholder, deduct tax on the amount of such dividend, in the case of—
 - (a) a non-resident other than non-resident Bangladeshi,—
 - (i) if the shareholder is a company, at the rate applicable to a company;
 - (ii) if the shareholder is a person other than a company, at the maximum rate;
 - (b) resident or a non-resident Bangladeshi,—
 - (i) if the shareholder is a company, at the rate applicable to a company;
 - (ii) if the shareholder is a person other than a company, at the rate of ten per cent.;
- (2) Where, the Deputy Commissioner of Taxes, on an application made in this behalf, issues a certificate to a non-resident share holder, not being a company, is liable to tax at the rate less than the maximum rate, the payment of the dividend to the non resident share holder

shall be made without any deduction of tax or at a rate less than the maximum rate specified in sub-section (1), as the case may be.

64. Collection of tax by registering or licensing authorities.-

- (1) Subject to sub-section (2) and (3), any person responsible for-
 - (a) transfer of land or building, other than by way of gift or mortgage;
 - (b) registration or registration for transfer of ownership, renewal of fitness for any motor vehicle plying for hire;
 - (c) registration or registration for transfer of ownership, renewal of fitness for any motor vehicle not plying for hire;
 - (d) registration or registration for transfer of ownership, renewal of survey certificate in case of inland water vessels;
 - (e) renewal of trade license;
 - (f) issuing a permission or renewal of permission for manufacturing bricks

shall collect tax at the rate specified in FIFTH Schedule at the time of giving such registration, fitness etc;

- (2) No tax shall be deducted or collected under this section where the registration or fitness etc referred to in this section is given in respect of government of Bangladesh or local government or diplomatic missions or United Nations or its affiliated agencies, foreign development partners of the government and public universities.
- (3) Where the Board, on an application made in this behalf, gives a certificate in writing that income of the person is otherwise exempted from tax under any provision of this Act, registration, fitness etc. mentioned in this section shall be made without any deduction or collection of tax until the certificate is cancelled.

65. Deduction or collection at source from payment to service providers.-

- (1) Any person, being a company or government or local authorities, or non-government organisation (NGO) or public universities or any authority formed under any law responsible for making any payment to any person shall deduct or collect tax at the rate of ten percent at the time of payment or giving credit for the following services:
 - (a) legal service;
 - (b) architectural or engineering services;
 - (c) medical service;
 - (d) chartered accountancy or cost and management accountancy;
 - (e) interior decoration;
 - (f) private security service;
 - (g) life insurance agency service;
 - (h) survey of general insurance;
 - (h) courier service provided by non-resident company;

- (i) freight forwarding;
 - (j) stevedoring service;
 - (k) technical know-how or technical assistance services;
 - (l) patent or right to use of technology or brand name; or
 - (m) event management;
 - (n) indenting service; or
 - (o) shipping agency service.
- (2) The bank, through which any payment is made on the account of indenting commission or any commission or fees or charges recieved from overseas for any service rendered in Bangladesh, shall deduct tax at the rate of ten percent of the total commission or fees or charges at the time of crediting the amount to the account of the service provider.

66. Collection of tax from stock exchange transactions.-

- (1) The Securities and Exchange Commission or stock exchange, as the case may be, shall deduct or collect tax in the following cases in the following rate:

Sl. No.	Case	Rate	Time for deduction or collection	From whom tax to be deducted
(i)	Where a company listed with stock exchange, sales its share at price in excess of its face value	three per cent on the difference between the sold price and face value	determined by the Securities and Exchange Commission	the company selling the share
(ii)	Where sponsor shareholder or director or placement holder of a company or sponsor or placement holder of a mutual fund listed with a Stock Exchange transfer its share or mutual fund unit.	five per cent on the difference between transfer value and cost of acquisition	at the time of transfer or declaration of transfer or according consent to transfer of securities or mutual fund units	sponsor shareholder or director or placement holder of a company or sponsor or placement holder of a mutual fund transferring such share or fund unit.
(iii)	Where a member of a Stock Exchange transacted securities of a company listed with Stock Exchange.	zero point zero five per cent (0.05%) on the value of securities transacted.	at the time of payment or receipt for such transaction	member of Stock Exchange transacting such securities.

- (2) For the purpose of this section —
- (i) “transfer” includes transfer under a gift, bequest, will or an irrevocable trust;

- (ii) “transfer value” of a security or a mutual fund unit shall be deemed to be the closing price of securities or mutual fund units prevailing on the day of consent accorded by the Securities and Exchange Commission or the Stock Exchange, as the case may be, or where such securities or mutual fund units were not traded on the day such consent, was accorded, the closing price of the day when such securities or mutual fund units were last traded.

67. Deduction from payment to contractors, etc.-

- (1) Where any payment is to be made, whether in full or in part, or by way of advance, on account of supply of goods or execution of contract or sub-contract for any work, to any such supplier or contractor or subcontractor person as per the **Fifth Schedule**, the person, being a company or government or local authorities, or non-government organisation (NGO) or public universities or any authority formed under any law responsible for making the payment shall, at the time of making such payment deduct tax on the amount so payable at such rate as per the **Fifth Schedule**.
- (2) The Board may, on an application made in this behalf, give a certificate in writing that the person, is liable to tax at lower rate or is not liable to tax during the tax year or the income is otherwise exempted from tax under any provision of this Act, the payment shall be made without any deduction of tax or at a rate less than the applicable rate specified in the **Fifth Schedule**, as the case may be.
- (3) Sub-section (1) shall not apply to a supply of goods where –
 - (a) the supply is made by the importer of the goods;
 - (b) the importer has paid tax under **section 72** in respect of the goods imported; and
 - (c) the goods are supplied in the same condition they were in when imported;

68. Collection of tax from persons engaged in real estate or land development business.-

Any person responsible for registering any document for transfer of any land or building or apartment, under the provision of Registration Act, 1908 (XVI of 1908), shall not register the document unless tax is paid at the following rate by the transferrer who is engaged in real estate or land development business,—

- (a) in case of building or apartment situated-
 - (i) at Gulshan Model Town, Banani, Baridhara, Defense Officers Housing Society (DOHS), Dhanmondi Residential Area, Lalmatia Housing Society, Uttara Model Town, Bashundhara Residential Area, Dhaka Cantonment Area, Motijheel Commercial Area, Dilkusha Commercial Area, Karwan Bazar Commercial Area of Dhaka, and Khulshi Residential Area, Panchlaish Residential Area and Agrabad of Chittagong, taka two thousand per square meter;
 - (ii) in areas other than areas mentioned in sub-clause (i), taka eight hundred per square meter;
- (b) (i) in case of land situated in any City Corporation, Paurashava or Cantonment Board to which the document relates and on which stamp duty is chargeable under the Stamp Act, 1899 (Act No. II of 1899) at the rate of two percent on the deed value of the property:

- (ii) in case of non-agricultural land situated out side the jurisdiction of any City Corporation, Paurashava or Cantonment Board to which the document relates, and on which stamp duty is chargeable under the Stamp Act, 1899 (Act No. II of 1989) at the rate of one percent on the deed value of the property.

69. Collection of tax from cigarette manufacturers.-

Any person responsible for selling banderols to any manufacturer of manually made cigarettes without any mechanical aid whatsoever, shall, at the time of selling banderols, collect tax from such manufacturer on account of the manufacture of cigarettes at the rate of six percent of the value of the banderols.

70. Deduction at source from house property.-

- (1) Where, the Government or any company as defined in **clause (32) of section 2** or any co-operative bank or any non-governmental organisation or any university or medical college or dental college or engineering college is a tenant in respect of a house property, vacant land or plant and/or machinery, the tenant shall deduct from the rent paid or payable as advance tax as per following at the time of payment of such rent.

Amount of payments	Rate of tax deduction
Where the monthly payment does not exceed taka twenty five thousand	Nil
Where the monthly payment exceeds taka twenty five thousand, but does not exceed taka fifty thousand	three percent
Where the monthly payment exceeds taka fifty thousand but does not exceed taka one hundred thousand	Five percent
Where the monthly payment exceeds taka one hundred thousand	Seven percent

- (2) Where the Deputy Commissioner of Taxes, on an application made in this behalf, gives a certificate to an owner of house property that, to the best of his belief, the owner is not likely to have any assessable income during the year or the income is otherwise exempted from payment of income tax under any provisions of this Act, payment referred to in sub-section (1) shall be made without any deduction until the certificate is cancelled.

71. Collection of tax by Customs authority.-

- (1) The Commissioner of Customs shall collect advance tax at the time of clearance of goods in the following cases:
- subject to sub-sections (2) and (3), at the rate of 5% from every importer of goods on the value of the goods, as determined under section 25 of the Customs Act, 1969.;
 - at the rate of ten per cent from commission receivable by clearing and forwarding agents licensed under the Customs Act, 1969 on such commission at the time of clearance of goods imported or exported.
- (2) Nothing contained in clause (a) shall apply to goods or class of goods or persons or class of persons importing such goods or class of goods as determined by government by notification in official gazette.
- (3) Where the Board, on an application made in this behalf, gives a certificate to an importer that the importer is not likely to have any income chargeable to tax during the year or the

income is otherwise exempted from payment of income tax under any provisions of this Act, no tax shall be collected as referred in clause (a) of sub-section (3) until the certificate is cancelled.

72. Collection of tax from export.-

- (1) The bank, through which export proceeds of an exporter collect or deduct advance tax at a rate of zero point four zero percent (0.40%) on the total export proceeds at the time of crediting the proceeds to the account of the exporter.
- (2) The Board may, on an application made in this behalf, give a certificate in writing that the income of the exporter is partly or fully exempted from tax under any provision of the Act, credit to the account of the assessee shall be made without any deduction of tax or deduction of tax at a rate less than the rate specified in this section for the period mentioned in that certificate.

73. Deduction at source from compensation against acquisition of property.-

Any person, responsible for paying any amount of compensation against acquisition by the Government of any immovable property shall, at the time of paying such compensation deduct advance tax at the rate of,-

- (a) two per cent of the amount of such compensation where the immovable property is situated in any city corporation, paurashava or cantonment board;
- (b) one per cent of the amount of such compensation where the immovable property is situated outside any city corporation, paurashava or cantonment board.

74. Collection of tax on sale price of goods or property sold by public auction.-

- (1) Any person making sale, by public auction through sealed tender or otherwise, of any goods or property belonging to the Government or any authority, corporation or body, including its units, the activities or the principal activities of which are authorised by any Act, Act, order or instrument having the force of law in Bangladesh or any company, other than a private limited company, as defined in the Companies Act, 1913 (VII of 1913) or কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮নং আইন), or any banking company, or any insurance company or any co-operative bank established by or under any law for the time being in force shall collect, before delivering the possession of the goods or the property, as advance tax on the income from the sale price of such goods or property from the auction purchaser at the rate of five percent of the sale price.
- (2) For the purposes of this section, sale of any goods or property includes the awarding of any lease to any person, including a lease of the right to collect octroi, duties, fees or other levies, by whatever name called, but does not include sale of a plot of land.

75. Deduction of tax from income derived on account of export of manpower.-

The Director General, Bureau of Manpower, Employment and Training shall, before giving clearance for export of any manpower, collect from the exporter concerned as advance tax on income on account of such export at the rate of ten percent on the service charge or fees mentioned in clause (n) and clause (r), respectively, of section 19(2) of the Emigration Act, 1982 (XXIX of 1982).

76. Deduction of tax from commission or remuneration paid to agent of foreign buyer.-

Where, in accordance with the terms of the letter of credit or under any other instruction, a bank, through which an exporter receives payment for export of goods, pays any amount out of the export proceeds to the credit of any person being an agent or a representative of the foreign buyer, as commission, charges or remuneration by whatever name it may be called, the bank shall deduct or collect tax in advance at the rate of seven and a half per cent on the commission, charges or remuneration so paid at the time of such payment.

77. Deduction of tax from advertising bill of newspaper or magazine or private television channel.-

The Government or any company as defined in clause (32) of section 2 or any cooperative bank or any non-governmental organisation or any university or medical college or dental college or engineering college responsible for making any payment to:

- (a) any newspaper or magazine or television channel directly on account of advertisement shall deduct tax in advance at the time of such payment at the rate of three percent of the amount to be paid or payable;
- (b) any advertising agency on account of commission for its services relating to the advertisement shall deduct tax in advance at the time of such payment at the rate of ten percent of the commission to be paid or payable.

78. Deduction from income from lottery, etc.-

- (1) The person responsible for paying any amount on account of winnings referred to in [section 43\(j\)](#) shall, at the time of making such payment, deduct tax payable on the amount at the rate of twenty percent.
- (2) For the purposes of this section, the expression “any amount” means the value of any goods or assets where the payment on account of such winnings is not made in the form of cash but in the form of goods or other assets.

79. Deduction from income of non-residents.-

- (1) Subject to the provisions of sub-section (2), any person responsible for making payment to a non-resident of any amount which constitutes income of such non-resident chargeable to tax under this Act shall, unless such person is himself liable to pay tax thereon as agent, at the time of making such payment, deduct tax on the amount so payable—
 - (a) where the payee is a company, at the rate applicable to a company,
 - (b) where the payee is a person other than a company and not being a non-resident Bangladeshi, at the maximum rate;
 - (c) where the payee is a non-resident Bangladeshi, at the rate applicable for a resident.
- (2) Where the Board, on an application made in this behalf, gives a certificate that, to the best of its belief, the non-resident will not be liable to pay any tax under this Act, or will be liable to pay tax at a rate less than the maximum rate, payment referred to in sub-section (1) shall be made without any deduction, or, as the case may be, with deduction at the lesser rate specified in the certificate.

80. Consequences of failure to deduct, etc.-

- (1) Where a person required by or under the provisions of this Chapter to deduct, collect or pay to the credit of the Government tax, and, in the cases mentioned in this Chapter, the principal officer and the company of which he is the principal officer, fails to so deduct, collect or pay, or having deducted or collected, fails to pay the tax in accordance with the provisions of this Chapter, he or it shall—
 - (a) without prejudice to any other consequences to which he or it may be liable, be deemed to be an assessee in default in respect of the tax; and
 - (b) in addition to such tax, pay an amount at the rate of two percent per month of such tax for the period commencing on the date following the expiry of the time within which it is to be paid under section 82 and ending on the date of the actual payment of the tax.
- (2) Where the Deputy Commissioner of Taxes in the course of any proceedings under this Act finds any person, required by or under the provisions of this chapter to deduct, collect

or pay to the credit of the Government tax, has failed to deduct, collect or pay the tax in accordance with the provisions of this chapter, shall take necessary action for realisation of such tax alongwith the additional amount payable under clause (b) of sub-section (1) from the person deemed to be an assessee in default under clause (a) of that sub-section.

81. Certificate of deduction, etc., of tax.-

Every person who deducts or collects tax as required by the provisions of this Chapter shall, at the time of making any payment in relation to which tax has been deducted or collected, furnish to the person to or from whom such payment or collection has been made, a certificate to the effect that the tax has been deducted or collected specifying therein—

- (a) the amount deducted or collected;
- (b) the rate at which deduction or collection has been made; and
- (c) such other particulars as may be prescribed.

82. Payment to Government of tax deducted.-

All sums deducted or collected as tax under the provisions of this Chapter shall be paid within the prescribed time by the person making the deduction or collection to the credit of the Government or as the Board may direct.

83. Unauthorised deduction prohibited.-

Save as provided in this Act, no person shall charge, withhold, deduct or collect any sum, directly or indirectly, as tax, and, where any sum is so charged, withheld, deducted or collected, it shall be paid in the manner provided in [section 82](#).

84. Power to levy tax without prejudice to other mode of recovery.-

The power to levy tax by deduction or collection under this Chapter shall be without prejudice to any other mode of recovery.

85. Credit of tax deducted or collected at source.-

- (1) Any deduction or collection of tax made and paid to the account of the Government in accordance with the provisions of this Chapter shall be treated as a payment of tax on behalf of the person from whose income the deduction or collection was made, or of the owner of the motor vehicle or inland water vessels, or of the licensee, or of the transferor of land or building, or of the holder of security, or of the shareholder, as the case may be, and credit shall be given to him therefor on the production of the certificate furnished under [section 81](#) in the assessment, if any, made for the tax year under this Act;
- (2) For the purpose of this section-
 - (a) if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund;
 - (b) if such person or owner is a person whose income is included under the provisions of [section 11](#) in the total income of another person, such other person shall be deemed to be the person or owner on whose behalf payment has been made and to whom credit shall be given in the assessment for the following year.

86. Payment of tax where no deduction is made.-

The tax under this Act shall be payable by the assessee direct—

- (a) in any case where tax has not been deducted or collected as required by, and in accordance with, the provisions of this Chapter;

- (b) in any case where the amount deducted or collected is found, after regular assessment, to be less than the tax due from the assessee, to the extent of deficiency; and
- (c) in the case of income in respect of which no provision has been made for deduction or collection of tax under the provisions of this Chapter.

87. Advance payment of tax.-

- (1) Subject to sub-section (2) every assessee shall be liable to pay advance tax where -
 - (a) his total income assessed for the latest tax year exceeds taka four hundred thousand; or
 - (b) his income was not previously assessed and his total income for the tax year is likely to exceed taka four hundred thousand.
- (2) No advance tax shall be payable as referred to sub-section (1) in case of income classifiable under the heads "Agricultural income" and "Capital gains" excluding gain from transfer of securities of a company listed with a stock exchange.

88. Instalment of advance tax.-

Advance tax is payable by an assessee to the Deputy Commissioner of Taxes –

- (a) in respect of the first quarter, on or before the 15th day of September;
- (b) in respect of the second quarter, on or before the 15th day of December;
- (c) in respect of the third quarter, on or before the 15th day of March; and
- (d) in respect of the forth quarter, on or before the 15th day of June.

89. Computation of advance tax.-

- (1) The amount of advance tax due to an assessee for a quarter shall be computed according to the following formula, namely:-

$$(A \div 4) - B,$$

where –

A is the tax assessed to the taxpayer for the latest tax year or latest tax year under the repealed Act; and

B is the tax paid or deducted or collected for the tax year under this chapter.

- (2) Any taxpayer who is required to make payment of advance tax in accordance with sub-section (1), shall estimate the tax payable by him for the relevant tax year, at any time before the last instalment is due. In case the tax payable is likely to be more than the amount he is required to pay under sub-section (1), the taxpayer shall furnish to the Deputy Commissioner of Taxes an estimate of the amount of tax payable by him and thereafter pay such amount after making adjustment for the amount (if any) already paid in terms of sub-section (1).
- (3) If any taxpayer who is required to make payment of advance tax under sub-section (1) estimates at any time before the last instalment is due, that the tax payable by him for the relevant tax year is likely to be less than the amount he is required to pay under sub-section (1), the taxpayer may furnish to the Deputy Commissioner of Taxes an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under sub-section (1), in equal instalments on such dates as have not expired.

90. Failure to pay instalments of advance tax.-

Where, an assessee who is required to pay advance tax fails to pay any instalment of such tax, as originally computed or, as the case may be, estimated, on the due date, he shall be deemed to be an assessee in default in respect of such instalment.

91. Levy of interest for failure to pay advance tax.-

Where, in respect of an assessee who is required to pay advance tax, it is found in the course of assessment that advance tax has not been paid in accordance with the provisions of this Chapter, there shall be added, without prejudice to the consequences of the assessee being in default under section 91, to the tax as determined on the basis of such assessment, simple interest thereon calculated at the rate and for the period specified in [section 93](#).

92. Interest payable by the assessee on deficiency in payment of advance tax.-

- (1) Where, in any tax year, an assessee has paid advance tax on the basis of his own estimate and the advance tax so paid together with the tax deducted at source, if any, under this Chapter is less than seventy-five percent of the amount of tax payable by him as determined on assessment, the assessee shall pay, in addition to the balance of tax payable by him, simple interest at ten percent per annum on the amount by which the tax so paid and deducted falls short of the seventy-five percent of the assessed tax.
- (2) The period for which interest under sub-section (1) shall be payable shall be the period from the first day of April of the year in which the advance tax was paid to the date of assessment in respect of the income of that tax year or a period of two years from the said first day of April, whichever is shorter.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), where tax is paid under [section 94](#), the simple interest shall be calculated in accordance with the foregoing provisions—
 - (i) up to the date on which tax under [section 94](#) as paid;
 - (ii) thereafter, such simple interest shall be calculated on the amount by which the tax as so paid falls short of the said assessed tax.
- (4) Where, as a result of appeal, revision or reference, the amount on which interest was payable under sub-section (1) has been reduced, the amount of interest payable shall be reduced accordingly and the excess interest paid, if any, shall be refunded together with the amount of tax that is refundable.

93. Payment of tax on the basis of return of income.-

- (1) Every person who is required to file a return of income under sections 95 or 109 shall, on or before the date on which he files the return, pay the amount of tax payable by him on the basis of such return as reduced by the amount of any tax deducted from his income or paid by him in accordance with the provisions of this Chapter.
- (2) Any amount paid under sub-section (1) shall be deemed to have been paid towards the sum as may be determined to be payable by him after assessment.
- (3) A person who, without reasonable cause, fails to pay the tax as required by sub-section (1) shall be deemed to be an assessee in default.

Chapter VII

Return of income and Assessment

Part A

Return of income

94. Return of income.-

- (1) Every person shall furnish a return of income on or before the due date if
 - (a) his total income for the tax year exceeds the maximum amount which is not chargeable to tax; or
 - (b) he was assessed to tax for any one of three years immediately preceding the tax year; or
 - (c) it is a company; or
 - (d) he has a taxpayer's identification number (TIN) in accordance with the provision of [section 198](#).
- (2) The return of income referred to in sub-section (1) shall be a return in respect of the income of the person or the income of any other person in respect of which such person is assessable for the relevant tax year.
- (3) The return of income shall be in the prescribed form and manner and setting forth such other particulars as may be prescribed; and accompanied by -
 - (a) a statement of accounts audited by a chartered accountant in case of a company;
 - (b) any document as may be prescribed in case of a person other than a company;
- (4) The return shall be verified and signed by-

Sl. No.	Person furnishing the return	Person to sign and verify the return
(i)	Individual being mentally incapacitated from attending his affairs	(a) guardian of the individual; or (b) any other person duly competent to act on his behalf
(ii)	Any other individual	(a) Individual himself; or (b) any person duly authorized by the individual in this regard, if the individual is absent from Bangladesh or for some other reason it is not possible for him to sign the return, and other person holds a valid power of attorney from the individual to do so.
(iii)	(a) Company which is being wound up by court or otherwise; or (b) Company where any person has been appointed as the receiver of any assets of the company	Liquidator referred to in section 179 .
(iv)	Any other company	(a) Managing Director or Chief

		Executive Officer of the company, or (b) any director of the company if there is no managing director or the managing director, for any unavoidable reason is not able to sign and verify the return.
(v)	Firm	(a) managing partner of the firm; or (b) any partner (not being a minor) of the firm if there is no managing partner or the managing partner, for any unavoidable reason, is not able to sign and verify the return
(vi)	Local authority	Principal officer of the authority
(vii)	Any other association of persons	Any member or the principal officer of the association
(viii)	Any other person	(a) person himself; or (b) any person competent to act on this behalf.

- (5) The return of income shall be filed unless the date is extended under sub-section (6) by the thirtieth day of September next following the tax year.
- (6) On application by a person, the Deputy Commissioner of Taxes may extend the due date for the submission of return up to maximum four months.
- (7) The Deputy Commissioner of Taxes may, if he finds that the return has not been filed by any person in the prescribed form and manner or does not contain the particulars, as required under sub-section (3), intimate to such person the deficiency and allow an opportunity to such person to remove the deficiency within thirty days from the service of the intimation.
- (8) The Deputy Commissioner of Taxes shall treat the return filed by a person as invalid, if the deficiency referred to in sub-section (7) is not removed within the time allowed and the provisions of the Act shall apply as if the person had failed to furnish the return.
- (9) No order under this sub-section (7) shall be made after six months from the end of the month in which the return is filed.

95. Notice for filing return of income.-

(1) The Deputy Commissioner of Taxes may serve a notice on-

- (a) a non-filer, other than a company to file a return of his income, if in the opinion of the Deputy Commissioner of Taxes the income of such person was liable to tax during the tax year;
- (b) a stop-filer, other than a company to file a return of income for tax year, if the person is required to file return of income as per any provision of the Act or in the opinion of the Deputy Commissioner of Taxes the income of such person was liable to tax during the tax year; or
- (c) any company to file a return of its income, if it is not filed.

- (2) The person in receipt of notice issued under sub-section (1), (2) and (3) shall file the return within thirty days from the date of receipt of the notice and the return shall be filed and verified, in the prescribed form and manner and setting forth such other particulars as may be mentioned.
- 96. Filing of revised return of income.-**
Any person who has filed a return of income as required by [section 95](#), who, having filed return, discovers any omission or incorrect statement therein, may, without prejudice to any liability which he may have incurred on this account, file a revised return at any time before the assessment is made
- 97. Self-assessment tax on income.-**
- (1) The person shall be liable to pay before furnishing the return of income, the aggregate of the following amounts as self-assessment tax:-
 - (a) the amount of tax payable on the basis of the return required to be furnished under this Act for any tax year in accordance with [section 94](#) as reduced by the amount of tax paid and tax credit, if any, under this Act for such tax year; and
 - (b) the amount of interest payable under any provisions of this Act for such tax year.
 - (2) The amount paid as self-assessment tax for any tax year shall first be adjusted towards the interest payable under any provisions of this Act and the balance, if any, shall be adjusted towards the tax payable, if the amount of the self-assessment tax paid falls short of the self-assessment tax payable under sub-section (1).
- 98. Acknowledgment of return of income.-**
On receipt of any return of income for any tax year, the Deputy Commissioner of Taxes shall issue acknowledgement receipt of the return manually or electronically as the case may be and such receipt, subject to [section 100](#) and [section 102](#), shall be deemed to be an assessment order made by the Deputy Commissioner of Taxes for all purposes of this Act.

Part B

Assessment of income

- 99. Processing of return.-**
- (1) The Deputy Commissioner of Taxes or Central Data Processing Centre, as the case may be, shall process the return received under [section 95](#) in the following manner, namely :-
 - (a) the income shall be computed after making the following adjustments, namely:-
 - (i) any arithmetical error in the return; and
 - (ii) an incorrect claim, if such incorrect claim is apparent from the existence of any information in the return.
 - (b) the tax and interest, if any, shall be computed on the basis of the income computed under clause (a);and
 - (c) the sum payable by, or the amount of refund due to, the person shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any pre-paid taxes and any other amount paid by way of tax and interest.
 - (2) Where the scrutiny is made by the Central Data Processing Centre, the Centre shall convey the particulars to the Deputy Commissioner of Taxes and the Deputy Commissioner of Taxes shall either on the basis of the particulars received or where the Deputy Commissioner of Taxes has made the scrutiny himself, he shall send an intimation in the prescribed form to the person specifying the income so computed, the

liability to pay tax on such income, the amount of credit allowed for prepaid taxes and the sum payable by, or refundable to, him and such other particulars as may be prescribed.

- (3) The Deputy Commissioner of Taxes shall not make any order under sub-section (2) after the expiry of twelve months from the end of the month in which the return is filed.
- (4) For the purposes of this section,-
 - (a) “an incorrect claim apparent from the existence of any information in the return” shall mean a claim, on the basis of an entry, in the return -
 - (i) of an item, which is inconsistent with another entry of the same, or some other item, in such return;
 - (ii) in respect of which information required to be supplied to substantiate such entry has not been so furnished; or
 - (iii) in respect of a deduction, where such deduction exceeds the specified statutory limit which may have been expressed as monetary amount, percentage, ratio or fraction;
 - (b) any sum payable on account of any adjustment made under sub-section (3) means the aggregate of,-
 - (i) tax payable on the income determined pursuant to processing under sub-section (1) as reduced by the tax payable on the income declared in the return; and
 - (ii) the interest payable on the amount determined under sub-clause (i).

100. Selection of return for scrutiny assessment.-

- (1) The Board or any other authority authorised by the Board in this behalf, may,-
 - (a) after processing the return in the manner provided in section 100, select any return for the purposes of scrutiny assessment; or
 - (b) select any case for the purposes of scrutiny assessment, if -
 - (i) a return has been treated as invalid under sub-section (8) of section 95 ;or
 - (ii) a return has been filed in pursuance to a notice under section 96.
- (2) The selection referred to in sub-section (1) shall be made in accordance with the Audit criteria framed by the Board in this behalf.
- (3) The Board shall refer the return so selected to the Deputy Commissioner of Taxes and he shall communicate such selection in writing to the person.
- (4) The communication referred to in sub-section (3) shall not be served on the person after four months from the end of the tax year in which -
 - (a) the return is furnished, if the return is selected under clause (a) of sub-section (1);
 - (b) the return has been treated as invalid, if the case is selected under sub-clause (i) of clause (b) of sub-section (1); or
 - (c) the notice was issued, if the case is selected under sub-clause (ii) of clause (b) of sub-section (1).
- (5) No information relating to the audit criteria framed by the Board shall, regardless of anything to the contrary contained in any other law for the time being in force, be revealed to any person.

101. Scrutiny assessment.-

- (1) For the purposes of making a scrutiny assessment under this Act, the Deputy Commissioner of Taxes shall serve on any person a notice requiring him, on a date to be specified therein,-
 - (a) to appear before him or to produce, or cause to be produced, any evidence, if any, on which the person may rely in support of the return or case;
 - (b) to produce, or cause to be produced, such accounts or documents (not relating to a period more than three years prior to the relevant tax year) as the Deputy Commissioner of Taxes may require; or
 - (c) to furnish in writing, and verified in the prescribed manner, information in such form and on such point or matter (including a statement of all assets and liabilities of the person, whether included in the accounts or not) as the Deputy Commissioner of Taxes may require.
- (2) If required the Deputy Commissioner of Taxes may require the person to furnish the statement of all his assets and liabilities not included in the accounts for the relevant tax year.
- (3) The Deputy Commissioner of Taxes may make such inquiry, as he considers necessary, for the purposes of obtaining full information in respect of income of any person for the relevant tax year.
- (4) The Deputy Commissioner of Taxes shall, in pursuance to a notice issued under sub-section (1) and consideration of actions taken under sub-section (2) and (3) of this section, by an order in writing, make a scrutiny assessment of income of the person and determine the sum payable by, or refundable to, the person after adjusting the sum paid by, or refunded to, the person.
- (5) The Deputy Commissioner of Taxes shall pass the assessment order under sub-section (4) within thirty days after completion of the hearing or consideration as the case may be and communicate the order to the person within thirty days next following.
- (6) No order of scrutiny assessment shall be made unless the person is given an opportunity of being heard.
- (7) For the purposes of this section a person means-
 - (a) a person whose return, or case, has been selected for scrutiny assessment under **section 102** .; or
 - (b) a person who has been served with a notice under **section 96**.

102. Assessment where no return is filed.-

Where no return is filed in compliance with notice under sections 96 and 109, the Deputy Commissioner of Taxes shall, by an order in writing, assess the total income of the person to the best of his judgement and determine the sum payable by the person on the basis of such assessment and communicate such order to the person within thirty days next following.

103. Assessment in case of succession to business otherwise than on death.-

- (1) Where, a person, carrying on any business or profession (in this section, referred to as the predecessor), has been succeeded therein otherwise than on death by another person (in this section, referred to as the successor) in any tax year, and the successor continues to carry on that business or profession,—

- (a) the predecessor shall be assessed, in respect of the income of the tax year in which the succession took place, for the period up to the date of succession, and
 - (b) the successor shall be assessed, in respect of the income of the tax year, for the period after the date of succession.
- (2) Where the predecessor cannot be found, the assessment of the tax year in which the succession took place up to the date of succession and of the tax year or years preceding that year shall be made on the successor in the like manner and to the same extent as it would have been made on the predecessor; and the provisions of this Act shall, so far as may be, apply accordingly.
 - (3) Where any sum payable under this section in respect of the income of a business or profession cannot be recovered from the predecessor, the Deputy Commissioner of Taxes shall record a finding to that effect, and thereafter the sum payable by the predecessor shall be payable by, and recoverable from, the successor who shall be entitled to recover it from the predecessor.

104. Assessment in case of discontinued business.-

- (1) Where any business or profession is discontinued in any tax year, and assessment may be made in that year, notwithstanding anything contained in **section 3**, on the basis of the total income of the period between the end of the tax year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the tax year.
- (2) Any person discontinuing any business or profession in any tax year shall give to the Deputy Commissioner of Taxes a notice of such discontinuance within fifteen days thereof; and such notice shall be accompanied by a return of total income in respect of the period between the end of the tax year and the date of such discontinuance and that tax year shall be deemed to be the tax year in respect of the income of the said period.
- (3) Where, a person fails to give the notice required by sub-section (2), the Deputy Commissioner of Taxes may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income from the business or profession up to the date of its discontinuance. (Penalty section)
- (4) Where, an assessment is to be made under sub-section (1), the Deputy Commissioner of Taxes may serve—
 - (a) on the person whose income is to be assessed;
 - (b) in the case of a firm, on the person who was a partner of the firm at the time of discontinuance of the business or profession; and
 - (c) in the case of a company, on the principal officer of the company;

a notice to furnish within such time, not being less than seven days, a return of his total income giving such particulars and information as are required to be furnished with a return to be filed under section 95 along with such other particulars, records and documents as may be specified in the notice.

- (5) The provisions of this Act shall, so far as may be, apply to a notice under sub-section (4) for the purpose of assessment of tax as if it were a notice under section ----

105. Assessment in case of persons leaving Bangladesh.-

- (1) Where it appears to the Deputy Commissioner of Taxes that any person may leave Bangladesh during the current tax year or shortly after its expiry and that he has no intention of returning, an assessment may be made in that year, without prejudice to the provision of **section 3**, on the basis of the total income of such person—
 - (a) if he has been previously assessed, for the period from the expiry of the last tax year of which income has been assessed to the probable date of his departure from Bangladesh; and
 - (b) if he has not been previously assessed, of the entire period of his stay in Bangladesh up to the probable date of his departure there from.
- (2) Assessment under sub-section (1) shall be made—
 - (a) in respect of each completed tax year included in the period referred to in sub-section (1), at the rate at which tax would have been charged had it been fully assessed; and
 - (b) in respect of the period from the expiry of the last of the completed tax years to the probable date of departure, at the rate in force for the tax year in which such assessment is made..
- (3) For the purpose of making an assessment under this section, the Deputy Commissioner of Taxes may serve a notice upon the person concerned requiring him to file, within such time, not being less than seven days, as may be specified in the notice,—
 - (a) a return in the same form and verified in the same manner as a return under section 95 setting forth, along with such other particulars as may be required by the notice, his total income for each of the completed tax years comprised in the relevant period referred to in sub-section (1); and
 - (b) an estimate of his total income for the period from the expiry of the last of such completed tax year to the probable date of his departure from Bangladesh.
- (4) All the provisions of this Act shall, so far as may be, apply to the notice under sub-section (3) for purpose of assessment of tax as if it were a notice under **section 96**.

106. Assessment in case of income of a deceased person.-

- (1) Where a person dies, his legal representative, subject to sub-section (2), shall be liable to pay any tax or other sum payable under this Act which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased; and the legal representative of the deceased shall, for the purposes of this Act, be deemed to be a person.
- (2) Before deeming the legal representative of the deceased to be a person, the Deputy Commissioner of Taxes shall issue a notice to him to that effect.
- (3) For the purposes of making an assessment of the income of the deceased and recovery of tax,—
 - (a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued from the stage at which it stood on the date of the death of the deceased; and
 - (b) any proceeding which could have been taken against the deceased, if he had not died, may be taken against the legal representative;

and all the provisions of this Act shall, so far as may be, apply accordingly.

- (4) The liability of legal representative under this Act shall be limited to the extent to which the estate of the deceased is capable of meeting the liability.
- (5) For the purposes of this section and other provisions of this Act in which the rights, interest and liabilities of the deceased are involved, “legal representative” includes an executor, an administrator and any person administering the estate of the deceased.

107. Assessment in case of income escaping assessment, etc.-

- (1) If, for any reason, any income chargeable to tax for any tax year has
 - (a) escaped assessment; or
 - (b) been under-assessed; or
 - (c) been assessed at too low a rate; or
 - (d) been the subject of excessive relief or refund under this Act;

the Deputy Commissioner of Taxes may issue a notice to the person containing all or any of the requirements which may be included in a notice under [section 95](#) and may proceed to assess or determine, by an order in writing, the total income of the person or the tax payable by him at the rate or rates applicable to the tax year for which the assessment is made, and all the provisions of this Act shall, so far as may be, apply accordingly:

- (2) No proceeding under sub-section (1) shall be initiated unless definite information has come into the possession of the Deputy Commissioner of Taxes and he has obtained the previous approval of the Inspecting Joint Commissioner of Taxes in writing to do so, except in a case where a return has not been filed under [section 95](#) or [section 96](#).
- (3) A notice under sub-section (1) may be issued by the Deputy Commissioner of Taxes,—
 - (a) in any case in which he has reason to believe that the person or any other person on his behalf has not filed a return under [section 95](#) or [section 96](#), at any time;
 - (b) subject to clause (c), in any case in which he has reason to believe that the person has for any tax year concealed the particulars of his income or furnished inaccurate particulars thereof or omitted or failed to disclose all material facts necessary for the assessment for such year, within five years from the end of the tax year for which the assessment is to be made;
 - (c) in a case where a fresh assessment is made for any tax year in pursuance of an order under [sections 145, 147, 149, 150 or 151](#), the period of five years referred to in this clause shall commence from the end of the year in which the fresh assessment is made;
 - (d) in any other case, within two years from the end of the tax year for which the assessment is to be made.
- (4) In computing the period of limitation for the purpose of making an assessment or taking any other proceedings under this Act, the period, if any, for which such assessment or other proceedings has been stayed by any Court, Tribunal or any other authority, shall be excluded.
- (5) Notwithstanding anything contained in sub-section (3), where an assessment or any order has been annulled, set aside, cancelled or modified, the concerned income tax authority may start the proceedings from the stage next preceding the stage at which such annulment, setting aside, cancellation or modification took place, and nothing contained

in this Act shall render necessary the reissue of any notice which has already been issued or the refurnishing or refiling of any return, statement or other particulars which has already been furnished or filed, as the case may be.

108. Amendment of assessments.-

- (1) Subject to the provisions of other sub-sections of this section, the Deputy Commissioner of Taxes shall amend an assessment order --
 - (a) to give effect to an appeal order under [section 145](#);
 - (b) to give effect to an order of Inspecting Joint or Additional Commissioner of Taxes under [section 238](#);
 - (c) to give effect to an order of Taxes Appellate Tribunal under [section 147](#);
 - (d) to give effect to a revisional order under [section 151](#);
 - (e) to give effect to an order of the High Court Division of the Supreme Court under [section 149](#).;
 - (f) to give effect to an order of the Appellate Division of the Supreme Court under [section 150](#);
 - (g) where a concealment of income has been detected under [section 109](#).
- (2) Where any order mentioned in sub-section (1) made by any authority has set aside any assessment made by the Deputy Commissioner of Taxes or part thereof, he shall not proceed to make the amendment of an assessment without giving the person an opportunity of being heard.
- (3) In making an assessment mentioned in clause (g) of sub-section (1), the Deputy Commissioner of Taxes shall follow the procedure laid down in [section 103](#).
- (4) No amendment of assessment shall be made after the expiry of-
 - (a) thirty days from the date such order as mentioned in clauses (a), (b), (c), (d), (e) and (f) of sub-section (1) is received;
 - (b) five years from the end of the tax year for which the assessment is to be made in case of clause (g) of sub-section (1).
- (5) The Deputy Commissioner of Taxes shall, after hearing the person appearing and also considering any other evidence, if any, as he may require on specified points, by an order in writing assess the total income of the person and determine the sum payable by him on the basis of such assessment, and communicate the order to the person within thirty days next following.
- (6) Where a fresh assessment is made for any tax year in pursuance of an order under [sections 145, 147, 149, 150 or 151](#), the period of five years referred to in clause (b) of sub-section (4) shall commence from the end of the year in which the fresh assessment is made;
- (7) In computing the period of limitation for the purpose of making an assessment or taking any other proceedings under this Act, the period, if any, for which such assessment or other proceedings has been stayed by any Court, Tribunal or any other authority, shall be excluded.
- (8) Notwithstanding anything contained in sub-section (4), where an assessment or any order has been annulled, set aside, cancelled or modified, the concerned income tax authority may start the proceedings from the stage next preceding the stage at which such annulment, setting aside, cancellation or modification took place, and nothing contained in this Act shall render necessary the reissue of any notice which has already been issued or the refurnishing or refiling of any return, statement or other particulars which has already been furnished or filed, as the case may be.

Part C

Liabilities in special cases

109. Non-resident ship owner or charterer.-

- (1) Before the departure of a ship owned or chartered by a non-resident person from any port in Bangladesh, the master of the ship shall furnish to the Deputy Commissioner of Taxes a return showing the gross amount of receipts from Bangladesh in respect of the ship.
- (2) Where the master of a ship has furnished a return under sub-section (1), the Deputy Commissioner of Taxes shall, after calling for such particulars, accounts or documents as he may require, determine the amount of tax due under the Act in respect of the ship and, as soon as possible, notify the master, in writing, of the amount payable.
- (3) The master of a ship shall be liable for the tax notified under sub-section (2) and the provisions of this Act shall apply to such tax as if it were tax due under an assessment order.
- (4) Where the Deputy Commissioner of Taxes is satisfied that the master of a ship or non-resident owner or charterer of the ship is unable to furnish the return required under sub-section (1) before the departure of the ship from a port in Bangladesh, the Deputy Commissioner of Taxes may allow the return to be furnished within thirty days of departure of the ship provided the non-resident owner or charterer has made satisfactory arrangements for the payment of the tax due under this Act in respect of the ship.
- (5) The Commissioner of Customs or other authorised officer shall not grant a port clearance for a ship owned or chartered by a non-resident person until the Commissioner or officer is satisfied that any tax due under this Act in respect of the ship has been paid or that arrangements for its payment have been made to the satisfaction of the Deputy Commissioner of Taxes.
- (6) This section shall not relieve the non-resident owner or charterer of the ship from liability to pay any tax due under this section that is not paid by the master of the ship.

110. Non-resident aircraft owner or charterer.-

- (1) A non-resident owner or charterer of an aircraft liable for tax under this Act, or an agent authorised by the non-resident person for this purpose, shall furnish to the Deputy Commissioner of Taxes, within forty-five days from the last day of each quarter of the financial year, a return, in respect of the quarter, showing the gross receipts from Bangladesh of the non-resident person for the quarter.
- (2) Where a return has been furnished under sub-section (1), the Commissioner shall, after calling for such particulars, accounts or documents as he may require, determine the amount of tax due under the Act by the non-resident person for the quarter and notify the non-resident person, in writing, of the amount payable.
- (3) The non-resident person shall be liable to pay the tax notified under sub-section (2) within the time specified in the notice and the provisions of this Act shall apply to such tax as if it were tax due under an assessment order.
- (4) Where the tax referred to in sub-section (3) is not paid within three months of service of the notice, the Commissioner may issue to the authority by whom clearance may be granted to the aircraft operated by the non-resident person a certificate specifying the name of the non-resident person and the amount of tax due.

- (5) The authority to whom a certificate is issued under sub-section (4) shall refuse clearance from any airport in Bangladesh to any aircraft owned or chartered by the non-resident until the tax due has been paid.

111. Assessment of persons about to leave Bangladesh.-

- (1) Where any person is likely to leave Bangladesh during the currency of tax year or shortly after its expiry with no intention of returning to Bangladesh, he shall give to the Commissioner a notice to that effect not less than fifteen days before the probable date of his departure (hereinafter in this section referred to as the 'said date').
- (2) The notice under sub-section (1) shall be accompanied by a return or returns of taxable income in respect of the period commencing from the end of the latest tax year for which an assessment has been or, where no such assessment has been made, a return has been made, as the case may be, and ending on the said date, or where no such assessment or return has been made, the tax year or tax years comprising the period ending on the said date; and the period commencing from the end of the latest tax year to the said date shall, for the purposes of this section, be deemed to be a tax year (distinct and separate from any other tax year) in which the said date falls.
- (3) Notwithstanding anything contained in sub-sections (1) and (2), the Commissioner may serve a notice on any person who, in his opinion, is likely to leave Bangladesh during the current tax year or shortly after its expiry and has no intention of returning to Bangladesh, to furnish within such time as may be specified in such notice, a return or returns of taxable income for the tax year or tax years for which the taxpayer is required to furnish such return or returns under sub-section (2).
- (4) The taxable income shall be charged to tax at the rates applicable to the relevant tax year and all the provisions of this Act shall, so far as may be, apply accordingly.

Chapter VIII

Gift tax

112. Charge of gift tax.-

Subject to the provisions of this chapter, charge of gift tax shall be made on each gift executed by any person in a financial year with effect from July 1, 2012 at the rates mentioned in **Part-A of the Third Schedule**.

113. Exemption in the case of certain type of gifts-

- (1) No gift tax shall be applicable under this Act for gifts made by any person in the following context,-
 - (a) where the gifted property is situated outside Bangladesh;
 - (b) where the gift is made to the Government or any local authority;
 - (c) where the gift is made to :-
 - (i) any educational institution including any polytechnic institution either recognized by an educational board or the government or run by the government, or any university established under any law in force in Bangladesh;
 - (ii) any hospital either recognized or run by the government or the local authority, or any hospital that receives charity from the government or the local authority;
 - (iii) any flood or disaster management fund either established or approved by the government;
 - (iv) any charitable or religious establishment like mosque, mondir, temple, pagoda, church etc.
 - (d) gift made under a will;
 - (e) gift in contemplation of death; or
 - (f) gift made to son, daughter, father, mother, spouse, own brother and sister.
 - (2) In addition to the exemptions mentioned in sub section 1, no gift tax shall be applicable under this Act for any gift made by any person in a tax year not exceeding the value of taka fifty thousand.
 - (3) The Government, by notification in the official gazette, may exempt any class of gift or any class of persons from payment of tax under this Act;
 - (4) Any exemption notified under sub section (3) may be made under the conditions given in the notification.
- 114. Method for determination of the value of gift.-**
- (1) Under the provisions of this chapter, the value of the property transferred as gift, except for cash, shall be determined in terms of its value to be obtained had the property been sold in an open market on the date of making the gift.
 - (2) Where the value of a property is not determinable under sub-section (1) for not being saleable in an open market, its value shall be determined as per rules.

115. Determination and collection of gift tax.-

The Deputy Commissioner of Taxes shall, within their respective jurisdiction, assess and collect gift tax under the provisions of this chapter.

116. Submitting return of gift tax.-

- (1) Any person making a taxable gift in a tax year requires to submit a return of the same in the form and manner prescribed in the rules to the Deputy Commissioner of Taxes before **September 30 after the tax year next following.**
- (2) Notwithstanding anything contained in **sub-section (1)**, where the Deputy Commissioner of Taxes is of the opinion that any gift made by any person in a tax year is subject to payment of gift tax under the provisions of this law, he can direct the person concerned through a notice to submit return in the form and manner prescribed in the rules within a time-frame, not being less than thirty days, as determined by him.
- (3) Where deems fit, the Deputy Commissioner of Taxes may extend the time limit for submission of return under this section.

117. Late submission and revised return.-

Where a person fails to submit a return under the provisions of section 115, or feels the necessity to bring any change to the return already submitted under section 115, he may submit a return any time before the assessment is made, or submit a revised return, as the case may be.

118. Assessment of gift tax.-

- (1) Where the Deputy Commissioner of Taxes, upon examination, is satisfied that a return submitted under sections 115 or 116 is correct and complete, he will assess the tax payable by the assessee on the basis of the return.
- (2) Where the Deputy Commissioner of Taxes is not satisfied with regard to the correctness and/or completeness of the return submitted under sections 115 or 116, he may direct the assessee through a notice to submit necessary documents in support of the return to his office within the date specified in the notice.
- (3) The Deputy Commissioner of Taxes, upon examining the documents submitted by the assessee, and, if required, upon giving the assessee an opportunity of being heard, will assess the amount to be paid as gift tax by the assessee.
- (4) Where any person, upon receiving a notice, fails to submit return under sub-section (2) of section 115 or fails to submit documents in support of the return under sub-section (2) of this section, the Deputy Commissioner of Taxes may proceed to assess the amount of gift tax to be payable by the assessee based on the information or documents available to him.

119. Payment of gift tax.-

- (1) Any person liable to submit return under the provisions of section 115 shall pay tax as per return on or before the submission of the same.
- (2) Where a person fails to pay tax under the provisions of sub-section (1) without any reasonable ground, he shall be deemed to be an assessee in default.

120. Penalty for default and concealment of facts regarding gift tax.-

- (1) Subject to sub-section (2), where a person intentionally furnishes false information in the return submitted by him to the Deputy Commissioner of Taxes, or intentionally fails to submit a return upon receiving a notice from the Deputy Commissioner of Taxes, the

Deputy Commissioner of Taxes may impose on the person a penalty up to fifty percent of the gift tax assessed by him and this penalty shall be collectible with the gift tax;

- (2) No such penalty shall be imposed without giving the assessee an opportunity of being heard and without prior approval of the Inspecting Joint Commissioner of Taxes.

121. Notice of demand for gift tax.-

Where any gift tax or penalty is due from an assessee, the Deputy Commissioner of Taxes shall serve a notice of demand upon the assessee in the prescribed form mentioning the amount and time of the gift tax or penalty payable.

122. Recovery of gift tax and penalty.-

- (1) The amount payable as gift tax or penalty mentioned in the notice under section 120 shall be paid within the time mentioned in the notice and the assessee shall be deemed to be an assessee in default in case of his failure to do so within the time given.
- (2) Notwithstanding anything contained in any other provision of this Chapter, where an assessee has filed an appeal under **Chapter XII**, the Deputy Commissioner of taxes, upon discretion or application of the assessee, may not consider the assessee as a defaulter.

123. Limitation of implementing certain laws.-

The provisions of this Chapter shall not apply to-

- (a) any gift made by a statutory organization formed under any law; or
- (b) any gift made by an organization or fund exempted from income tax.

Chapter IX

Travel tax

124. Definitions for the purpose of travel tax.-

In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) “travel tax” means travel tax leviable and collectable under section 125;
- (b) “SAARC” means South Asian Association for Regional Cooperation; and
- (c) “passenger” means any person who travels from Bangladesh to any other country.

125. Charge of travel tax.-

- (1) An amount not exceeding Taka ten thousand may be levied upon and collected as travel tax from a passenger who travels from Bangladesh to any other country by air, land or water.
- (2) The Government may, by rules, prescribe the rate of travel tax.
- (3) Until the rate of travel tax is prescribed under sub-section (2), travel tax may be levied and collected from each passenger at the rate mentioned bellow:-
 - (a) taka two thousand and five hundred, in case of travel to any country in North America, South America, Europe, Africa, Australia, New Zealand or Far East by air;
 - (b) taka eight hundred, in case of travel to any SAARC country by air;
 - (c) taka one thousand and eight hundred, in case of travel to any country except countries mentioned in sub-clauses (a) and (b) by air;
 - (d) taka five hundred, in case of travel to any country by land; and
 - (c) taka eight hundred, in case of travel to any country by water.
- (4) The procedure for collection of travel tax may be prescribed by rule.
- (5) Tax collected in accordance with the procedure under sub-section (4) shall be deposited to the government Treasury within the prescribed time.
- (6) Where any person or organization, responsible for collecting travel tax fails to deposit the travel tax so collected to the Government Treasury within the prescribed time, an amount equal to the amount which he or it fails to deposit to the Government Treasury, and in addition an interest at the rate of two percent per month of such tax, shall be collected from such person or organization.

126. Exemption from travel tax.-

- (1) The Government may, by notification in the official Gazette, exempt any person or class of persons from travel tax payable under this Act.
- (2) Notwithstanding anything contained in section 125, the following passengers shall be exempted from Travel Tax payable under this Act namely:-
 - (a) any passenger having an age of five years or less;
 - (b) patient suffering from Cancer;
 - (c) blind person;

- (d) disable person using stretcher;
- (e) airlines crew on duty;
- (f) members of the diplomatic mission in Bangladesh holding diplomatic status and the members of their family;
- (g) officials of the United Nations and the members of their family;
- (h) any person travelling to the Kingdom of Saudi Arabia for Hajj and Umrah;
- (i) transit passengers without the visa of Bangladesh, who shall not stay in Bangladesh for more than seventy two hours; and
- (j) Bangladesh nationals working in any airlines and enjoying free air tickets or tickets issued at a concessionary rate.

Chapter X

Wealth tax

127. Charge of wealth-tax.-

- (1) Subject to the provisions of this Act, every person, shall be liable to pay wealth-tax on the net wealth on the valuation date of a tax year.
- (2) The wealth-tax shall be charged in respect of the net wealth referred to in sub-section (1), on the valuation date of a tax year at the rates mentioned in **Part-B of the Third Schedule** in the manner provided therein.
- (3) The liability to wealth-tax shall be discharged by payment of pre-paid taxes in accordance with the provisions of this Act.
- (4) The wealth-tax charged under this section shall be collected after allowing credit for pre-paid taxes, if any, in accordance with the provisions of this Act.

128. Computation of net wealth.-

- (1) The net wealth of a person referred to in sub-sections (1) and (2) of section 127 shall be the amount in accordance with the formula—
A – B,

where

A = the aggregate of the value on the valuation date, of all the specified assets, wherever located, belonging to the person referred to in this section, computed in accordance with the provisions of sub-section (5);

B = the aggregate of the value on the valuation date, of all the debts, owed by the person, which have been incurred in relation to the specified assets.

- (2) The specified assets referred to in sub-section (1) shall be the following, namely:—
 - (a) any building or land appurtenant thereto (hereinafter referred to as “house”), used for any purpose;
 - (b) any farm house situated within twenty-five kilometres from local limits of any municipality or municipal corporation (by whatever name called) or a Cantonment Board;
 - (c) any urban land;
 - (d) motor car, yacht, boat, helicopter and aircraft other than those used by the assessee in the business of running them on hire or as stock-in-trade;
 - (e) jewellery, bullion, furniture, utensils or any other article made wholly or partly of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, other than those used by the assessee as stock-in-trade;
 - (f) archaeological collections, drawings, paintings, sculptures or any other work of art;
 - (g) watch having value in excess of fifty thousand taka;
 - (h) cash in hand, in excess of two hundred thousand taka, of individuals;

- (i) deposit in a bank located outside Bangladesh, in case of individuals and in the case of other persons any such deposit not recorded in the books of account;
 - (j) any interest in a foreign trust or any other body located outside Bangladesh (whether incorporated or not) other than a foreign company; and
- (3) The specified assets referred to in sub-section (2) shall not include the following, namely:—
- (a) the value of the assets located outside Bangladesh, if the person is a non resident; and
 - (b) any one house or part of a house or one vacant plot of land not exceeding five hundred square metres of area belonging to an individual.
- (4) The house referred to in clause (a) of sub-section (2) shall not include the following, namely:—
- (a) a house meant exclusively for residential purposes allotted by a company to an employee;
 - (b) any house for residential or commercial purposes which forms part of stock-in-trade;
 - (c) any house which the assessee may occupy for the purposes of business carried on by him;
 - (d) any house that has been let-out for a minimum period of three hundred days in the financial year;
 - (e) any house in the nature of commercial establishments or complexes.
- (5) The value of any specified asset, other than cash, referred to in sub-section (2), shall be determined in such manner as may be prescribed.
- (6) In this Chapter, “valuation date” means the 30th day of June in the financial year.

129. Net wealth to include certain assets.-

- (1) The specified assets referred to in sub-section (2) of section 128 shall be deemed to be belonging to the person, being an individual, and included in computing his net wealth if such assets, as on the valuation date, are held (whether in the form they were transferred or otherwise),—
- (a) by the spouse of such individual to whom such asset has been transferred by him, directly or indirectly, otherwise than for adequate consideration or in connection with an agreement to live apart;
 - (b) by a minor child, not being a person with disability or person with severe disability, of such individual;
 - (c) by a person to whom such asset has been transferred by the individual, directly or indirectly, otherwise than for adequate consideration for the immediate or deferred benefit of the individual or his spouse;
 - (d) by a trust to whom such asset has been transferred by the individual, if the transfer is revocable during the life time of the beneficiary of the trust;

- (e) by a person, not being a trust, to whom such asset has been transferred by the individual, if the transfer is revocable during the life time of the person;
- (2) The provisions of sub-section (1) shall not apply in respect of such specified asset as has been acquired by the minor child out of his income referred to in clause (b) of sub-section (1) and which are held by him on the valuation date.
- (3) In this section,—
- (a) the asset referred to in clause (b) of sub-section (1) shall be included in the net wealth of—
 - (i) the parent who is the guardian of the minor child; or
 - (ii) the parent whose net wealth (excluding the assets referred to in that clause) is higher, if both the parents are guardians of the child;
 - (b) a transfer shall be deemed to be revocable if—
 - (i) it contains any provision for the re-transfer, directly or indirectly, of the whole or any part of the income or asset to the transferor; or
 - (ii) it, in any way, gives the transferor a right to re-assume power, directly or indirectly, over the whole or any part of the income or asset;
 - (c) the person shall, notwithstanding anything in this Act or in any other law for the time being in force, be deemed to be the owner of a building or part thereof, if he is a member of a co-operative society, company or other association of persons and the building or part thereof is allotted or leased to him under a house building scheme of the society, company or association, as the case may be;
 - (d) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate; and
 - (e) the value of any assets transferred under an irrevocable transfer shall be liable to be included in computing the net wealth of the transferor in the year in which the power to revoke vests in him.

Chapter XI

Penalty

130. Penalty for failure to furnish a return or statement.-

- (1) Where any person has, without reasonable cause, failed to file a return of income required by or under **sections 95, 96 or 109** the Deputy Commissioner of Taxes may impose upon such person a penalty amounting to ten per cent of tax imposed on last assessed income subject to a minimum of taka one thousand, and in the case of a continuing default a further penalty of taka one hundred for every day during which the default continues.
- (2) Where any person has, without any reasonable cause, failed to furnish information as required under **section 229**, the Deputy Commissioner of Taxes may impose a penalty of taka fifty thousand and in case of a continuing default a further penalty of taka five hundred for each day.

131. Penalty for failure to display TIN or use fake TIN.-

- (1) Where any person has, without reasonable cause, failed to display the taxpayer's identification number (TIN) certificate laid down under **section 209**, the Deputy Commissioner of Taxes shall impose upon such person a penalty of taka five thousand and in the case of a continuing default a further penalty of taka five hundred for every month or fraction thereof during which the default continues.
- (2) Where a person has, without reasonable cause, used Taxpayer's Identification Number (TIN) of another person or used fake TIN on a return of income or any other documents where TIN is required under this Act, the Deputy Commissioner of Taxes may impose a penalty not exceeding taka twenty thousand on that person.

132. Penalty for non-payment of tax.-

- (1) A taxpayer who fails to pay any tax due under this Act other than penalty imposed under this section by the due date shall be liable for a penalty equal to –
 - (a) in the case of the first default, five per cent of the amount of tax in default;
 - (b) in the case of a second default, an additional penalty of twenty per cent of the amount of tax in default;
 - (c) in the case of a third default, an additional penalty of twenty five per cent of the amount of tax in default;
- (2) Where, in consequence of any order under this Act, the amount of tax in respect of which any penalty imposed under sub-section (1) is reduced, the amount of the penalty shall be reduced accordingly.

133. Penalty for failure to pay, deduct or collect tax, etc.-

- (1) Where, in the course of any proceeding in connection with the assessment of tax under **Chapter VII**, the Deputy Commissioner of Taxes is satisfied that any person has—
 - (a) without reasonable cause, failed to pay advance tax as required by **section 88**; or
 - (b) furnished under **section 90** any estimate of tax payable by him which he knew, or had reason to believe, to be untrue,

he may impose upon such person a penalty of a sum not exceeding the amount by which the tax actually paid by him falls short of the amount that should have been paid.

- (2) Where a person required by or under the provisions of this Act to deduct, collect or pay to the credit of the Government tax under **Chapter VI**, the principal officer and the company of which he is the principal officer, fails to so deduct, collect or pay, or having deducted or collected, fails to pay the tax in accordance with the provisions of this Act, he or it shall—
 - (a) without prejudice to any other consequences to which he or it may be liable, be deemed to be an person in default in respect of the tax; and
 - (b) in addition to such tax, pay an amount at the rate of two percent per month of such tax for the period commencing on the date following the expiry of the time within which it is to be paid under **Chapter –VI** and ending on the date of the actual payment of the tax.

134. Penalty for concealment of income.-

- (1) Where, in the course of any proceedings under this Act, the Deputy Commissioner of Taxes is satisfied that any person has either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the same tax year concealed income or furnished inaccurate particulars of such income, the Deputy Commissioner of Taxes may, by an order in writing, impose upon the person a penalty equal to the amount of tax which the person sought to evade by concealment of income or the furnishing of inaccurate particulars of such income.
- (2) For the purposes of sub-section (1), concealment of income or the furnishing of inaccurate particulars of income shall include –
 - (a) the suppression of any income or amount chargeable to tax;
 - (b) the claiming of any deduction for any expenditure not actually incurred; or
 - (c) the suppression of any investment or asset.
- (3) Where any income or amount declared by a taxpayer is claimed by the taxpayer to be exempt from tax or any expenditure declared by a taxpayer is claimed by the taxpayer to be deductible, the mere disallowance of such claim shall not constitute concealment of income or the furnishing of inaccurate particulars of income, unless it is proved that the taxpayer made the claim knowing it to be wrong.

135. Penalty for failure to maintain records.-

A person who, without reasonable excuse, fails to maintain records as required under this Act may be liable for a penalty equal to –

- (a) in the case of the first failure, two thousand taka;
- (b) in the case of a second failure, five thousand taka; and
- (c) in the case of a third and subsequent failure, ten thousand taka.

136. Penalty for non-compliance with notice.-

- (1) Where any person has without reasonable cause, failed to comply with any notice issued under **sections 96 or 109**, the Deputy Commissioner of Taxes may impose on the person a penalty not exceeding the amount of tax chargeable on the total income of such person.

137. Penalty for making false or misleading statements.-

- (1) Where a person makes a statement to an income tax authority that is false or misleading in a material particular or omits from a statement made to an income tax authority any matter or thing without which the statement is false or misleading in a material particular, the person may be liable for a penalty not exceeding twenty five thousand taka..

138. Penalty for obstruction.-

Where any person obstructs any income tax authority in discharge of his functions under this Act, the Deputy Commissioner of Taxes may impose a penalty on the person not exceeding fifty thousand taka.

139. Condition for the imposition of penalty.-

- (1) No penalty may be imposed under this Chapter on any person unless the person is given a reasonable opportunity of being heard.
- (2) Subject to sub-section (3), the imposition of a penalty under this Part shall be without prejudice to any other liability incurred by the person under this Act.
- (3) The Deputy Commissioner of Taxes shall not impose any penalty under this Chapter without the previous approval of the Inspecting Joint Commissioner of Taxes except in the cases referred to in **section 130**.

140. Orders of Appellate Joint Commissioner of Taxes, etc., to be sent to Deputy Commissioner of Taxes.-

The Appellate Joint Commissioner of Taxes, or the Commissioner of Taxes (Appeals) or the Taxes Appellate Tribunal, or the Central Intelligence Cell or any other authority other than the Deputy Commissioner of Taxes making an order imposing any penalty under this Chapter shall forthwith send a copy of the order to the Deputy Commissioner of Taxes, and thereupon all the provisions of this Act relating to the recovery of penalty shall apply as if such order were made by the Deputy Commissioner of Taxes.

141. Penalty to be without prejudice to other liability.-

The imposition of any penalty on any person under this Chapter shall be without prejudice to any other liability which such person may incur, or may have incurred, under this Act or under any other law for the time being in force.

Chapter XII

Appeal, revision and reference

142. Appeal against order of the Deputy Commissioner of Taxes or the Inspecting Joint Commissioner of Taxes or the Inspecting Additional Commissioner of Taxes.-

- (1) Any person, not being a company, aggrieved by any order of a Deputy Commissioner of Taxes in respect of the following may prefer an appeal to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes against such order, namely:—
 - (a) the amount of loss computed under **section 52**;
 - (b) assessment of income, determination of liability to pay, or computation of tax including advance tax;
 - (c) assessment of gift tax under **section 117**;
 - (d) computation of net wealth under **section 128**;
 - (e) imposition of interest under **section 92**;
 - (f) imposition of penalty under **section 119, 125(6), 130, 131, 132, 133 or 134**; and
 - (g) refusal to allow a claim to a refund or the determination of the amount of refund admissible under **Chapter XV**.
- (2) Any person, being a company aggrieved by any order of a Deputy Commissioner of Taxes or any person aggrieved by any order of an Inspecting Joint Commissioner of Taxes in respect of the following may prefer an appeal to the Commissioner of Taxes (Appeals) against such order, namely:—
 - (a) any matter specified in clauses (a), (b), (c) and (e) of sub-section (1);
 - (b) imposition of penalty under **Chapter XI**;
 - (c) assessment under **section 227 or 238**.
- (3) The Board may, on an application or on its own motion, transfer an appeal from an Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes to a Commissioner of Taxes (Appeals) or from a Commissioner of Taxes (Appeals) to an Appellate Joint Commissioner of Taxes.
- (4) Where the partners of a firm are individually assessable on their shares in the total income of the firm, any such partner may appeal to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes against the order of the Deputy Commissioner of Taxes determining the amount of total income or loss of the firm or the apportionment thereof between several partners but he may not agitate in any such appeal, matters relating to assessment of his own total income.
- (5) No appeal shall lie against any order of assessment under this section, unless the tax payable on the basis of return under **section 94** has been paid before filing that appeal.

143. Form of appeal and limitation.-

- (1) Every appeal under **section 142** shall be drawn up in such form and verified in such manner as may be prescribed and shall be accompanied by a fee of two hundred taka.

- (2) Subject to sub-section (3), an appeal shall be presented within forty five days,—
 - (a) if it relates to any assessment or penalty, from the date of service of the notice of demand relating to the assessment or penalty, as the case may be; and
 - (b) in any other case, from the date on which the intimation of the order to be appealed against is served.
- (3) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) as the case may be, may admit an appeal after the expiration of the period of limitation specified in sub-section (2) if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

144. Procedure in appeal before the Appellate Joint Commissioner of Taxes or the Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals).-

- (1) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) shall fix a day and place for the hearing of the appeal and give notice thereof to the appellant and the Deputy Commissioner of Taxes against whose order the appeal has been preferred.
- (2) The appellant and the Deputy Commissioner of Taxes shall have the right to be heard at the hearing of the appeal either in person or by a representative.
- (3) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) may, if he considers it necessary to do so, adjourn the hearing of the appeal from time to time.
- (4) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) may, before or at the hearing of an appeal, allow the appellant to go into any ground of appeal not earlier specified in the grounds of appeal already filed if he is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.
- (5) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) may, before disposing of an appeal, make such enquiry as he thinks fit or call for such particulars as he may require respecting the matters arising in appeals or cause further enquiry to be made by the Deputy Commissioner of Taxes.
- (6) While hearing an appeal the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) shall not admit any documentary material or evidence which was not produced before the Deputy Commissioner of Taxes unless he is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Deputy Commissioner of Taxes.

145. Decision in appeal by the Appellate Joint Commissioner of Taxes or the Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals).-

- (1) In disposing of an appeal, the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals), subject to sub-section (2), may—
 - (a) in the case of an order of assessment, confirm, reduce, enhance, set aside or annul the assessment;
 - (b) in the case of an order imposing a penalty, confirm, set aside or cancel such order or vary it so as either to enhance or to reduce the penalty; and

- (c) in any other case, pass such order as he thinks fit:
- (2) An order of assessment or penalty shall not be set aside except in a case where the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) is satisfied that a notice on the person has not been served in accordance with the provisions of [section 202](#);
 - (3) The Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.
 - (4) The order of the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) disposing of an appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.
 - (5) Where, as a result of an appeal, any change is made in the assessment of a firm or an association of persons, the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) may direct the Deputy Commissioner of Taxes to amend accordingly any assessment made on any partner of the firm or any member of the association.
 - (6) On the disposal of an appeal, the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) shall communicate the order passed by him to the appellant, the Deputy Commissioner of Taxes and the Commissioner of Taxes within thirty days of the passing of such order.
 - (7) An appeal to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) shall be deemed to have been allowed if the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) fails to make an order thereon within four months from the end of the month on which the appeal was filed.

146. Appeal to the Taxes Appellate Tribunal.-

- (1) Any person may appeal to the Taxes Appellate Tribunal if he is aggrieved by an order of an Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals) as the case may be, under [section 134 or 145](#).
- (2) Subject to sub-section (3), the Tribunal shall not admit any appeal under sub-section (1) unless tax is paid before the filing of the appeal to the Tribunal according to the following formula namely:-

$$B+(A-B)/10$$

Where-

- A** is the amount of tax payable on the basis of order of Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeal)
- B** is the amount of tax payable on the basis of the return filed for the tax year;
- (3) Where any appeal is rejected by the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeal), the assessment

order made by the Deputy Commissioner of Taxes shall prevail and the tax calculated under sub-section (2) shall be paid accordingly.

- (4) The Deputy Commissioner of Taxes may, with the prior approval of the Commissioner of Taxes, prefer an appeal to the Taxes Appellate Tribunal against the order of an Appellate Joint Commissioner of Taxes, or the Commissioner of Taxes (Appeals) under [section 145](#).
- (5) Subject to sub-section (6) every appeal under sub-section (1) or sub-section (3) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the person or to the Commissioner of Taxes, as the case may be.
- (6) The Taxes Appellate Tribunal may admit an appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not presenting the appeal within that period.
- (7) An appeal to the Taxes Appellate Tribunal shall be in such form and verified in such manner as may be prescribed and shall except in the case of an appeal under sub-section (3) be accompanied by a fee of one thousand taka.

147. Disposal of appeal by the Taxes Appellate Tribunal.-

- (1) The Taxes Appellate Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders on the appeal as it thinks fit.
- (2) Before disposing of any appeal, the Taxes Appellate Tribunal may call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the Deputy Commissioner of Taxes.
- (3) Where, as a result of the appeal, any change is made in the assessment of a firm or association of persons, or a new assessment of a firm or association of persons is ordered to be made, the Taxes Appellate Tribunal may direct the Deputy Commissioner of Taxes to amend accordingly any assessment made on any partner of the firm or any member of the association.
- (4) The Taxes Appellate Tribunal shall communicate its order on the appeal to the person and to the Commissioner of Taxes within thirty days from the date of such order
- (5) Save as hereafter provided in this Chapter, the orders passed by the Taxes Appellate Tribunal on appeal shall be final.
- (6) An appeal filed before the Taxes Appellate Tribunal shall be deemed to have been allowed if the Taxes Appellate Tribunal fails to make an order thereon within a period of six months from the end of the month in which the appeal was filed:

148. Reference to the High Court Division.-

- (1) A reference shall lie to the High Court Division from every order passed in an appeal by the Taxes Appellate Tribunal, if the High Court Division is satisfied that the case involves a substantial question of law.
- (2) Subject to sub-section (3), the High Court Division shall not admit any reference under sub-section (1) unless tax is paid before the filing of the reference to the High Court Division according to the following formula namely:-

$$B + (A - B) \div 10,$$

where-

- A** is the amount of tax payable on the basis of order of Taxes Appellate Tribunal;
- B** is the amount of tax payable on the basis of the return filed for the tax year;
- (3) Where the reference is made against any order of the Taxes Appellate Tribunal rejecting the appeal, the order made by the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeal) or Inspecting Joint Commissioner of Taxes under [section 238](#) or the Deputy Commissioner of Taxes as the case may be shall prevail and the tax calculated under sub-section (2) shall be paid accordingly.
 - (4) The Commissioner of Taxes or an assessee, may file a reference to the High Court Division on being aggrieved by any order passed by the Taxes Appellate Tribunal and such appeal shall be—
 - (a) filed within a period of ninety days from the date on which the order against which the reference is made is received by the Commissioner of Taxes or the assessee;
 - (b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
 - (5) The High Court Division may admit a reference after the expiry of the period of ninety days referred to in sub-section (2), if it is satisfied that there was sufficient cause for not filing the reference within that period.
 - (6) If the High Court Division is satisfied that a substantial question of law is involved in any case, it shall formulate that question.
 - (7) The reference shall be heard only on the question so formulated, and the respondents shall, at the hearing of the reference, be allowed to argue that the case does not involve such question.
 - (8) Notwithstanding anything in sub-sections (4) and (5), the High Court Division may exercise its power to hear the reference on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question of law.
 - (9) The High Court Division shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.
 - (10) The High Court Division may determine any issue which—
 - (a) has not been determined by the Taxes Appellate Tribunal; or
 - (b) has been wrongly determined by the Taxes Appellate Tribunal, by reason of a decision on the question of law referred to in sub-section (1).
 - (11) The provisions of the Act of Civil Procedure, 1908, relating to reference to the High Court Division shall, so far as may be, apply in the case of references under this section.
 - (10) When the High Court Division delivers a judgment in a reference filed before it under sub-section (7), effect shall be given to the order passed on the reference by the Deputy Commissioner of Taxes on the basis of a certified copy of judgment.

149. Decision of the High Court Division.-

- (1) Where a case has been referred to the High Court Division under [section 148](#), it shall be heard by a Bench of not less than two Judges of the High Court Division and shall be

decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

- (2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court Division and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
- (3) Notwithstanding that a reference has been made under [section 148](#) to the High Court Division, tax shall be payable in accordance with the assessment made in the case unless the recovery thereof has been stayed by the High Court Division.

150. Appeal to the Appellate Division .-

- (1) An appeal shall lie to the Appellate Division from any judgment of the High Court Division delivered under [section 149](#) which the High Court Division certified to be a fit case for appeal to the Appellate Division.
- (2) The provisions of the Act of Civil Procedure, 1908, relating to appeals to the Appellate Division shall, so far as may be, apply in the case of appeals under sub-section (1) as they apply in the case of appeals from decrees of a High Court Division.
- (3) The costs of the appeal shall be in the discretion of the Appellate Division.
- (4) Where the judgment of the High Court Division is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in [sub-section \(10\) of section 148](#).

151. Revisional power of the Commissioner of Taxes.-

- (1) The Commissioner of Taxes may, on an application made by the assessee, call for the record of any proceeding under this Act in which an order has been passed by any authority subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass, subject to sub-section (6), such order thereon, not being an order prejudicial to the assessee, as he thinks fit.
- (2) The application for revision of an order under this Act passed by any authority subordinate to the Commissioner of Taxes shall be made within sixty days of the date on which such order is communicated to the assessee or within such further period as the Commissioner of Taxes may consider fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within the said sixty days.
- (3) The Commissioner of Taxes shall not exercise his power under sub-section (1) in respect of any order—
 - (a) where an appeal against the order lies to the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or to the Commissioner of Taxes (Appeals) or to the Taxes Appellate Tribunal and the time within which such appeal may be made has not expired or the assessee has not waived his right of appeal; or
 - (b) where the order is pending on an appeal before the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or it has been made the subject of an appeal to the Commissioner of Taxes (Appeals) or to the Taxes Appellate Tribunal.
- (4) No application under sub-section (1) shall lie unless—
 - (a) it is accompanied by a fee of two hundred taka; and

- (b) the tax payable under **section 94** has been paid.
- (5) For the purposes of this section, an order by the Commissioner of Taxes declining to interfere shall not be construed as an order prejudicial to the assessee.
- (6) An application for revision made under sub-section (1) shall be deemed to have been allowed if the Commissioner of Taxes fails to make an order thereon within a period of sixty days from the date of filing the application.

Explanation.-For the purposes of this section, the Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes shall be deemed to be an authority subordinate to the Commissioner of Taxes to whom the Deputy Commissioner of Taxes, whose order was the subject-matter of the appeal order under revision, is subordinate.

Chapter XIII

Alternative dispute resolution

152. Definitions for the purpose of alternative dispute resolution.-

- (1) In this Chapter, unless there is anything repugnant in the subject or context,
- (a) “Bench” means a Bench of the Resolution Commission;
 - (b) (i) Subject to sub-clause (ii), “Case” means any proceedings for assessment of income tax under this Act, of any person in respect of any assessment year or assessment years which may be pending before a Deputy Commissioner of Taxes on the date on which an application under section 159 of this Act is made:
 - (ii) When any case or matter is sent back in any appeal or revision or reference by the Taxes Appellate Tribunal or the High Court Division or any other authority under the Act, to an Deputy Commissioner of Taxes for a fresh assessment, reassessment or re-computation, as the case may be, such case shall not be deemed to be pending within the meaning of this clause.
 - (c) “Chairman” means the Chairman of the Resolution Commission;
 - (d) “Commissioner (Investigation)” means the Commissioner of Taxes appointed as such to conduct inquiry or investigation for the purposes of this Chapter;
 - (e) “Member” means a Member of the Resolution Commission and includes the Chairman and the Vice-Chairman thereof;
 - (f) “Resolution Commission” means the Income Tax Resolution Commission appointed under section 154;
 - (g) “Vice-Chairman” means a Vice-Chairman of the Resolution Commission.

153. Resolution Commission.-

- (1) The Government shall appoint a Commission to be called the Income Tax Resolution Commission which shall exercise such powers conferred upon and discharge such functions assigned to it under this Chapter.
- (2) The Resolution Commission shall consist of a Chairman and as many Vice-Chairmen and Members as may be determined by the Government from time to time.
- (3) The Chairman, Vice-Chairman and other Members of the Commission shall be appointed by the Government from amongst persons of integrity and outstanding ability having special knowledge of, and, experience in, matters relating to direct taxes, accounts and business.
- (4) The Government may appoint a retired judge of the High Court Division to be the Chairman of the Commission.
- (5) A person shall not be appointed as a Vice-Chairman or Member of the Commission unless-
 - (i) he was or is a member of the Board or holds the current charge of a member of the Board; or
 - (ii) he was or is a District Judge for at least three years; or
 - (iii) he is an advocate practicing in the Supreme Court of Bangladesh for a period of not less than ten years; or
 - (iv) he is a chartered accountant practicing for a period not less than ten years; or
 - (v) he is an income tax practitioner within the meaning of section 247 and practiced for not less than twenty years:

Provided that, where a member of the Board is appointed as the Chairman, Vice Chairman or as a Member of the Resolution Commission, he shall cease to be a member of the said Board.

154. Jurisdiction and powers of Resolution Commission.-

- (1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of the Resolution Commission may be exercised by benches thereof.
- (2) Subject to the other provisions of this section, a bench shall be presided over by the Chairman or a Vice-Chairman and consist of two other Members.
- (3) The bench of which the Chairman is the presiding officer shall be the principal bench and the other benches shall be known as additional benches.
- (4) Notwithstanding anything contained in subsection (1) and subsection (2), the Chairman may authorize the Vice-Chairman or any other Member appointed to one bench to also discharge the functions of the Vice-Chairman or Members, as the case may be, of another bench.
- (5) The principal bench shall sit at Dhaka and the Government may, by notification in the Official Gazette, establish additional benches at such places as it considers necessary.
- (6) Notwithstanding anything contained in the foregoing provisions of this section, and subject to sub-section (7) or any rules that may be made in this behalf, when one of the persons constituting a bench (whether such person be the presiding officer or other Member of the bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the bench and if the presiding officer of the Bench is not one of the remaining Members, one of the remaining Members shall act as the presiding officer of the Bench as may be authorized by the Chairman:
- (7) If at any stage of the hearing of any case or matter, it appears to the presiding officer that the case or matter is of such a nature that it ought to be heard by a bench consisting of three Members, the case or matter may be referred by the presiding officer of such bench to the Chairman for transfer to such bench as the Chairman may deem fit.
- (8) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a special bench consisting of more than three Members.
- (9) Subject to the other provisions of this Chapter, the special bench shall sit at a place to be fixed by the Chairman.

155. Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.-

- (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Government may, by notification in the Official Gazette, authorize in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.
- (2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Government may, by notification in the Official Gazette, authorize in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

156. Power of Chairman to transfer cases from one bench to another.-

On the application of the assessee or the Commissioner of Taxes and after giving notice to them, and hearing such of them as he may desire to be heard, or on his own motion without

such notice, the Chairman may transfer any case pending before one bench to another Bench for disposal.

157. Decision to be by majority.-

If the Members of a bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Resolution Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Resolution Commission who have heard the case, including those who first heard it.

158. Application for resolution of cases.-

- (1) Notwithstanding anything contained in this Act, an assessee may make an application to the Resolution Commission if he is aggrieved by an order of
 - (a) the Deputy Commissioner of Taxes under Part B of Chapter VII of this Act; or
 - (b) an Inspecting Joint Commissioner of Taxes under section 222 or under section 233 of this Act; or
 - (c) an Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or Commissioner of Taxes (Appeal); or
 - (d) the Taxes Appellate Tribunal under section 148 of this Act.
- (2) An assessee may make, on the coming into force of this Chapter, an application to the Resolution Commission at any stage of the proceedings pending before the Appellate Joint Commissioner of Taxes or the Commissioner of Taxes (Appeals) and the Taxes Appellate Tribunal or before the High Court Division under this Act or under Article 102 of the Constitution of Bangladesh, upon withdrawal of such proceedings from the respective appellate authority or the Court.
- (3) Upon such withdrawal, the proceeding shall, for the purposes of this chapter, be deemed to be a proceeding pending before the Deputy Commissioner of Taxes.
- (4) An application to the Resolution Commission shall be made within a period of thirty days from the date of such withdrawal.
- (5) Where an application made to the Resolution Commission under this section is not entertained by such Commission, then, the appeal, reference or writ petition shall, as case may be, be deemed to have been revived before the aforesaid Appellate authority or the Court and the provisions contained in section 146 or section 148 or section 150 shall, so far as may be, apply accordingly.
- (6) Notwithstanding anything contained in the previous subsections, an application shall not be entertained by the Commission unless,
 - (a) the application is made within sixty days from the date of the order by which the applicant is aggrieved or the withdrawal under subsection (2);
 - (b) the application is made in the form and verified in the manner and accompanied by such documents as may be prescribed by rules;
 - (c) has paid taxes under section 94;
 - (d) has paid a fee of taka two thousand; and
 - (e) the additional amount of income tax payable on the income disclosed in the application made under subsection (1) which is not less than taka two lakh has been paid before the application is made before the Resolution Commission.

159. Disposal of application by the Commission.-

- (1) Subject to sub-section (2) or sub-section (3), on receipt of an application under section 159, the Resolution Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant requiring him to explain in writing as to why the application should be allowed to be proceeded with and after taking into consideration of such explanation, the Resolution Commission shall, within a period of fifteen days from the date of the notice issued, by an order, allow the application to be proceeded with or reject the application, as the case may be, and upon rejection of the

application the proceedings before the Resolution Commission shall abate on the date of rejection:

- (2) An application shall not be rejected under this subsection, unless the assessee has been given an opportunity of being heard.
- (3) Where no notice has been issued or no order has been passed within the aforesaid period by the Resolution Commission, the application shall be deemed to have been allowed to be proceeded with.
- (4) A copy of every order under subsection (1), shall be sent to the assessee and to the Commissioner of Tax having jurisdiction.
- (5) Where an application is allowed to be proceeded with under subsection (1), the Resolution Commission may forward the application to the concerned Commissioner of Taxes, or Appellate Joint Commissioner of Taxes or Appellate Additional Commissioner of Taxes or the Commissioner of Taxes (Appeals), as the case may be, and call for a report along with relevant records from the Commissioner of Taxes having jurisdiction who shall furnish a report within a period of thirty days from the date of communication from the Resolution Commission.
- (6) When an application is allowed to be proceeded with under subsection (1), all proceedings and orders against which the application was made before the Resolution Commission shall be kept in abeyance until the application is disposed of by the Resolution Commission.
- (7) After examination of such records, if the Resolution Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.
- (8) After examination of the records and the report of the Commissioner of Taxes received under sub-section (5), and the report, if any, of the Commissioner (Investigation) of the Commission under subsection (7), and after giving an opportunity to the applicant and to the Commissioner of Taxes having jurisdiction, as the case may be, to be heard, either in person or through a representative duly authorised in this behalf, and after examining and considering such further evidence as may be placed before it or obtained by it, the Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit.
- (9) Every order passed under sub-section (8) shall provide for the terms of resolution including any demand of tax, interest, the manner in which any sum due under the resolution shall be paid and all other matters necessary to make the resolution effective and shall also provide that the resolution shall stand void if it is subsequently found by the Resolution Commission that it has been obtained by fraud or misrepresentation of facts.
- (10) The Commission shall pass its order under this section within six months from the date of the receipt of the application and shall communicate the order to the applicant and the concerned Commissioner of Taxes, as the case may be, within thirty days from the date of passing of such order.
- (11) The Commission may, on the basis of an application by the assessee, extend the period of payment up to three months or make the payment in installments within the time mentioned in sub-section (10).
- (12) Where any tax payable in pursuance of an order passed under subsection (8) is not paid by the assessee within thirty days of receipt of the order by him, then, whether or not the Resolution Commission has extended the time for payment of such taxes or has allowed payment thereof by installments, the assessee shall be liable to pay simple interest at the rate of ten percent per annum or at such other rate as notified by the Board on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

160. Power of Commission to grant immunity from prosecution and penalty.-

- (1) The Commission may, if it is satisfied that any person who made the application for resolution under section 160 has cooperated with the Resolution Commission in the proceedings before it and has made a full and true disclosure of his income, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly or in part the imposition of any penalty, fine and interest under this Act, with respect to the case covered by the resolution:

Provided that no such immunity shall be granted by the Resolution Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 159.

- (2) An immunity granted to a person under subsection (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the resolution passed under subsection (6) of section 160 within the time specified in such order or within such further time as may be allowed by the Resolution Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.
- (3) An immunity granted to a person under subsection (1) may, at any time, be withdrawn by the Resolution Commission, if it is satisfied that such person had, in the course of the resolution proceedings, concealed any particular material to the resolution or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to be guilty in connection with the resolution and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

161. Power of Resolution Commission to send a case back to the respective direct tax authority.-

- (1) The Resolution Commission may, if it is of the opinion that the assessee who made an application for resolution under section 159 has not cooperated with the Commission in the proceedings before it, send the case back to the appropriate income tax authority, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 159 had been made.
- (2) For the purpose of subsection (1), the concerned income tax authority, shall be entitled to use all the materials and other information produced by the assessee before the Resolution Commission or the results of the inquiry or investigation held or evidence recorded by the Resolution Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such income tax authority or held or recorded by him in the course of the proceedings before him.
- (3) For the purpose of counting of time so spent and/or of interest accrued in any case under any section of this Chapter, the period commencing on and from the date of the application made to the Resolution Commission under section 159 and ending with the date of receipt by the Deputy Commissioner of Taxes or the Appellate Authority of the final order of the Restitution Commission sending the case back to the Deputy Commissioner of Taxes or the Appellate Authority, as the case may be, shall be excluded.

162. Order of Resolution to be conclusive.-

Every order of resolution passed under subsection (8) of section 160 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act.

163. Recovery of sums due under order of resolution.-

Any sum specified in an order of resolution passed under subsection (8) of section 160 may, subject to such conditions if any, as may be specified therein, be recovered, and any interest for default in making payment of such sum may be imposed and recovered as sums due to the Government in accordance with the provisions under Chapter XVI of this Act by the Deputy Commissioner of Taxes having jurisdiction over the applicant who made the application for resolution under section 159.

164. Bar on subsequent application for resolution in certain cases.- Where,

- (i) an order of resolution passed under subsection (8) of section 160 provides for imposition of a penalty on the person who made the application under section 159 for resolution, on the ground of concealment of particulars of his income; or
- (ii) after the passing of an order of resolution under the said subsection (8) in relation to a case, such person is convicted of any offence under this Act in relation to that case; or
- (iii) the case of such person is sent back to the Commissioner of Taxes having jurisdiction by the Resolution Commission under section 162;

then, he shall not be entitled to apply for resolution under section 159 in relation to any other matter.

165. Proceedings before Resolution Commission to be judicial proceedings.-

Any proceedings under this Chapter before the Resolution Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 222 of the Penal Code (Act XLV of 1860), and for the purposes of section 196 of the Penal Code (Act XLV of 1860).

Chapter XIV

Offences and prosecutions

166. Prosecution for non-compliance with certain statutory obligations.-

- (1) Any person who, without reasonable excuse, fails to –
 - (a) comply with **sub-section (3) of section 95** or a notice under **section 96**;
 - (b) pay advance tax as required under **section 88**;
 - (c) comply with the obligation to collect or deduct tax and pay as per **provision of Chapter VI**;
 - (d) comply with a notice served under **section 109**;
 - (e) comply with the requirements of **section 179**; or
 - (f) provide reasonable facilities and assistance as required under **section 211**,

shall commit an offence punishable on conviction with a fine or imprisonment for a term not exceeding one year, or both.

- (2) If a person convicted of an offence under clause (a) of sub-section (1) fails, without reasonable excuse, to furnish the return of income or wealth statement to which the offence relates within the period specified by the Court, the person shall commit a further offence punishable on conviction with a fine or imprisonment for a term not exceeding two years, or both.

167. Prosecution for false statement in verification.-

Any person who makes a statement in any verification in any return or other document furnished under this Act which is false and which the person knows or believes to be false, or does not believe to be true, the person shall commit an offence punishable on conviction with imprisonment for a term not exceeding three years, but shall not be less than three months or a fine or both.

168. Prosecution for failure to maintain records.-

A person who fails to maintain records as required under this Act shall commit an offence punishable on conviction with imprisonment for a term not exceeding two years, or a fine or both where the failure was deliberate.

169. Punishment for improper use of Taxpayer's Identification Number.-

A person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine up to taka fifty thousand or both, if he deliberately uses or used a fake Taxpayer's Identification Number (TIN) or a Taxpayer's Identification Number (TIN) of another person.

170. Prosecution for making false or misleading statements.-

- (1) A person who –
 - (a) makes a statement to an income tax authority that is false or misleading in a material particular; or
 - (b) omits from a statement made to an income tax authority any matter or thing without which the statement is misleading in a material particular, shall commit an offence punishable on conviction with imprisonment for a term not exceeding two

years, but shall not be less than three months or a fine, or both where the statement or omission was made knowingly or recklessly.

- (2) A person shall not commit an offence under sub-section (1) if the person did not know and could not reasonably be expected to have known that the statement to which the prosecution relates was false or misleading.
- (3) **Sub-section (3) of section 204** shall apply in determining whether a person has made a statement to an income tax authority.

171. Prosecution for obstructing an income tax authority.-

A person who obstructs an income tax authority in discharge of functions under this Act shall commit an offence punishable on conviction with imprisonment for a term not exceeding one year, but shall not be less than one month, or a fine or both.

172. Prosecution for disposal of property to prevent attachment.-

Where the owner of any property, or a person acting on the owner's behalf or claiming under the owner, sells, mortgages, charges, leases or otherwise deals with the property after the receipt of a notice from the Deputy Commissioner of Taxes with a view to preventing the Deputy Commissioner of Taxes from attaching it, shall commit an offence punishable on conviction with imprisonment for a term not exceeding three years or a fine or both.

173. Prosecution for unauthorised disclosure of information by a public servant.-

A person who discloses any particulars in contravention of **section 246** shall commit an offence punishable on conviction with imprisonment for a term not exceeding six months, or a fine or both.

174. Prosecution for abetment.-

Where a person knowingly and wilfully aids, abets, assists, incites or induces another person to commit an offence under this Act, the first-mentioned person shall commit an offence punishable on conviction with imprisonment for a term not exceeding three years, but shall not be less than three months, or a fine or both.

175. Offences by companies and associations of persons.-

- (1) Where an offence under this Part is committed by a company, every person who, at the time the offence was committed, was –
 - (a) the principal officer, a director, general manager, company secretary or other similar officer of the company; or
 - (b) acting or purporting to act in that capacity, shall be, notwithstanding anything contained in any other law, guilty of the offence and all the provisions of this Act shall apply accordingly.
- (2) Where an offence under this Chapter is committed by an association of persons, every person who, at the time the offence was committed, was a member of the association shall be, notwithstanding anything contained in any other law, guilty of the offence and all the provisions of this Act shall apply accordingly.
- (3) Sub-sections (1) and (2) shall not apply to a person where –
 - (a) the offence was committed without the person's consent or knowledge; and
 - (b) the person has exercised all diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

176. Institution of prosecution proceedings without prejudice to other action.-

- (1) Any other proceedings against any person taken under this Act or any other law for the time being in force will not be a bar for proceeding under this Chapter.
- (2) Any proceeding of a prosecution for an offence against this Act may be instituted without prejudice to any other proceeding liability incurred by any person under this Act.

177. Sanction for prosecution.-

No prosecution for an offence punishable under any provisions of this Chapter shall be instituted except with the previous sanction of the Board.

178. Power to compound offences.-

The Board may compound any offence under this Chapter, at any time before a verdict given by the Judge in the trial referred to in section 165.

179. Trial by Special Judge.-

- (1) Notwithstanding anything contained in the Act of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, an offence punishable under this Chapter, other than an offence under [section 159](#), shall be tried by a Special Judge appointed under the Criminal Law Amendment Act, 1958 (XL of 1958), as if such offence were an offence specified in the Schedule to that Act.
- (2) A Special Judge shall take cognizance of, and have jurisdiction to try, an offence triable by him under sub-section (1) only upon a complaint in writing made, after obtaining the sanction under [section 163](#), by the Deputy Commissioner of Taxes—
 - (a) who is competent to make assessment under this Act in the case to which the offence alleged to have been committed relates, and
 - (b) whose office is situated within the territorial limits of the jurisdiction of the Special Judge.

Chapter XV

Refunds

180. Entitlement to refund.-

- (1) A person, who satisfies the Deputy Commissioner of Taxes or other authority appointed by the Government in this behalf that the amount of tax paid by him or on his behalf, or treated as paid by him or on his behalf, for any year exceeds the amount with which he is properly chargeable under this Act for that year, shall be entitled to a refund of any such excess.
- (2) Where the income of the person is included under any provision of this Act in the total income of any other person, such other person alone shall be entitled to a refund under this chapter in respect of such income.

181. Claim of refund for deceased or disabled persons.-

Where through death, incapacity, insolvency, liquidation or other cause, a person, is unable to claim or receive any refund due to him, his legal representative, or the trustee, guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

182. Correctness of assessment, etc., not to be questioned.-

In any claim for refund under this chapter, it shall not be open to the claimant to question the correctness or validity of any assessment or other matter which has become final and conclusive or to ask for a review of the same, and the claimant shall not be entitled to any relief on any such issue raised except refund of the tax paid in excess.

183. Refund on the basis of orders in appeal.-

Where, as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to an assessee, the Deputy Commissioner of Taxes shall, refund the amount, unless set off against tax or treated as payment of tax as per provisions of [section 172](#), to [the assessee, within sixty days] from the date on which the refund has become due without his having to make any claim in that behalf.

184. Form of claim and limitation.-

Every claim for refund under [sections 166 and 167](#) shall be made in such form and verified in such manner as may be prescribed.

185. Interest on delayed refund.-

Where a refund due to an assessee is not paid within two months of the date of the claim for refund, or refund becoming due consequent upon any order passed in appeal or other proceeding under this Act interest at the rate of seven and a half per cent per annum shall be payable to the assessee on the amount of refund from the month following the said two months to the date of issue of the refund.

186. Adjustment of refund against tax.--

Where, under the provisions of this Act or the Income-tax Ordinance, 1984 (Ord. No. XXXVI of 1984), or [the Income-tax Ordinance, 1990 \(1990 সনের ৪৪ নং আইন\)](#), any refund or repayment is found to be due to any person, the amount to be refunded or repaid or any part thereof may be set off against the tax, payable by that person under this Act or treated, at the option in writing of that person, as payment of tax payable under [section 88 or section 94](#) thereof.

Chapter XVI

Recovery of tax

187. Tax to include penalty, interest, etc.-

For the purposes of this Chapter, “tax” includes any sum imposed, levied or otherwise payable under this Act as penalty, fine, interest, fee or otherwise; and the provisions of this chapter shall accordingly apply to the recovery of any such sum.

188. Notice of demand.-

- (1) Where any tax is payable in consequence of any assessment made or any order passed under or in pursuance of this Act, the Deputy Commissioner of Taxes shall serve upon the assessee (which expression includes any other person liable to pay such tax) a notice of demand in the prescribed form specifying therein the sum payable and the time within which, and the manner in which, it is payable, together with a copy of an assessment order.
- (2) Where any amount of tax is refundable in consequence of any order, the Deputy Commissioner of Taxes shall specify in the notice referred to in sub-section (1) the sum refundable to the assessee together with a copy of an assessment order and a refund voucher unless such refund is set off against tax as per provision of [section 172](#).
- (3) The Deputy Commissioner of Taxes shall not set off without giving the assessee an opportunity of being heard and in that case refund voucher for the amount due for refund, if any, shall be issued within a period not exceeding thirty days from the date of assessment.
- (4) Where the assessee upon whom a notice of demand has been issued under sub-section (1) makes an application in this behalf before the expiry of the date of payment specified in the notice, the Deputy Commissioner of Taxes may extend the time for payment or allow payment by instalments subject to such conditions, including payment of interest on the amount payable, as he may think fit in the circumstances of the case.
- (5) Subject to sub-section (6), if the sum payable is not paid within the time specified in the notice of demand issued under sub-section (1) or, as the case may be, within the time as extended under sub-section (2), the assessee shall be deemed to be in default:
- (6) Where the assessee has presented an appeal under this Act or the Income-tax Ordinance, 1984 (Ord. No. XXXVI of 1984) in respect of the assessment of imposition of the tax or of the amount thereof, the Deputy Commissioner of Taxes shall treat the assessee as not being in default for so long as such appeal is not disposed of.
- (7) If, in a case where payment by instalment has been allowed under sub-section (4), the assessee commits default in paying any one of the instalments within the time fixed therefor, the assessee shall be deemed to be in default as to the whole of the amount then outstanding, and the other instalment or instalments shall be deemed to have been due on the same date as the instalment in respect of which default has actually been committed was due for payment.
- (8) Where an assessee has been assessed in respect of income arising outside Bangladesh in a country the laws of which prohibit or restrict the remittance of money to Bangladesh, the Deputy Commissioner of Taxes shall not treat the assessee as in default in respect of that part of the tax which is due in respect of such amount of income as cannot, by reason of the prohibition or restriction, be brought into Bangladesh, and shall continue to treat the

assessee as not in default in respect of such part of the tax until the prohibition or restriction is removed.

- (9) For the purposes of this section, income shall be deemed to have been brought into Bangladesh if it has been or could have been utilized for the purposes of any expenditure actually incurred by the assessee outside Bangladesh or if the income, whether capitalized or not, has been brought into Bangladesh in any form.

189. Other modes of recovery.-

- (1) If the amount referred to in the notice issued under section 174 is not paid within the time specified therein or within the further time, if any, allowed by the Deputy Commissioner of Taxes, he may, with prior approval of the Commissioner of Taxes, proceed to recover from the taxpayer the said amount by one or more of the following modes, namely:-
 - (a) attachment and sale of any movable or immovable property of the taxpayer;
 - (b) appointment of a receiver for the management of the movable or immovable property of the taxpayer;
 - (c) arrest of the taxpayer and his detention in prison for a period not exceeding six months;
 - (d) shut down any business premises; or
 - (e) stop sale.
- (2) For the purposes of recovery of tax under sub-section (1), the Deputy Commissioner of Taxes shall have the same powers as a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of the recovery of any amount due under a decree.
- (3) The Board may make rules regulating the procedure for the recovery of tax under this section and any other matter connected with, or incidental to, the operation of this section.

190. Recovery of tax through Collector of District.-

- (1) The Deputy Commissioner of Taxes may forward to the Collector of District in which the office of the Deputy Commissioner of Taxes is situate or the district in which the assessee resides or owns property or carries on business or profession, a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipts of such certificate, shall proceed to recover, from such assessee the amount specified therein.
- (2) Without prejudice to any other powers which the Collector of District may have in this behalf, he shall, for the purposes of recovery of the amount specified in the certificate for recovery forwarded to him under sub-section (1), have the powers which a Civil Court has under the Code of Civil Procedure, 1908 (Act V of 1908), for the purposes of recovery of an amount due under a decree.
- (3) Subject to sub-section (4), the Deputy Commissioner of Taxes may, at any time, recall from the Collector of District a certificate forwarded to him under sub-section (1) and upon such recall, all proceeding commenced in pursuance of the certificate shall abate.
- (4) The recall of a certificate shall not affect any recoveries made by the Collector before the recall as if the certificate had not, to the extent of such recovery, been recalled; nor shall the recall of a certificate issued at any time prevent the recovery, by issue of a fresh

certificate, of any amount which was recoverable at the time the certificate so recalled was issued.

- (5) It shall not be open to a taxpayer to question before the Collector the validity or correctness of any certificate issued under sub-section (1), or any such certificate as amended, or any fresh certificate issued, under sub-section (4).

191. Collection of tax in the case of private companies and associations of persons.-

- (1) Notwithstanding anything in the $\text{Kv}\text{úvbx}$ AvBb, 1994 (1994 m bi 18 bs AvBb), where any tax payable by a private company (including a private company that has been wound up or gone into liquidation) in respect of any tax year cannot be recovered from the company, every person who was, at any time in that tax year –

- (a) a director of the company, other than an employed director; or
- (b) a shareholder in the company owning not less than ten per cent of the paid-up capital of the company,

shall be jointly and severally liable for payment of the tax due by the company.

- (2) Any director who pays tax under sub-section (1) shall be entitled to recover the tax paid from the company or a share of the tax from any other director.
- (3) A shareholder who pays tax under sub-section (1) shall be entitled to recover the tax paid from the company or from any other shareholder to whom clause (b) of sub-section (1) applies in proportion to the shares owned by that other shareholders.
- (4) Notwithstanding anything in any law, where any tax payable by a member of an association of persons in respect of the member's share of the income of the association in respect of any tax year cannot be recovered from the member, the association shall be liable for the tax due by the member.
- (5) The provisions of this Act shall apply to any amount due under this section as if it were tax due under an assessment order.

192. Recovery of tax from persons holding money on behalf of a taxpayer.-

- (1) For the purpose of recovering any tax due by a taxpayer, the Deputy Commissioner of Taxes may, by notice, in writing, require any person –

- (a) owing or who may owe money to the taxpayer; or
- (b) holding or who may hold money for, or on account of the taxpayer;
- (c) holding or who may hold money on account of some other person for payment to the taxpayer; or
- (d) having authority of some other person to pay money to the taxpayer, to pay to the Deputy Commissioner of Taxes so much of the money as set out in the notice by the date set out in the notice.

- (2) Subject to sub-section (3), the amount set out in a notice under sub-section (1) –
- (a) where the amount of the money is equal to or less than the amount of tax due by the taxpayer, shall not exceed the amount of the money; or
- (b) in any other case, shall be so much of the money as is sufficient to pay the amount of tax due by the taxpayer.

- (3) Where a person is liable to make a series of payments (such as salary) to a taxpayer, a notice under sub-section (1) may specify an amount to be paid out of each payment until the amount of tax due by the taxpayer has been paid.
- (4) The date for payment specified in a notice under sub-section (1) shall not be a date before the money becomes payable to the taxpayer or held on the taxpayer's behalf.
- (5) Any person who has paid any amount in compliance with a notice under sub-section (1) shall be treated as having paid such amount under the authority of the taxpayer and the receipt of the Deputy Commissioner of Taxes constitutes a good and sufficient discharge of the liability of such person to the taxpayer to the extent of the amount referred to in such receipt.
- (6) In this section, "person" includes any Court, Tribunal or any other authority.

193. Recovery through liquidators.-

- (1) Every person (hereinafter referred to as a "liquidator") who is –
 - (a) a liquidator of a company;
 - (b) a receiver appointed by a Court or appointed out of Court;
 - (c) a trustee for a bankrupt; or
 - (d) a mortgagee in possession,
 shall, within fourteen days of being appointed or taking possession of an asset in Bangladesh, whichever occurs first, give written notice thereof to the Deputy Commissioner of Taxes.
- (2) The Deputy Commissioner of Taxes shall, within three months of being notified under sub-section (1), notify the liquidator in writing of the amount which appears to the Deputy Commissioner of Taxes to be sufficient to provide for any tax which is or will become payable by the person whose assets are in the possession of the liquidator.
- (3) A liquidator shall not, without leave of the Deputy Commissioner of Taxes, part with any asset held as liquidator until the liquidator has been notified under sub-section (2).
- (4) A liquidator -
 - (a) shall set aside, out of the proceeds of sale of any asset by the liquidator, the amount notified by the Deputy Commissioner of Taxes under sub-section (2), or such lesser amount as is subsequently agreed to by the Deputy Commissioner of Taxes;
 - (b) shall be liable to the extent of the amount set aside for the tax of the person who owned the asset; and
 - (c) may pay any debt that has priority over the tax referred to in this section notwithstanding any provision of this section.
- (5) A liquidator shall be personally liable to the extent of any amount required to be set aside under sub-section (4) for the tax referred to in sub-section (2) if, and to the extent that, the liquidator fails to comply with the requirements of this section.

- (6) Where the proceeds of sale of any asset are less than the amount notified by the Deputy Commissioner of Taxes under sub-section (2), the application of sub-sections (4) and (5) shall be limited to the proceeds of sale.
- (7) This section shall have effect notwithstanding anything contained in any other law for the time being in force.
- (8) The provisions of this Act shall apply to any amount due under this section as if it were tax due under an assessment order.

194. Recovery of tax due by non-resident member of an association of persons.-

- (1) The tax due by a non-resident member of an association of persons in respect of the member's share of the profits of the association shall be assessable in the name of the association or of any resident member of the association and may be recovered out of the assets of the association or from the resident member personally.
- (2) A person making a payment under this section shall be treated as acting under the authority of the non-resident member and is hereby indemnified in respect of the payment against all proceedings, civil or criminal, and all processes, judicial or extra-judicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.
- (3) The provisions of this Act shall apply to any amount due under this section as if it were tax due under an assessment order.

195. Initiation etc. of recovery proceedings.-

- (1) Any proceedings for the recovery of tax under this Chapter may be initiated at any time.
- (2) The several modes of recovery provided in this Chapter shall be deemed to be neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to the Government and the Deputy Commissioner of Taxes may have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from a taxpayer by any other mode.

Chapter XVII

Avoidance of double taxation

196. Agreements for the avoidance of double taxation and prevention of fiscal evasion.-

- (1) The Government may enter into an agreement with the government of a foreign country for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income imposed under this Act and under the corresponding laws in force in that country, and may, by notification in the official Gazette make such provisions as may be necessary for implementing the agreement.
- (2) Where any agreement is made in accordance with sub-section (1), the agreement and the provisions made by notification for implementing the agreement shall, notwithstanding anything contained in any law for the time being in force, have effect in so far as they provide for –
 - (a) relief from the tax payable under this Act;
 - (b) the determination of the Bangladesh-source income of non-resident persons;
 - (c) where all the operations of a business are not carried on within Bangladesh, the determination of the income attributable to operations carried on within and outside Bangladesh, or the income chargeable to tax in Bangladesh in the hands of non-resident persons, including their agents, branches, and permanent establishments in Bangladesh;
 - (d) the determination of the income to be attributed to any resident person having a special relationship with a non-resident person; and
 - (e) the exchange of information for the prevention of fiscal evasion or avoidance of taxes on income chargeable under this Act and under the corresponding laws in force in that other country.
- (3) Notwithstanding anything in sub-sections (1) or (2), any agreement referred to in sub-section (1) may include provisions for the relief from tax for any period before the commencement of this Act or before the making of the agreement.

197. Foreign source salary of resident individuals.-

- (1) Any foreign-source salary received by a resident individual shall be exempt from tax if the individual has paid foreign income tax in respect of the salary.
- (2) A resident individual shall be treated as having paid foreign income tax in respect of foreign-source salary if tax has been withheld from the salary by the individual's employer and paid to the revenue authority of the foreign country in which the employment was exercised.

198. Foreign tax credit.-

- (1) Where a resident taxpayer derives foreign source income chargeable to tax under this Act in respect of which the taxpayer has paid foreign income tax, the taxpayer shall be allowed a tax credit of an amount equal to the lesser of –
 - (a) the foreign income tax paid; or
 - (b) the Bangladesh tax payable in respect of the income.
- (2) For the purposes of clause (b) of sub-section (1), the Bangladesh tax payable in respect of foreign source income derived by a taxpayer in a tax year shall be computed by applying

the average rate of Bangladesh income tax applicable to the taxpayer for the year against the taxpayer's net foreign-source income for the year.

- (3) Where, in a tax year, a taxpayer has foreign income under more than one head of income, this section shall apply separately to each head of income.
- (4) Any tax credit or part of a tax credit allowed under this section for a tax year that is not credited under sub-section (3) shall not be refunded, carried back to the preceding tax year, or carried forward to the following tax year.
- (5) A credit shall be allowed under this section only if the foreign income tax is paid within two years after the end of the tax year in which the foreign income to which the tax relates was derived by the resident taxpayer.
- (7) In this section, –
“average rate of Bangladesh income tax” in relation to a taxpayer for a tax year, means the percentage that the Bangladeshi income tax (before allowance of the tax credit under this section) is of the taxable income of the taxpayer for the year;

“foreign income tax” includes a foreign withholding tax; and “net foreign-source income” in relation to a taxpayer for a tax year, means the total foreign-source income of the taxpayer charged to tax in the year, as reduced by any deductions allowed to the taxpayer under this Act for the year that –

- (a) relate exclusively to the derivation of the foreign-source income; and
- (b) are reasonably related to the derivation of foreign-source income in accordance with any rules made for the purposes of that section.

199. Foreign losses.-

- (1) Deductible expenditures incurred by a person in deriving foreign-source income chargeable to tax under a head of income shall be deductible only against that income.
- (2) If the total deductible expenditures referred to in sub-section (1) exceed the total foreign source income for a tax year chargeable to tax under a head of income (hereinafter referred to as a “foreign loss”), the foreign loss shall be carried forward to the following tax year and set off against the foreign source income chargeable to tax under that head in that year, and so on, but no foreign loss shall be carried forward to more than six tax years immediately succeeding the tax year for which the loss was computed.
- (3) Where a taxpayer has a foreign loss carried forward for more than one tax year, the loss for the earliest year shall be set off first.
- (4) For the purposes of set-off and carry-forward of foreign losses under this section, income from foreign source chargeable under a head of income shall be separately computed.

Chapter XVIII

Provisions relating to anti-avoidance of tax

200. Avoidance of tax through transactions with non-residents.-

Where any business is carried on between a resident and a non-resident and it appears to the Deputy Commissioner of Taxes that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or profits less than the ordinary profits which might be expected to yield in that business, the Deputy Commissioner of Taxes shall determine the amount of income which may

reasonably be considered to have accrued to the resident from such business and include such amount in the total income of the resident.

201. Disallowance of expenditure incurred for payment to associates.-

A person shall not be allowed a deduction under this Act in respect of so much of the expenditure, whether capital or revenue in nature, as is considered by the Deputy Commissioner of Taxes to be excessive or unreasonable if—

- (a) the payment in respect of the expenditure has been, or is to be, made to any associated person; and
- (b) the expenditure is excessive, or unreasonable, having regard to—
 - (i) the fair value of the goods, services or facilities for which the payment is made;
 - (ii) the legitimate needs of the business of the person; or
 - (iii) the benefit derived by, or accruing to, the person there from.

202. Determination of income from international transaction having regard to arm's length price.-

- (1) The amount of any income, or expenditure, arising from an international transaction shall be determined having regard to the arm's length price.
- (2) The allocation or apportionment of, or any contribution to, any cost or expenditure incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any associated enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be, if—
 - (a) two or more associated enterprises have entered into a mutual agreement or arrangement for the allocation or apportionment of, or any contribution to, such cost or expenditure; and
 - (b) the benefit, service or facility provided to any one or more associated enterprises involves an international transaction.
- (3) The provisions of this section shall not apply in a case, if the determination under sub-section (1), or sub-section (2), has the effect of reducing the income chargeable to tax, or increasing the loss computed, on the basis of entries made in the books of account in respect of the financial year in which the international transaction was entered.

203. Determination of arm's length price.-

- (1) The arm's length price in relation to an international transaction shall be determined in accordance with any of the methods as may be prescribed, being the most appropriate method.
- (2) The most appropriate method referred to in sub-section (1) shall be determined having regard to the nature of transaction, class of transaction, class of associated enterprise or functions performed by such enterprises or such other relevant factors as may be prescribed.
- (3) The most appropriate method determined under sub-section (2) shall be applied for determination of arm's length price in such manner as may be prescribed.
- (4) The arm's length price shall be—
 - (a) the price determined by the most appropriate method, if only one price is determined by the method; or

- (b) the arithmetical mean of the prices determined by the most appropriate method, if more than one price is determined by the method.
- (5) The price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price if the variation between the arm's length price determined under sub-section (4) and the price at which the international transaction has actually been undertaken does not exceed five percent of the latter.
- (6) The income of an associated enterprise shall not be recomputed by reason of determination of arm's length price in the case of the other associated enterprise.
- (7) The determination of arm's length price shall be subject to safe harbour rules, as may be prescribed in this behalf.
- (8) For the purpose of sub-section (7) of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.

204. Avoidance of tax through transactions with non-residents.-

- (1) The total income of a person shall include all income accruing to any non-resident, if—
 - (a) the income accrues by virtue of a transfer of any asset by the person, either alone or in conjunction with associated operations, directly or indirectly, to the non-resident;
 - (b) the person —
 - (i) acquires any rights by virtue of which he has power to enjoy, whether forthwith or in the future, such income; or
 - (ii) is entitled to receive, or has received, any capital sum, the payment whereof is in any way connected with the transfer or any associated operations; and
 - (c) the income would have been included in the total income of the person, had the transfer not taken place.
- (2) A person shall be deemed to have the power to enjoy the income of a non-resident, if—
 - (a) the income is in fact so dealt with by the person so as to be calculated at some point of time and, whether in the form of income or not, to ensure for the benefit of the person;
 - (b) the accrual or receipt of the income operates to increase the value to the person of any assets held by him or for his benefit;
 - (c) the person receives, or is entitled to receive, at any time any benefit provided, or to be provided, out of that income, or out of moneys, which are or shall be available for the purpose by reason of the effect, or successive effects, of the associated operations on that income and assets which represent that income;
 - (d) such person has power by means of the exercise of any power of appointment or power of revocation or otherwise to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income; or
 - (e) the person is able, in any manner whatsoever and whether directly or indirectly, to control the application of the income.
- (3) For determining whether a person has power to enjoy the income, regard shall be had to—
 - (a) the substantial result and effect of the transfer and any associated operations; and

- (b) all benefits which may at any time accrue to such person as a result of the transfer and any associated operations, irrespective of the nature or form of the benefits.
- (4) The provisions of this section shall not apply if the person referred to in sub-section (1) shows to the satisfaction of the Deputy Commissioner of Taxes that the transfer and all associated operations were bona fide commercial transactions and were not designed for the purpose of avoiding liability to taxation.

205. Avoidance of tax by sale and buy-back transaction in security.-

The total income of any person shall include any income accruing from any security owned by any other person if—

- (a) the person undertakes a transaction relating to sale and buy-back of the security;
- (b) the income accrues to the other person as a result of such transaction; and
- (c) the income would have been included in the total income of the person, had the transfer not taken place.

206. Avoidance of tax by buy and sale-back transaction in security.-

- (1) The transaction relating to buy and sale back of security under section 120 shall, in the case of the other person referred to therein, be ignored and no account shall be taken of the transaction in computing the income if the income accruing to the other person is not included in his total income by virtue of the provisions of that section.
- (2) The loss, if any, arising to a person on account of any buy and sale back transaction in any security undertaken by him, shall be ignored for the purposes of computing his total income, if any other income accruing to the person on such security is not included in his total income.
- (3) The loss, referred to in sub-section (2), shall be ignored to the extent such loss does not exceed the amount of any other income referred to therein.

207. Broken-period income accruing from a debt instrument.-

The income accruing from a debt instrument, transferred by a person at any time during the financial year, shall not be less than the amount of broken-period income from the instrument.

208. General anti-avoidance provision.-

- (1) An avoidance arrangement is an impermissible avoidance arrangement if its sole or main purpose is to obtain a tax benefit and—
 - (a) it is entered into or carried out by means or in a manner which would not normally be employed for bona fide business purposes, other than obtaining a tax benefit;
 - (b) it lacks commercial substance, in whole or in part;
 - (c) it has created rights or obligations that would not normally be created between non-associated persons; or
 - (d) it would frustrate the purpose of any provision of this Act (including the provisions of this Chapter).
- (2) The Deputy Commissioner of Taxes may determine the tax consequences under this Act of any impermissible avoidance arrangement to any person by—
 - (a) disregarding, combining, or recharacterising any steps in or parts of the impermissible avoidance arrangement;

- (b) disregarding any accommodating or tax-indifferent person or combining that person with any other person;
 - (c) deeming persons who are associated persons in relation to each other to be a single person for purposes of determining the tax treatment of any amount;
 - (d) reallocating any gross income, receipt or accrual of a capital nature, expenditure or rebate amongst the parties;
 - (e) recharacterising any item of income, receipt, accrual, or expenditure;
 - (f) treating the impermissible avoidance arrangement as if it had not been entered into or carried out, or in such other manner as in the circumstances of the case the Commissioner deems appropriate for the prevention or diminution of the relevant tax benefit.
- (3) The Deputy Commissioner of Taxes may make appropriate compensating adjustments that are necessary to ensure the consistent treatment of all parties to the impermissible avoidance arrangement.
- (4) For purposes of this section, an avoidance arrangement lacks commercial substance if it fails to have a substantial effect upon a person's—
- (a) business or commercial risks;
 - (b) net cash flows; or
 - (c) beneficial ownership of any asset involved in the avoidance arrangement, apart from any effect attributable to the tax benefit that would be obtained but for the provisions of this Chapter.
- (5) For purposes of this Chapter, characteristics of an avoidance arrangement that are indicative of a lack of commercial substance include—
- (a) a legal or economic effect resulting from the avoidance arrangement as a whole that is inconsistent with, or differs significantly from, the legal form of its individual steps;
 - (b) the inclusion or presence of –
 - (i) round trip financing; or
 - (ii) an accommodating or tax indifferent person; or
 - (iii) elements that have the effect of offsetting or cancelling each other without a substantial change in the economic position of any one or more of the persons; or
 - (c) an inconsistent characterisation of the avoidance arrangement for tax purposes by the persons.
- (6) For the purpose of this Chapter, 'round trip financing' includes any avoidance arrangement in which –
- (a) funds are transferred between or among the persons (round tripped amounts);
 - (b) the round tripped amounts –
 - (i) would result directly or indirectly in a tax benefit but for the provisions of this Chapter; and

- (ii) significantly reduce, offset or eliminate any credit or economic risk incurred by any person in connection with the avoidance arrangement.
- (7) The round tripped amounts shall apply without regard to –
 - (a) whether or not the round tripped amounts can be traced to funds transferred to or received by any person in connection with the avoidance arrangement;
 - (b) the timing or sequence in which round tripped amounts are transferred or received;
or
 - (c) the means by or manner in which round tripped amounts are transferred or received.

Chapter XIX

Exemption and concessions regarding taxes on income

209. Exemptions from tax on income.-

- (1) The income or classes of income, or persons or classes of persons specified in the **ELEVENTH Schedule** shall be exempt from tax under this Act, subject to any conditions and to the extent specified therein.
- (2) Where any income which is exempt from tax under any provision of the **ELEVENTH Schedule**, such income, as may be specified in the said Schedule and subject to such conditions as may be specified therein, shall not be included in the total income.

210. Concessionary rate of tax on income.-

The income or classes of income, or persons or classes of persons specified in the **TWELFTH Schedule** shall be subject to tax under this Act at such rates, which are less than the rates normally applicable subject to any conditions and to the extent specified therein.

211. Rebate of tax on income.-

- (1) Subject to sub-section (2) and (3) an assessee shall be entitled to a rebate from the amount of tax payable on his total income of an amount equal to ten percent of the sums specified in the Part-A of **Thirteenth Schedule** subject to any conditions and to the extent specified therein.
- (2) In case of an assessee other than a company rebate of tax in a tax year in respect of total payment made in the Part-A of **Thirteenth Schedule** shall not exceed one million taka or twenty five percent of his total income whichever is less.
- (3) In case of an assessee being a company rebate of tax in a tax year in respect of total payment made in the Part-A of **Thirteenth Schedule** shall not exceed ten million taka or twenty five percent of his total income whichever is less.
- (4) An assessee shall be entitled to a rebate from the amount of tax payable on his total income for the sums specified in the Part-B of **Thirteenth Schedule** in accordance with the provisions specified in Part-B of the said schedule.

212. Exemptions and tax provisions in other laws.-

No provision in any other law providing for –

- (a) an exemption from any tax imposed under this Act;
- (b) a reduction in the rate of tax imposed under this Act;
- (c) a credit of tax of any person under this Act; or
- (d) an exemption from the operation of any provision of this Act,

shall have legal effect unless also provided for in this Act :

213. Limitation of exemption.-

- (1) Where any income is exempt from tax under this Act, the exemption shall be, in the absence of a specific provision to the contrary contained in this Act, limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income.

- (2) Where a person's income from business is exempt from tax under this Act as a result of a tax concession, any loss sustained in the period of this exemption shall not be set off against the person's income chargeable to tax after the exemption expires.

Chapter XX Management

Part A Tax administration

214. Direct tax authorities.-

There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

- (a) the National Board of Revenue as constituted under the National Board of Revenue Order, 1972 (PO No 76 of 1972),
- (b) Commissioner of Taxes or Commissioner of Taxes (Appeals) or Director-Generals of Taxes,
- (c) Appellate Additional Commissioner of Taxes or Inspecting Additional Commissioner of Taxes or Additional Director General of Taxes or Director of Taxes,
- (d) Appellate Joint Commissioner of Taxes or Inspecting Joint Commissioner of Taxes or Joint Director General of Taxes,
- (e) Deputy Commissioner of Taxes or Deputy Director General of Taxes,
- (f) Assistant Commissioner of Taxes or Assistant Director of Taxes,
- (g) Extra Assistant Commissioner of Taxes,
- (h) Inspectors of Taxes.

215. Appointment and control of tax authorities.-

- (1) Subject to the rules and orders of the Government regulating the terms and conditions of service of persons in public services and posts, appointment of income tax authorities shall be made in accordance with the provisions of this Act.
- (2) The Board may appoint Director General, Commissioner of Taxes (Appeals), Commissioner of Taxes, Additional Commissioner of Taxes, Joint Commissioner of Taxes, Deputy Commissioner of Taxes, Assistant Commissioner of Taxes and such other executive or ministerial officers and staff as it may think fit.
- (3) The Board may, with the approval of the government, appoint one or more person having appropriate professional skill and experience to perform such function as may be specified by an order issued in this behalf, and the person or persons so appointed shall be deemed to be an income-tax authority for the purposes of this Act.
- (4) Subject to such orders or instructions as the Board may, from time to time, issue in this behalf, any other income tax authority may appoint any income tax authority subordinate thereto and such other executive or ministerial officers and staff as may be necessary for assistance in the execution of its functions.

216. Power of higher authorities.-

Any income-tax authority, above the rank of Deputy Commissioner of Taxes, shall have all the powers that a Deputy Commissioner of Taxes has under this Act in relation to the making of inquiries

217. Powers of the Board to issue instructions.-

- (1) The Board may, from time to time, issue such orders, instructions, directions or circulars to other income-tax authorities as it may consider expedient or necessary for the proper administration of this Act.
- (2) The Board shall not exercise its powers under sub-section (1) so as to—
 - (a) require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner;
 - (b) require the Appellate Joint Commissioner of Taxes, Appellate Additional Commissioner of Taxes, Commissioner of Taxes (Appeal) to dispose off any matter before it in a particular manner.
- (3) The orders, instructions, directions and circulars issued by the Board under this section shall be binding on all other income-tax authorities and other persons employed in the execution of this Act.

218. Jurisdiction of direct-tax authorities.-

- (1) Subject to the provisions of this Act,-
 - (a) the Directors-General of Inspection shall perform the following functions, namely:-
 - (i) carry out inspection of income tax cases;
 - (ii) investigate or cause investigation to be carried out in respect of cases involving leakage of revenue or evasion of taxes;
 - (iii) carry out audit of cases of offices involving income tax cases only;
 - (iv) furnish annual report about the working of income tax offices dealing with revenue matters to the Board by the thirty first day of December following the end of the tax year to which it relates; and
 - (v) such other functions as may be assigned to them by the Board;
 - (b) the Director General of Central Intelligence Cell shall perform the following functions, namely:-
 - (i) carry out intelligence works to gather information about taxpayers;
 - (ii) analyse information gathered through intelligence work vis-à-vis concerned income tax records;
 - (iii) detect tax evasions, concealments of income and offences as described in this Chapter;
 - (iv) carry out investigations to prove tax evasion or concealment or any other irregularities relating to taxes and to collect evidences in support of tax offences or tax frauds for recovery of tax with penalty and to suggest prosecutions in fit cases;
 - (v) to carry out functions as authorised by any other law.
 - (c) the Commissioner of Taxes, the Commissioner of Taxes (Appeals), the Appellate Additional Commissioner of Taxes and the Appellate Joint Commissioner of Taxes shall perform their functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases, or such incomes or classes of incomes, as the Board may assign to them;

- (d) the Commissioner of Taxes (Large Taxpayer Unit) shall perform his functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases or such incomes or classes of incomes, as the Board may assign to him;
 - (e) the Inspecting Additional Commissioner of Taxes, the Inspecting Joint Commissioner of Taxes and the Deputy Commissioner of Taxes shall perform their functions in respect of such areas, or such persons or classes of persons, or such cases or classes of cases, or such incomes or classes of incomes as the Commissioner of Taxes to whom they are subordinate may assign to them; and
 - (e) other income tax authorities shall perform such functions as may be assigned to them by the income tax authority to whom they are subordinate.
- (2) (a) Any area or other jurisdiction or function assigned to an income tax authority under sub-section (1) may be modified or varied, or may be transferred to any other income tax authority with respect to areas, persons or classes of persons, or cases or classes of cases, or proceeding or classes of proceedings;
- (b) any such transfer as is referred to in clause (a) may be made at any stage of the proceedings and further proceedings may be commenced from the stage at which such transfer takes place.
- (3) Where more income tax authorities than one have been assigned the same functions in respect of any area, or persons or classes of persons, or cases or classes of cases, or incomes or classes of incomes, they shall perform those functions in accordance with such allocation or distribution of work as the authority assigning the functions may make.
- (4) The powers of the Board, Commissioner of Taxes and Deputy Commissioner of Taxes of Taxes, to assign any case to any authority, or to transfer any case from one authority to another, or to perform any function or functions under this section, shall include the power in respect of all or any proceedings relating to such case; and except as provided in sub-section (5), no such assignment, transfer or performance of functions shall be called in question by or before any court or other authority.
- (5) Any person aggrieved by any order passed under this section may, within thirty days of such order, make a representation—
- (a) to the Inspecting Additional Commissioner of Taxes and Inspecting Joint Commissioner of Taxes as the case may be if the order was passed by a Deputy Commissioner of Taxes;
 - (b) to the Commissioner of Taxes, if the order was passed by an Inspecting Additional Commissioner of Taxes or Inspecting Joint Commissioner of Taxes; and
 - (c) to the Board if the order was passed by a Commissioner of Taxes;

and any order passed on such representation shall be final.

219. Exercise of jurisdiction by successor.-

Where, in respect of any proceeding under this Act, an income tax authority is succeeded by another, the income tax authority so succeeding may continue the proceeding from the stage at which it was left by his predecessor.

220. Guidance to the Deputy Commissioner of Taxes, etc.-

In the course of any proceedings under this Act, the Deputy Commissioner of Taxes may be assisted, guided or instructed by any income tax authority to whom he is subordinate or any other person authorised in this behalf by the Board.

221. Exercise of assessment functions by the Inspecting Joint Commissioner of Taxes and the Inspecting Additional Commissioner of Taxes.-

- (1) The Commissioner of Taxes, with the prior approval of the Board may, by general or a special order in writing, direct that in respect of all or any proceedings relating to specified cases or classes of cases or specified persons or classes of persons, the powers and functions of the Deputy Commissioner of Taxes under this Act shall be exercised by the Inspecting Joint Commissioner of Taxes or the Inspecting Additional Commissioner of Taxes; and
- (2) For the purpose of any proceedings in respect of such cases or persons reference in this Act or the rules made thereunder to the Deputy Commissioner of Taxes, the Inspecting Joint Commissioner of Taxes or the Inspecting Additional Commissioner of Taxes, shall be deemed to be references to the Inspecting Joint Commissioner of Taxes, the Inspecting Additional Commissioner of Taxes.

222. Powers regarding discovery and production of evidence.-

- (1) Notwithstanding anything contained in other law in force, for the purposes of this Act the tax authorities shall have the powers in respect of the following matters, namely:—
 - (a) call for information;
 - (b) inspection, inquiry or investigation ;
 - (c) enforce the attendance of any person, including any officer of a banking company or financial institution and examine him on oath;
 - (d) compel production of books of account, computerized records and system or other documents; and
 - (e) issue commissions.
- (2) For the purposes of making any inquiry or investigation, the income tax authority shall be vested with the powers referred to in sub-section (1), whether or not any proceedings is pending before it.
- (3) Any tax authority for the purposes of sub-section (1) or sub-section (2) may impound any books of account computerized records and system or other documents produced before it and retain them in its custody for such period as it thinks fit.
- (4) The Deputy Commissioner of Taxes, the Inspecting Joint Commissioner of Taxes, the Inspecting Additional Commissioner of Taxes, shall not,—
 - (a) impound any books of account computerized records and system or other documents without recording his reasons for so doing; or
 - (b) retain in his custody any such books or documents for a period exceeding ninety days without obtaining the approval of the Commissioner of Taxes.

223. Powers to call for information and production of evidence.-

- (1) The Deputy Commissioner of Taxes, the Inspecting Joint Commissioner of Taxes, the Inspecting Additional Commissioner of Taxes, the Commissioner of Taxes or any other officer authorised in this behalf by the Commissioner of Taxes or the Board, may, by notice in writing, require any person, whether or not liable for tax under this Act –
 - (a) subject to sub section (2), to furnish any information relevant to any tax leviable under this Act as specified in the notice; or

- (b) to produce or cause to be produced, any material, books of records and computer stored information which will be useful for, or relevant to, any proceeding under this Act ; or
 - (c) to attend at the time and place designated in the notice for the purpose of being examined on oath by the authorised officer as referred to in sub-section (1) concerning the tax affairs of that person or any other person and, for that purpose, the authorised officer may require the person examined to produce any accounts, documents, or computer-stored information in the control of the person.
- (2) The Deputy Commissioner of Taxes shall not issue any notice under this section on a banking company or a financial institution without prior approval of the Commissioner of Taxes.
- (3) The tax authority may also exercise the powers of search and seizure conferred under sub-section (1), if —
 - (a) the building, place, vessel, vehicle or aircraft, referred to in sub-section (2), is located within the area of his jurisdiction irrespective of the fact that he does not have jurisdiction over the person referred to in sub-section (1); and
 - (b) he has reason to believe that any delay in getting the authorisation from the Competent Authority having jurisdiction over such person may be prejudicial to the interests of the revenue.
- (4) For the purposes of sub section (1), the Director General, Central Intelligence Cell, the Director-General of Inspection, the Commissioner of Taxes and the Inspecting Additional or Joint Commissioner of Taxes shall have the same powers as the Deputy Commissioner of Taxes has under this Act for the purposes of making enquiry or requiring the production of accounts or documents including the powers under [section 228](#).
- (5) the Director General, Central Intelligence Cell, The Commissioner of Taxes, the Inspecting Additional or Joint Commissioner of Taxes, the Deputy Commissioner of Taxes or an Inspector of Taxes, if he is so authorised in writing, may, for the purpose of making any enquiry which he considers necessary, enter the premises in which a person liable or believed by him to be liable to assessment, carries on his business or profession, and may call for and inspect any such person's accounts or any documents in his possession, and may stamp any accounts or documents so inspected, and may retain such accounts or documents for so long as may be necessary for examination thereof or for the purposes of a prosecution:
- (6) The tax authority may requisition the services of any police officer or of any officer of the Government to assist him for all or any of the purposes specified in sub-section (2) and it shall be the duty of every such officer to comply with such requisition.
- (7) The tax authority may serve an order on the owner or the person, who is in immediate possession or control of any material, that he shall not remove, part with or otherwise deal with it except with his prior permission, where in the opinion of the Authorised Officer—
 - (a) it is not possible or practicable to take physical possession of such material, not being stock-in-trade, to a safe place due to its volume, weight or other physical characteristics (including its dangerous nature) and such action of the tax authority shall be deemed to be seizure; or

- (b) it is not practicable to seize such material [for reasons other than those mentioned in clause (a)] and such action of the Authorised Officer shall not be deemed to be seizure.
- (8) The order under clause (b) of sub-section (7) shall remain in force for a period not exceeding two months from the end of the month in which the order was served and the tax authority may take such steps as may be necessary for ensuring compliance with the order.
- (9) The tax authority may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any material and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this.
- (10) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to search and seizure shall apply, so far as may be, to search and seizure under this section.
- (11) For the purposes of this section the Board may prescribe—
 - (a) the procedure to be followed by the tax authority—
 - (i) for entering into any building, place, vessel, vehicle or aircraft to be searched where free entrance thereto is not available; and
 - (ii) for ensuring safe custody of any material seized; and
 - (b) any other matter in relation to search and seizure under this section.

224. Power to inspect registers of companies.-

The Deputy Commissioner of Taxes, the Additional or Joint Commissioner of Taxes or any person authorised in writing in this behalf by either of them, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or any entry in such register.

225. Power to verify deduction or collection of tax.-

Notwithstanding anything contained in this Act or any other law for the time being in force, the Board or any other authority empowered by the Board in this behalf may enter the premises of a deducting or collecting authority to examine, monitor or verify books of accounts and relevant records in relation to—

- (a) deduction or collection of tax by the concerned authority in accordance with the provisions of Chapter VII of this Act; or
- (b) deposit of the tax so collected or deducted to the credit of the government as per rules.

226. Retention of seized assets.-

- (1) The Authorised Officer shall hand over the books of account or documents seized under **section 228**, within a period of sixty days from the date on which the last of the authorisations for search was executed, to the Deputy Commissioner of Taxes, if the Authorised Officer has no jurisdiction over the person from whom the books of account or documents were seized.
- (2) The Requisitioning Officer shall hand over the books of account or documents delivered under section 136, within a period of sixty days from the date on which books of account or documents were received, to the Deputy Commissioner of Taxes, if the Requisitioning Officer has no jurisdiction over the person from whom the books of account or documents were taken into custody under any other law for the time being in force.
- (3) The officers, referred to in sub-sections (1) and (2), shall, on an application made by the assessee, allow him to make copies of, or take extracts from, the books of account or documents seized or requisitioned.
- (4) The Deputy Commissioner of Taxes may retain the books of account or documents, seized or requisitioned, up to a period of thirty days from the date of limitation for completion of assessment, specified in section 103.
- (5) The Deputy Commissioner of Taxes may retain the books of account or documents seized beyond the period specified in sub-section (4) after obtaining the approval of the Commissioner of Taxes.
- (6) The Commissioner of Taxes, shall not allow the retention of the books of account or documents seized, beyond a period of thirty days from the date on which the proceedings under this Act, for which such books of account or documents are relevant, are completed.
- (7) The officers, referred to in sub-sections (1) and (2), may, with the approval of the Commissioner of Taxes, return any books of account or documents before completion of assessment or any other relevant proceedings, after retaining a copy or extract of such books of account or documents, if he is satisfied that the return of such books of account or documents shall not adversely affect the interest of revenue.

227. Handing over of seized assets.-

The Deputy Commissioner of Taxes, having jurisdiction over the person in whose case search and seizure was carried out under section **232**, or requisition was made under section 232 shall hand over any material to the Deputy Commissioner of Taxes having jurisdiction over another person, if he is satisfied that the material seized, or requisitioned, belongs to the other person.

228. Retention and release of books of account or documents seized or requisitioned assets-

- (1) The Deputy Commissioner of Taxes may recover the amount of any liability, referred to in sub-section (2),—
 - (a) out of the material, other than books of account or documents, (hereinafter Retention and referred to as “assets”) seized under section **232** or requisitioned under section **232**; or
 - (b) by any other mode laid down under this Act.
- (2) The amount of any liability shall be the aggregate of —
 - (a) the amount of any liability existing under this Act, till the date of search under section **232** or requisition under section **232**;

- (b) the amount of any liability under this Act, determined after the date of the search, or requisition, and till the date of completion of the assessment in consequence to the search or the requisition;
 - (c) the amount of any liability determined on completion of the assessment in consequence to the search or the requisition; and
 - (d) the amount of any liability under this Act, or under any of the Acts referred to in clause (a), determined after the completion of the assessment in consequence to the search, or the requisition, and till the date of release of the assets.
- (3) The Deputy Commissioner of Taxes may recover the existing liability referred to in clause (a) of sub-section (2) and release the remaining portion of the asset, if any, within a period of one hundred and twenty days from the date on which the last of the authorisations for search under section 232 was executed, to the person from whose custody the assets were seized, if —
 - (a) an application is made by the person within a period of thirty days from the end of the month in which the assets were seized;
 - (b) the nature and source of the assets is explained by the person to the satisfaction of the Deputy Commissioner of Taxes; and
 - (c) the prior approval of the Commissioner of Taxes.
- (4) The Deputy Commissioner of Taxes shall release, within the time and subject to such conditions, as may be prescribed, to the person from whose custody the assets were seized, any asset or proceeds thereof, which remains after the liabilities referred to in sub-section (2) are discharged.
- (5) The Deputy Commissioner of Taxes may with the prior approval of the Commissioner of Taxes release any seized or requisitioned asset before making assessment in consequence of search or requisition, if the concerned person deposits with the Deputy Commissioner of Taxes an amount of money or bank guarantee equal to the value of such asset on the date of the release and the amount so deposited shall be deemed to be cash seized or requisitioned for the purposes of this Act.
- (6) If the assets consist solely of money, or partly of money and partly of other assets, the Deputy Commissioner of Taxes may apply such money in the discharge of the liabilities referred to in sub-section (2) and the assessee shall be discharged of such liability to the extent of the money so applied.

229. Power of survey.-

- (1) The income-tax authority of any officer authorised by the Board may enter, any place at which a business is carried out by a person, if —
 - (a) he has reason to suspect that the person has not complied with the provisions of this Act; and
 - (b) the place is—
 - (i) within the limits of the area assigned to him; or
 - (ii) occupied by any person in respect of whom he exercises jurisdiction.
- (2) The income-tax authority, referred to in sub-section (1), shall enter any place of business referred to therein only after sunrise and before sunset, or during the hours at which such place is open for the conduct of business.

- (3) On entering the place, the income-tax authority may require any person, who may be attending in any manner to the business at the place, to —
 - (a) afford him to inspect the books of account or documents available at the place;
 - (b) afford him to check or verify the cash, stock or other valuable article or thing found there; and
 - (c) furnish any information relevant, or useful, for the proceedings under this Act, in respect of the person or any other person.
- (4) For the purposes of this section, any place at which a business is carried out includes a place—
 - (a) which is not the principal place of such business;
 - (b) such other places relating to such business or activity ;
 - (c) where any of the books of account, documents, cash, stock-in-trade or valuables, relating to the business of the person or the business or activity referred to in clause (b), are kept; or
 - (d) where any of the books of account, documents or other record containing the particulars regarding deduction of tax at source, or collection of tax at source, made, or required to be made, under this Act, are kept.
- (5) On entering the place, the income-tax authority may —
 - (a) place marks of identification on the books of account, documents or record inspected by him and take extracts, or copies, therefrom;
 - (b) impound any books of account, documents or record inspected by him, after recording the reasons for doing so;
 - (c) make an inventory of cash, stock or valuables; or
 - (d) examine on oath any person if his statement would be useful for, or relevant to, any proceeding under this Act.
- (6) The income-tax authority, for the purpose of verifying the expenditure made by the person in connection with any function, ceremony or event, after such function, ceremony or event, may—
 - (a) require the person by whom such expenditure has been incurred or any other person who is likely to possess the information regarding such expenditure, to furnish such information which may be useful for, or relevant to, any proceeding under this Act; and
 - (b) record the statements of any other person in this behalf.
- (7) The statement made by any person under clause (d) of sub-section (5) and clause (b) of sub-section (6) may be used in evidence in any proceeding under this Act.
- (8) The income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered any cash, stock or other valuable article or thing.
- (9) The income-tax authority shall not retain any books of account, documents or records impounded by him under this section beyond a period of four month without the approval of the Commissioner of Taxes.

- (10) The income-tax authority, other than an Inspector, shall have all the powers under sub-section (1) for enforcing compliance, if a person refuses, or evades, to—
 - (a) afford the facility to the income-tax authority to inspect books of account or other documents;
 - (b) allow such authority to check or verify any cash, stock or other valuable article or thing;
 - (c) furnish any information; or
 - (d) have his statement recorded.
- (11) In this section, the expression “proceeding”, as on the date on which powers under this section are exercised, shall mean all proceedings under this Act in respect of any year which –
 - (i) may have been completed on or before such date;
 - (ii) may be pending as on such date; or
 - (iii) may be commenced after such date.

230. Confidentiality of information relating to seized assets.-

- (1) No information in respect of any assessee, except as provided in sub-section (2), shall be provided to any person by,
 - (a) the Board;
 - (b) any income-tax authority or officer or ministerial staff; or
 - (c) any person, agency or authority engaged in any manner in the administration of this Act.
- (2) The Board, or any person specified by it by an order in this behalf, may furnish, or cause to be furnished, any information in respect of an assessee to any other person performing any functions under-
 - (a) any law relating to the imposition of any tax, duty or cess, or to dealings in foreign currency; or
 - (b) any other law as the Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in this behalf.
- (3) The information referred to in sub-section (2) shall be only such information which fulfils the following conditions, namely:-
 - (a) the information is received or obtained by the Board, or any person specified by it by an order under that sub-section, in the performance of its or his functions under this Act; and
 - (b) the information is, in the opinion of the person furnishing the information, necessary for the purpose of enabling the other person receiving the information to perform the functions under the laws referred to in that sub-section (a).

231. Judicial nature of proceeding.-

- (1) Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of [section 193](#) and [section 231](#) and for the purposes of section 196 of the Bangladesh Penal Code.

- (2) Every income-tax authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Act of Criminal Procedure, 1973.

232. Power of Inspecting Additional or Joint Commissioner of Taxes to revise orders of Deputy Commissioner of Taxes.-

- (1) The Inspecting Additional or Joint Commissioner of Taxes may call for from the Deputy Commissioner of Taxes and examine the record of any proceeding under this Act, and, if he considers that any order passed therein by the Deputy Commissioner of Taxes is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard, and after making or causing to be made, such inquiry as he thinks necessary, pass such order thereon as in his view the circumstances of the case would justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment to be made.
- (2) No order shall be made under sub-section (1) after the expiry of four years from the date of the order sought to be revised.

233. Correction of errors.-

- (1) Any income tax authority or the Appellate Tribunal may, by order in writing, amend any order passed by it so as to correct any error apparent from the record either of its own motion or on the error having been brought to its notice by the assessee or any other income tax authority and all the provisions of this Act as may be applicable shall have effect accordingly.
- (2) No amendment under sub-section (1) which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee shall be made unless the parties affected thereby having been given a reasonable opportunity of being heard.
- (3) Where any such error as is referred to in sub-section (1) is brought to the notice of the authority concerned by the assessee and no amendment is made by such authority within the tax year next following the date in which the error is brought to its notice, the amendment under that sub-section shall be deemed to have been made so as to correct the error and all the provisions of this Act shall have effect accordingly.
- (4) No amendment under sub-section (1) shall be made after the expiration of four years from the date of the order sought to be amended.
- (5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment of the firm or on any reduction or enhancement made in the income of the firm under [sections 145, 147, 149, 150, 151 or 238](#) that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner, or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be correction of an error apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in sub-section (4) being computed from the date of the final order passed in the case of the firm.
- (6) Where as a result of proceedings initiated under [section 109](#), a firm or an association of persons is assessed, and the Deputy Commissioner of Taxes concerned is of opinion that it is necessary to compute the total income of a partner in the firm or a member of the association of persons, as the case may be, the Deputy Commissioner of Taxes may proceed to compute the total income and determine the sum payable on the basis of such computation as if the computation is a correction of an error apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply

accordingly, the period of four years specified in sub-section (4) being reckoned from the date of the final order passed in the case of the firm or association of persons, as the case may be.

- (7) Subject to the provisions of sub-section (3) where an amendment is made under this section, an order shall be passed in writing by the income tax authority concerned or the Appellate Tribunal, as the case may be.

Part B
Taxes Appellate Tribunal

234. Appointment of Tribunal.-

- (1) The Government shall constitute a Taxes Appellate Tribunal consisting of a President and as many judicial and accountant members from time to time, as it thinks fit, to exercise the powers and discharge the functions conferred on the Taxes Appellate Tribunal by this Act.
- (2) A judicial member shall be a person—
 - (a) who is an income tax practitioner within the meaning of **section 245(2)(f)** and practiced professionally for not less than twenty years; or
 - (b) who is a professional legislative expert having not less than eight years experience in the process of drafting and making financial and tax laws; or
 - (c) who is an advocate and practiced professionally for not less than ten years; or
 - (d) who is or was or has been a District Judge.
- (3) An accountant member shall be a person—
 - (a) who is or was or has been a Member of the Board or Commissioner of Taxes;
 - (b) who is a chartered accountant and practiced professionally for a period not less than ten years; or
 - (c) who is a cost and management accountant and practiced professionally for a period not less than ten years; or
- (4) The Government shall appoint one of the members of the Taxes Appellate Tribunal to be the President thereof, who is a member of the Board or holds the current charge of a member of the Board.

235. Exercise of power of the Taxes Appellate Tribunal by Benches.-

- (1) Unless the president in any particular case or class of cases otherwise directs, the powers and functions of the Taxes Appellate Tribunal shall be exercised by Benches of the Taxes Appellate Tribunal, hereinafter referred to as Bench, to be constituted by the President.
- (2) A Bench shall be so constituted that it has not less than two members and that there is equality in number of judicial members and accountant members:

236. Decision of Bench.-

- (1) Subject to the provisions of sub-sections (2) and (3), the decision of Bench in any case or on any point shall be given in accordance with the opinion of the majority of its members.
- (2) Any point on which the members of a Bench are equally divided shall be stated in writing and shall be referred by the President to one or more other members of the Taxes Appellate Tribunal for hearing and the point shall be decided according to the majority of the members of the Taxes Appellate Tribunal who have heard it including those who first heard it.
- (3) Where there are only two members of the Taxes Appellate Tribunal and they differ in any case, the Government may appoint an additional member of the Taxes Appellate Tribunal for the purpose of hearing the case; and the decision of the case shall be given in accordance

with the opinion of the majority of the members of the Taxes Appellate Tribunal as constituted with such additional member.

237. Exercise of power by one member.-

Notwithstanding anything contained in [section 241](#), the President may authorise an accountant member of the Taxes Appellate Tribunal to sit alone and dispose of any case allotted to a Bench of which he is a member and which pertains to an assessee, not being a company.

238. Regulation of procedure.-

Subject to the provisions of this Act, the Taxes Appellate Tribunal shall regulate its own procedure and the procedure of its Benches in matters arising out of the discharge of its functions including the places at which a Bench shall hold its sittings.

239. Statements, returns, etc. to be confidential.-

- (1) Save as provided in this section, all particulars or information contained in the following shall be confidential and shall not be disclosed, namely:-
 - (a) any statement made, return furnished or accounts or documents produced under the provisions of this Act;
 - (b) any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under Chapter XXI;
 - (c) any record of any assessment proceedings or any proceeding relating to the recovery of demand under this Act.
- (2) Notwithstanding anything contained in the Evidence Act, 1872 (I of 1872) or any other law for the time being in force, no Court or other authority shall, save as provided in this Act, be competent to require any public servant to produce before it any return, accounts or documents contained in, or forming a part of, the records relating to any proceeding under this Act or to give evidence before it in respect thereof.
- (3) The prohibition under sub-section (1) shall not apply to the disclosure of—
 - (a) any particulars in, or in respect of any statement, return, accounts, documents, evidence, affidavit or deposition required for the purposes of prosecution of an offence under this Act, the Penal Code (XLV of 1860), or the Foreign Exchange Regulation Act, 1947 (VII of 1947);
 - (b) any particulars or information which is necessary for the purposes of this Act to any person acting in the execution of this Act, or of any particulars to any person being an expert whose services have been placed at the disposal of the Government by any international organisation of which Bangladesh is a member;
 - (c) any particulars or information which is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand;
 - (d) any particulars of the amount due from an assessee under this Act by the Board or any officer authorised by it, or by the Commissioner, to any department of the Government, local authority, bank, corporation or other organization for the purpose of the recovery of any demand;

- (e) any particulars to a Civil Court in any suit which relates to any matter arising out of any proceeding under this Act and to which Government is a party;
- (f) any particulars to the Comptroller and Auditor-General of Bangladesh for the purpose of enabling him to discharge his functions under the Constitution;
- (g) any particulars to any officer appointed by the Comptroller and Auditor-General of Bangladesh or the Board for the purpose of auditing tax receipts or refunds;
- (h) any particulars relevant to any inquiry into the conduct of any official of the income tax department to any person appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of any such inquiry;
- (i) any particulars relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a lawyer, a chartered accountant or a cost and management accountant to any authority empowered to take disciplinary action against such lawyer, chartered accountant or cost and management accountant;
- (j) any particulars by a public servant where the disclosure is occasioned by the lawful exercise by him of the powers under the Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document;
- (k) any facts to an authorised officer of the Government of any country outside Bangladesh with which the Government of the People's Republic of Bangladesh has entered into an agreement for the avoidance of double taxation and the prevention of fiscal evasion where such disclosure is required under the terms of the agreement;
- (l) any such facts to any officer to the Government as may be necessary for the purpose of enabling the Government to levy or realise any tax imposed by it;
- (m) any such facts to any authority exercising power under the Excise and Salt Act, 1944 (I of 1944), the Gift-tax Act, 1963 (XIV of 1963), দানকর আইন, ১৯৯০ (১৯৯০ সনের ২২ ভা অবিভা), the Wealth-tax Act, 1963 (XV of 1963), the Customs Act, 1969 (IV of 1969), the Sales tax Ordinance, 1982, (XVIII of 1982) or গুল্য সংযোজন Ki অবিভা, 1991 (১৯৯১ সনের ২২নং আইন) as may be necessary for the purpose of enabling it duly to exercise such powers;
- (n) so much of any such particulars, to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to income tax in any particular year or years, where, under the provisions of any law for the time being in force, such fact is required to be established;
- (o) any such particulars to the Bangladesh Bank as are required by that Bank to enable it to discharge its functions under the foreign exchange control laws or to compile financial statistics of international investments and balance of payments;

- (p) any such information as may be required by any officer or department of the Government for the purpose of investigation into the conduct and affairs of a public servant;
 - (q) any such particulars as may be required by any order made under section 19(2) of the Foreign Exchange Regulation Act, 1947 (VII of 1947); or
 - (r) a list of highest tax-payers in accordance with rules made in this behalf.
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- (4) Nothing in this section shall apply to the production by a public servant before a Court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding, or to the giving of evidence by a public servant in respect thereof.
 - (5) Any person to whom any information is communicated under this section, and any person or employee under his control, shall in respect of that information, be subject to the same rights, privileges, obligations and liabilities as if he were a public servant and all the provisions of this Act shall, so far as may be, apply accordingly.
 - (6) This section shall not be construed as prohibiting the voluntary disclosure of any particulars referred to in sub-section (1) by the person by whom the statement was made, return furnished, accounts or documents produced, evidence given or affidavit or deposition made as the case may be.

Chapter XXI

Miscellaneous

240. Taxpayer's identification number.-

- (1) Every assessee or any person who applies for taxpayer's identification number (TIN) will be given a taxpayer's identification number in such manner as may be prescribed.
- (2) Taxpayer's identification number (TIN) may be allotted to any other person, whether or not an application is made by him against whom any proceeding under this Act has been taken.

241. Requirement of certificate in certain cases.-

A certificate from the concerned Deputy Commissioner of Taxes or from any other person authorised by the Board in this behalf, containing the taxpayer's identification number shall be required to be submitted to the concerned authority, by any person at the time of—

- (a) submitting an application for the purpose of :
 - (i) obtaining an import registration certificate;
 - (ii) membership of a club registered under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন);
 - (iii) a licence as a Nikah Registrar under the Muslim Marriages and Divorces (Registration) Act, 1974 (LII of 1974);
 - (iv) renewal of membership of a chamber of commerce and industries or any trade body;
 - (v) issuance of drug license;
 - (vi) connection of gas for commercial purpose in a city corporation;
 - (vii) connection of electricity for commercial purpose in a city corporation, paurashava or cantonment board;
- (b) registration for the purpose of:
 - (i) purchase of land, building or an apartment situated within any city corporation, deed value of which exceeds one lakh taka, but shall not apply in case of a registration for purchase of land, building or an apartment situated within any city corporation, by a non resident Bangladeshi;
 - (ii) practicing license to a doctor, a chartered accountant, a cost and management accountant, a lawyer or an income tax practitioner;
 - (iii) incorporation of a company under কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সালের ১৮ নং আইন) in respect of sponsor directors;
 - (iv) renewal of trade licence in the area of a corporation or of a Paurashava of a divisional headquarters;
- (c) opening a letter of credit for the purpose of import;
- (d) submitting tender documents for the purpose of supply of goods, execution of a contract or for rendering services;
- (e) issuance or renewal of license or enlistment of a surveyor of general insurance;

- (f) registration, change of ownership or renewal of fitness of motor vehicle or inland plying for hire or not;
- (g) renewal of survey certificate of inland water vessel excluding ;
- (h) sanction of loan exceeding one million taka to a person by a commercial bank or a leasing company;
- (i) issue of credit card;
- (j) submitting a plan for construction of building for the purpose of obtaining approval from Rajdhani Unnyan Kartipakkha (Rajuk), Chittagong Development Authority (CDA), Khulna Development Authority (KDA) and Rajshahi Development Authority (RDA);
- (k) being a candidate for an office of any union parishad, Upazila, paurashava, city corporation, or a Member of Parliament;
- (l) being the owner of a building within a city corporation or a paurashava or a divisional headquarters or district which consists of more than one storey and the plinth area of which exceeds sixteen hundred square feet; or
- (m) being the owner of four wheeler a motor vehicle.

242. Tax collection account number.-

- (1) Every person required to deduct or collect tax under Chapter VI of this Act shall be given a tax collection account number in such manner as may be prescribed.
- (2) Any person who has been allotted a tax collection account number shall quote the number in such transactions or documents as may be prescribed.

243. Obligation to furnish annual information return.-

- (1) Every person, referred to sub-section (2), responsible for registering or maintaining books of account or other documents containing a record of any specified financial transaction, under any law for the time being in force, shall furnish an annual information return as prescribed.
- (2) The person and specified financial transaction referred to in sub-section (1) shall be—
 - (a) any employer for salary paid or payable by him or on behalf of him;
 - (b) Commissioner of Customs for import or export of goods;
 - (c) any designated person in the case of an office of the Government, local authority, other body corporate, NGO, University, medical and engineering college or company in case of payment made to the contractors or suppliers;
 - (d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 [XVI of 1908];
 - (e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988;
 - (f) officer authorised by the Governor of Bangladesh Bank in this behalf in case of securities transacted by it

- (3) The annual information return referred to in sub-section (1) shall be furnished to the Board or any other income-tax authority authorised by the Board, in such form and manner including on a floppy, diskette, flash drive, magnetic cartridge tape, CD-ROM or any computer readable media (internet or networking) and within such time as may be prescribed.
- (4) If a person who is required to furnish an annual information return under sub-section (1) has not furnished the same within the specified time, then, the income-tax authority referred to in sub-section (3) may serve upon such person a notice requiring him to furnish the return within a period not exceeding sixty days from the date of service of the notice and such person shall furnish the annual information return within the time specified in the notice.

244. Service of notice.-

- (1) The service of any notice, summons, requisition, order or any other communication under this Code (hereinafter in this section referred to as communication may be made by delivering or transmitting a copy thereof, to the person named therein,—
 - (a) by post or by such courier service as may be approved by the Board;
 - (b) in such manner as provided for the service of summons in the Code of Civil Procedure, 1908 (Act V of 1908);
 - (c) in the form of any electronic record; or
 - (d) by any other means of transmission of documents , including fax message or electronic mail message, as may be prescribed.
- (2) A notice referred in sub-section (1) may be addressed—
 - (a) in the case of a firm, to any member of the firm, or the manager;
 - (b) in the case of a local authority or a company, to the principal officer thereof;
 - (c) in the case of other body or association of persons, to the principal officer or any member thereof;
 - (d) in a case where a firm or association of persons is dissolved, to any person who was a member of the firm or association, as the case may be, immediately before such dissolution;
 - (e) in a case where a business or profession is discontinued to which section 89 applies, if the business or profession discontinued was-
 - (i) that of an individual, to the person whose income is to be assessed;
 - (ii) that of a company, to Managing director or Chief Executive Officer thereof; and
 - (iii) that of a firm or association of persons, to any person who was a partner of such firm or a member of such association, as the case may be, at the time of the discontinuance;
- (3) The Board may make rules providing for the addresses including the address for electronic mail or electronic mail message to which the communication referred to in sub-section (1) may be delivered or transmitted to the person named therein.

245. Notice deemed to be valid under certain conditions.-

- (1) A notice which is required to be served upon a person for the purposes of assessment under this Code shall be deemed to have been duly served upon him in accordance with the provisions of this Code, if the person has appeared in any proceeding or cooperated in any inquiry relating to an assessment.
- (2) The person, referred to in sub-section (1), shall be precluded from taking any objection in any proceeding or inquiry under this Code that the notice was—
 - (a) not served upon him;
 - (b) not served upon him in time; or
 - (c) served upon him in an improper manner.
- (3) The provisions of this section shall not apply, if the person has raised the objection before the completion of the assessment.

246. Appearance by authorised representative.-

- (1) Any assessee who is entitled or required to attend before any income-tax authority or the Appellate Tribunal, in connection with any proceeding under this Act, may attend through an authorised representative.
- (2) The provisions of sub-section (1) shall not apply in a case where the assessee is required to attend personally for examination on oath or affirmation under section 228.
- (3) In this section, “authorised representative” means a person authorised by the assessee in writing to appear on his behalf, being —
 - (a) a relative of the assessee who is his parent, spouse, son, daughter, brother or sister;
 - (b) a full time employee of the assessee;
 - (c) any legal practitioner who is entitled to practice in any civil court in Bangladesh;
 - (d) a chartered accountant or a cost and management accountant; or
 - (e) an income tax practitioner, registered as such by the Board in accordance with the rules made in this behalf, being a member of any registered Taxes Bar Association.
- (4) The following persons shall not be qualified to represent an assessee under sub-section (1):—
 - (a) a person who has been dismissed or removed from Government service;
 - (b) a legal practitioner, or an chartered accountant or a cost and management accountant, who is found guilty of misconduct in his professional capacity by any authority entitled to institute disciplinary proceedings against him;
 - (c) a person, not being a legal practitioner or an accountant, who is found guilty of misconduct in connection with any income-tax proceedings by such authority, as may be prescribed.
- (5) The Board may, by an order in writing, specify the period up to which the disqualification under sub-section (4) shall continue, having regard to the nature of misconduct and such disqualification shall not exceed a period of six years.

- (6) A person shall not be allowed to appear as an authorised representative, if he has committed any fraud or misrepresented the facts which resulted in loss to the revenue and that person has been declared as such by an order of the Board.

247. Tax to be calculated to nearest taka.-

In the determination of the amount of tax or of a refund payable under this Act, fractions of a taka, less than fifty poisha, shall be disregarded and fractions of a taka equal to or exceeding fifty poisha shall be regarded as one taka.

248. Indemnity.-

Every person deducting, retaining, or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention, or payment thereof.

249. Certain errors not to vitiate assessment etc.-

No assessment, order, notice, warrant or other document made, issued or executed, or purporting to be made, issued or executed, under this Act, shall be void or otherwise inoperative, merely for want of form, or for an error, defect or omission therein, if such want of form, error, defect or omission is not of a substantial nature prejudicially affecting the assessee.

250. Bar of suits in civil courts.-

- (1) No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act.
- (2) No prosecution, suit or other proceeding shall lie against the Government, or any officer of the Government, for anything in good faith done, or intended to be done, under this Act.

251. Displaying of taxpayer's identification number certificate.-

An assessee having income from business or profession shall obtain taxpayer's identification number (TIN) certificate from the Deputy Commissioner of Taxes under whose jurisdiction he is being assessed and display such certificate at a conspicuous place of such assessee's business premises.

252. Reward to officers and employees of the Board and its subordinate income tax officers for collection and detection of evasion of taxes.-

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the Board may, in such manner and in such circumstances and to such extent as may be prescribed, grant reward to the following persons:—
 - (a) an officer or employee of the Board and its subordinate tax offices for outstanding performance in collection of taxes and detection of tax evasion;
 - (b) any other person for furnishing information leading to detection of tax evasion.
- (2) The Board may, in addition to the reward mentioned in sub-section (1), grant reward to officers and employees of the Board and its subordinate tax offices for a financial year in a prescribed manner for collection of revenue in excess of the revenue target.

253. Assistance to income tax authorities.-

All officers and staff of government and semi-government organizations, law enforcement agencies, autonomous bodies, statutory bodies, financial institutions, educational institutions, private organizations, local government and non-government organizations shall assist the income tax authorities in the discharge of their functions under this Act.

Chapter XXII

Rules and repeal

254. Power to make rules.—

- (1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act; and any such rules may, in so far as they do not impose, or have the effect of imposing, any criminal liability, be given retrospective effect.
- (2) In particular, and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) the ascertainment and determination of the classification of any income in respect of which the provisions of this Act are not clear;
 - (b) the manner in which, and the procedure by which, the income and the tax payable thereon shall be determined in the case of-
 - (i) non-residents, and
 - (ii) income derived in part from agriculture and in part from business;
 - (c) the ascertainment and determination of any income or class of income to be included in the total income of an assessee;
 - (d) the determination of the value of any perquisites and benefits and of the allowances permissible under this Act in respect of any head of income or total income;
 - (e) the procedure for the grant of exemption of income of industrial undertakings or tourist industries and any other matter connected with or incidental thereto;
 - (f) the manner in which, and the procedure by which, self-assessment may be made;
 - (g) the procedure for, and any other matter connected with or incidental to, the issue of exemption certificate or tax clearance certificate under section 107;
 - (h) the procedure to be followed on application for refund;
 - (i) registration of income tax practitioners, qualifications for registration, conditions and limitations subject to which income-tax practitioners may act as authorised representative under this Act, cancellation of registration or other disciplinary measures in respect of income tax practitioners;
 - (j) fees and other charges to be paid in respect of any services rendered or in respect of any matter for which fees and charges are payable under this Act;
 - (k) the manner in which, and the procedure by which, gift tax, wealth tax or travel tax shall be determined under this Act ; and
 - (l) any other matter which is to be provided for by rules, or which is to be or may be prescribed under this Act.
- (3) In cases coming under sub-section (2)(b), the rules may prescribe methods by which an estimate of such income may be made, and prescribe the proportion which shall be deemed to be income classifiable under the head “Agricultural income” or “Income from business or profession”, and an assessment based on such estimate or proportion, as the case may be, shall be deemed to be duly made in accordance with the provisions of this Act.
- (4) Subject to sub-section (5), the power to make rules under this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication:
- (5) Where previous publication of the draft of any proposed rules or of any amendment to any existing rules is made pursuant to the provisions of this sub-section, giving therewith

a notice soliciting objections and suggestions to such draft within the period specified in the notice and if no objection or suggestion is received within the period specified, the previous publication of such draft shall be deemed to be the final publication of the proposed rules or amendment, as the case may be.

255. Repeal.-

The following law stand repeal on the date this Act comes into force in pursuance of section 1:

- (a) Income-tax Ordinance, 1984 (XXXVI of 1984);
- (b) দান কর আইন, ১৯৯০ (১৯৯০ সনের ৪৪ নং আইন);
- (c) ভ্রমণ কর আইন, ২০০৩ (২০০৩ সনের ৫ নং আইন).

256. Savings.-

- (1) Notwithstanding the repeal, the Income-tax Ordinance, 1984 (Ord. No. XXXVI of 1984), দান কর আইন, ১৯৯০ (১৯৯০ সনের ৪৪ নং আইন), ভ্রমণ কর আইন, ২০০৩ (২০০৩ সনের ৫ নং আইন) and the rules made thereunder, shall continue to apply, as if those Ordinance and Acts had not been repealed,-
 - (a) to any income, gift or travel of, or relatable to, any period prior to the commencement of this Act ; and
 - (b) to any notice issued, or any assessment, order, application or appeal made, any proceedings commenced or any prosecution instituted, under that Act.
- (2) Save as provided in sub-section (1), the repeal under sub-section (1) and enactment of this Act shall, for the purposes of the General Clauses Act, 1897 (X of 1897), be deemed to be repeal and re-enactment of the Income Tax Ordinance, 1984 (XXXVI of 1984), দান কর আইন, ১৯৯০ (১৯৯০ সনের ৪৪ নং আইন), ভ্রমণ কর আইন, ২০০৩ (২০০৩ সনের ৫ নং আইন).

257. Removal of difficulties.-

- (1) If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by notification in the official Gazette, make such provisions as it thinks fit for removing that difficulty.
- (2) No notification under this section shall be issued after the thirtieth day of June, 2015.

First Schedule

Rates of tax on income

Part A

General rate of tax on income

1. Tax rate for industrial companies
2. Tax rate for companies other than industrial companies
3. Tax rate for assessees other than companies

Part B

Rate of tax on certain capital gains

[See section]

1. Where a person, not being a company, is a non-resident in Bangladesh, except a Bangladeshi non-resident tax shall be payable by him or on his behalf, on his total income, at the maximum rate.
2. Where the total income of an assessee includes any income chargeable under the head “Capital gains” (hereinafter referred to as the “said income”), the tax payable by him on his total income shall be—
 - (a) in the case of a company—
 - (i) tax payable on the total income as reduced by the said income had such reduced income been the total income; plus
 - (ii) tax at the rate of fifteen per cent on the whole amount of the said income;
 - (b) in the case of a person other than a company—
 - (i) where the said income arises as a result of disposal by the assessee of his capital assets after not more than five years from the date of their acquisition by him, tax payable on the total income including the said income; and
 - (ii) where the said income arises as a result of disposal by the assessee of his capital assets after five years from the date of their acquisition by him, tax payable on the capital gains at the rate applicable to his total income including the said capital gains, or tax at the rate of fifteen per cent on the amount of the capital gains whichever is the lower.
3. Where the total income of an assessee includes any income from “winnings” chargeable under the head “Income from other sources” (hereinafter referred to as the “said income”), the tax payable by him on the said income shall be at the rate applicable to his total income including the said income or at the rate of twenty per cent., whichever is the lower.

Part C
Fixed tax for new and small business
[See section 25]

1 . Procedure for assessment of new and small business.—

(1) An assessee who was not previously being assessed and having business with initial capital investment not exceeding one million taka or carrying on profession as a lawyer or a doctor for a period not exceeding ten years shall be eligible for computation of income under this Schedule.

(2) The Deputy Commissioner of Taxes, with the prior approval of the Inspecting Additional Commissioner of Taxes or Inspecting Joint Commissioner of Taxes, shall chalk out a programme to visit any shopping centre or commercial market or an area where such establishments are located and accordingly visit such centre, market or area and fix the tax on an assessee for any year at the following rates, namely:-

(a) Where an assessee carrying on business-

SI No.	Initial capital investment	Rate of tax
(i)	if the initial capital investment does not exceed eight hundred thousand taka;	Taka two thousand;
(ii)	if the initial capital investment exceeds eight hundred thousand taka, but does not exceed one million taka;	Taka four thousand;

(b) Where an assessee carrying on profession as a lawyer or doctor-

SI No.	Length of profession	Rate of tax
(i)	if such profession has been carried on for a period not exceeding five years;	Taka two thousand;
(ii)	if such profession has been carried on for a period exceeding five years, but does not exceed ten years;	Taka four thousand;]

(3) The assessee shall, with the help of the Deputy Commissioner of Taxes, fill up a return of income in form IT-11GAGA as prescribed in sub-rule (1aaa) of rule 24, which can be had from the Deputy Commissioner of Taxes, and submit the same to the Deputy Commissioner of Taxes on the spot.

(4) The tax fixed under sub-paragraph (2) shall remain in force for two subsequent tax years, and the receipt of the payment of such tax shall be deemed to be an order of assessment under this Schedule.

Part D
Rate of settled tax on income of certain categories of business
(See section 25)

1. Subject to paragraph 2 and 3 of this schedule, notwithstanding anything contained in this Act, tax deducted or collected at source as per chapter-VI or the rules framed under any section of that chapter shall be deemed to be final discharge of tax liability from that source.

Serial No.	Source of deduction or collection	Section
a.	Registration or renewal of fitness of motor vehicles plying for hire;	150(1)(b)
b.	Registration or renewal of survey certificate;	150(1)(d)
c.	Deduction from payment to contractors etc;	153
d.	Collection of tax from importer of goods, not being goods imported by an industrial undertaking as raw materials for its own consumption;	157(a)
e.	Collection of tax from Clearing and Forwarding Agents	157(b)
f.	Collection of tax from export	158
g.	Collection from winnings from lottery	164

2. The income from the sources mentioned in paragraph 1 shall be computed applying the rate of tax applicable for the tax year.
3. Any income in excess of the amount mentioned in paragraph 2 shall be liable to tax at the applicable rate for the tax year.

Second Schedule

Rates of gift and wealth tax

Part A

Rate of gift tax

[See section **III**]

- | | | |
|----|--|-----|
| 1. | On first one million taka of taxable gift in excess of the exempted limit for gift tax | 5% |
| 2. | On next one million taka in excess of taxable gift mentioned in paragraph 1 | 10% |
| 3. | On next one million taka in excess of taxable gift mentioned in paragraph 2 | 15% |
| 4. | On balance of taxable gift | 20% |

Part B

Rate of wealth tax

[See section **III**]

- | | | |
|----|---|-----|
| 1. | On first three million taka of net wealth | 5% |
| 2. | On next three million taka of net wealth | 10% |
| 3. | On next three million taka of net wealth | 15% |
| 4. | On balance of net wealth | 20% |

Third Schedule

Deduction or collection of tax at source

(see Chapter VI)

Part A

Collection of tax from transfer of property

The rate of tax to be collected during transfer of property referred to in clause (a) of sub-section (1) of section 150 shall be 2% of deed value.

Part B

Collection of tax from registration or renewal of fitness of motor vehicle

The rate of tax to be collected during registration or renewal of fitness of motor vehicle referred to in clause (b) of sub-section (1) of section 53 shall be as follows:

(a) in case of motor vehicle plying for hire

Sl.	Type of vehicle	Rate of tax (In taka)
1.	(a) First Registration made 10 years ago or more:	
	(i) non air-conditioned passenger bus having more then 52 seats	7,000/-
	(ii) non air-conditioned passenger bus having not exceeding 52 seats	5,000/-
	(iii) air-conditioned or double Decker passenger bus	20,000/-
	(iv) double Decker passenger bus	10,000/-
	(v) air-conditioned mini-bus or coaster	10,000/-
	(vi) prime-mover used for carrying container	4,000/-
	(vii) truck or tank Lorry having capacity exceeding 5 tons	7,000/-
	(viii) truck or tank Lorry or covered van having capacity exceeding 1.5 tons upto 5 tones;	5,000/-
	(ix) truck or tank Lorry or covered van having capacity not exceeding 1.5 tons	3,000/-
	(x) Human holler, Maxi, Auto-rickshaw carrying goods	10,000/-
	(xi) Air-conditioned taxi cab	7,0000/-
	(xii) Non air-conditioned taxi cab	2,500/-

(b) first Registration made less than 10 years:	
(i) non air-conditioned passenger bus having more than 52 seats	3,500/-
(ii) non air-conditioned passenger bus having not exceeding 52 seats	2,500/-
(iii) air-conditioned passenger bus	10,000/-
(iv) double Decker passenger bus	5,000/-
(v) air-conditioned mini-bus or coaster	6,000/-
(vi) prime-mover used for carrying container	2,000/-
(vii) truck or tank Lorry or covered van having capacity exceeding 5 tons	4,000/-
(viii) truck or tank Lorry or covered van having capacity exceeding 1.5 tons up to 5 tons;	3,000/-
(ix) truck or tank Lorry having capacity not exceeding 1.5 tons	1,500/-
(x) Human holler, Maxi, Auto-rickshaw carrying goods	500/-
(xi) Air-conditioned taxi cab	3,000/-
(xii) non air-conditioned taxi cab	1,000/-

(b) Vehicle not plying for hires

Type of vehicle	Rate of tax (in taka)
Car having 1500 CC engine capacity	8,000/-
Car having 2000 CC engine capacity	10,000/-
Car having engine capacity exceeding 2000 CC	16,000/-
Jeep having 2800 CC engine capacity	14,000/-
Jeep having engine capacity exceeding 2800 CC	18,000/-
Micro bus	8,000/-

Part C

Collection of tax during transfer of ownership or renewal of survey certificate in case of inland water vessels

The rate of tax to be collected at the time of registration or re-registration for transfer of ownership, renewal of survey certificate in case of inland water vessels referred to in clause (c) of sub-section (1) of section 53 shall be as follows:

Sl.	Type of vehicle	Rate of tax (in taka)
1	(a) First Registration made less than 10 years ago or more:	
	(i) Passenger vessel as per seats capacity	Per seat 50/-
	(ii) Goods transportation cargo or coaster vessel as per capacity of goods carrying	Per gross tone 75/-
	(iii) Goods transportation dump-burger vessel as per capacity of goods carrying	Per gross tone 60/-
	(b) first Registration made 10 years ago or more:	
	(i) Passenger vessel as per seats capacity	Per seat 25/-
	(ii) Goods transportation cargo or coaster vessel as per capacity of goods carrying	Per gross tone 35/-
	(iii) Goods transportation dump-burger vessel as per capacity of goods carrying	Per gross tone 28/-

Part D

Collection of tax during renewal of trade license

The rate of tax to be collected at the time of renewal of trade license referred to in clause (d) of sub-section (1) of section 53 shall be as follows:

Sl	License renewal authority	Rate of tax (In taka)
1	City Corporation or cantonment board	700/-
2	Paurashava	200/-

Part E
Collection of tax during issuing permission for brick field

The rate of tax to be collected at the time of issuing a permission or renewal of permission for manufacturing of bricks referred to in clause (e) of sub-section (1) of section 53 shall be as follows:

Sl.	Number of brick field section as defined in মৌসুমী ইটভাটা ম-ল্য সংশোধন কর বিধিমালা, ২০০৪	Rate of tax (in taka)
(a)	For one section brick field	30,000/-
(b)	For two section brick field	45,000/-
(c)	For three section brick field	60,000/-

Part F
Collection of tax from supply of goods or execution of contract or sub-contract for any work

The rate of tax to be collected at the time of making payment on account of supply of goods or execution of contract or sub-contract for any work referred to in clause (b) of sub-section (1) of section 150 shall be as follows:

Sl.	Amount of bill	Rate of tax (in taka)
(a)	In case of supply of goods or contract other than oil supply Up to taka 2,00,000/- From taka 2,00,001 to taka 5,00,000/- From taka 5,00,001 to taka 15,00,000/- From taka 15,00,001 to taka 25,00,000/- From taka 25,00,001 to taka 3,00,00,000/- where the payment exceeds taka 3,00,00,000	Nil 1% 2.5% 3.5% 4% 5%
(b)	in case of oil supplied by oil marketing companies up to taka 2,00,000 where the payment exceeds taka 2,00,000	Nil 0.75%

Fourth Schedule

Computation of profits and gains from the exploration and extraction of mineral deposits

Part A

Computation of profits and gains from the exploration and production of petroleum and natural gas and determination of the tax thereon

[See section 25]

1. Profits from exploration and production of petroleum to be computed separately.-

Where any person carries on or is deemed under an agreement with the Government to be carrying on any business which consists of or includes exploration and production of petroleum, the profits or gains of such person therefrom shall be computed separately from his income, profits or gains from any other business.

2. Computation of profits.-

Subject to the provisions of section 29, the profits and gains for the purposes of paragraph 1, shall be computed after making the following additional allowances, namely:—

- (a) where a person incurs any expenditure on searching for, or on discovering and testing a petroleum deposit or winning access thereto, but the search, exploration or enquiry upon which the expenditure is incurred is given up before the commencement of commercial production, such expenditure allocable to a surrender area and to the drilling of a dry hole shall be deemed to be lost at the time of the surrender of the area or the completion of the dry hole, as the case may be. A portion of such loss as provided for any agreement between any such person and the Government, shall be allowed in either of the following ways:—
 - (i) such portion of the said loss in any year shall be set off against income, profits or gains from business or under any other head of income, other than income from dividend, of that year. If the loss cannot be wholly set off in this manner, the portion not so set off shall be carried forward to the following year and set off against such income, profits or gains, for that year in the same manner, and if it cannot be wholly so set off, the amount not so set off shall be carried forward to the following year and so on; but no loss shall be so carried forward for more than six years;
 - (ii) such portion of the said loss in any year shall be set off against income, profits or gains of the same business of the tax year in which commercial production commences. If the loss cannot be wholly set off against the profit of the same business for that year, the loss not so set off shall be carried forward to the following year and set off against the profits or gains, if any, of the assessee from the same business for that year; and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on; but no loss shall be so carried forward for more than ten years;
- (b) after the commencement of commercial production, all expenditure prior thereto not deemed to be lost under clause (a) and not represented by physical assets in use at the time the commercial production commenced, shall be allowed as deductions. The portion of such deduction to be allowed in any year shall be such amount (not being greater than 10 per cent. of the aggregate amount deductible) as may be selected by the assessee;
- (c) expenditure incurred after the commencement of commercial production in connection with production and exploration shall be allowed as a deduction:

Provided that such expenditure on asset with respect to which depreciation is allowable shall not be deducted, and depreciation shall be allowable on such assets in accordance with the provisions of the Third Schedule. Depreciation shall also be allowed in respect of the expenditure referred to in the preceding clause on physical assets acquired prior to the date on which commercial production commenced, which were in use on that date, as if the assets were newly acquired at their original cost at the time of commencement of commercial production:

Provided further that where any depreciation allowance has been allowed before the commencement of commercial production, the original cost as aforesaid shall be reduced by the amount of such allowance;

- (d) if, in any year, the deductions admissible under **section** and the foregoing clauses (b) and (c) of this paragraph, exceed the gross receipts from the sale of petroleum produced in Bangladesh such excess shall be set off against other income, not being a dividend, and carried forward in the manner and subject to the limitations laid down in sections **37, 38 and 42.**

3. Depletion allowance.-

In determining the profits or gains for any year ending after the date on which commercial production commenced, an additional allowance shall be made equal to 15 per cent. of the gross receipts representing the well-head value of the production from the business or part of the business to which the provisions of this Part apply:

Provided that such allowance shall not exceed one-half of the profits or gains as computed without the deduction of such allowance.

4. Payments to the Government and taxes.-

- (1) The sum of payments to the Government and taxes on income in respect of the profits or gains derived from the business or part of the business to which the provisions of this Part apply, for any year of assessment, shall be as provided for in the agreement with the assessee.
- (2) For the purposes of this paragraph, “payments to the Government” means amounts payable to the Government or to any governmental authority in Bangladesh, in respect of any tax or levy imposed in Bangladesh particularly applicable to oil production or to extractive industries, or any of them, and not generally imposed upon all industrial and commercial activities.

5. Adjustments of payments to the Government and taxes.-

If in respect of any year, the aggregate of the sum of payments to the Government and taxes on income is greater or less than the amount provided for in the agreement referred to in paragraph 4(1), an additional income tax shall be payable by the assessee or an abatement of tax shall be allowed to the assessee, as the case may be, so as to make the aggregate of the sum of payments to the Government and taxes on income equal to the amount provided for in the agreement.

6. Carry forward of excess payments.-

If, in respect of any year, the payments to the Government exceed the amount provided for in the agreement referred to in paragraph 4(1), so much of the excess as consist of any tax or levy referred to in paragraph 4(2) shall be carried forward and treated as payments to the Government for the purposes of paragraph 4 and 5 for the succeeding year.

7. Sale price of oil.-

For the purposes of computing income under this Part, the “well-head value” shall be adopted as the sale price of the oil.

8. Definitions.-

For the purposes of this Part,—

- (a) “commercial production” means production as determined by the Government;
- (b) “petroleum” has the same meaning as assigned to it in Bangladesh Petroleum Act, 1974 (LXIX of 1974), but does not include refined petroleum products;
- (c) “surrender” means the termination of right with respect to an area including the expiration of rights according to the terms of an agreement;
- (d) “surrendered area” means an area with respect to which the rights of a person have terminated by surrender or by assignment or by termination of the business;
- (e) “well-head value” has the meaning assigned to it in the agreement between the assessee and the Government and, in the absence of its definition in the agreement, the meaning assigned to it in the Petroleum (Production) Rules, 1949.

Part B

Computation of profits and gains from the exploration and extraction of mineral deposits (other than petroleum and natural gas) in Bangladesh

[See section 25]

1. Profits from exploration and extraction of mineral deposits to be computed separately.-

Where any person carries on the business of the exploration or extraction of mineral deposits of a wasting nature other than oil and oil gas in Bangladesh, the profits and gains of such business, shall be computed separately from his income, profits or gains from other business, if any, and such business shall, for the purposes of these paragraphs, be treated as a separate undertaking (hereinafter referred to as such undertaking).

2. Computation of profits.-

- (1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in accordance with the provisions of section -----.
- (2) All expenditure on prospecting and exploration incurred by such undertaking up to the stage of commercial production shall, to the extent it cannot be set off against any other income of the said undertaking or any other income in accordance with section, be treated as a loss.
- (3) The loss computed in the manner specified in sub-paragraph (2) shall be set off against the income of such undertaking after the commencement of commercial production so, however, that if it cannot be wholly set off against the income, profits or gains of the said undertaking for the tax year in which the commercial production was commenced, the portion not so set off shall be carried forward to the following year, and so on; but no loss shall be carried forward for more than ten years beginning with the year in which commercial production was commenced.
- (4) Notwithstanding the provisions of **paragraph 3 and 6 of the Third Schedule**, after the commencement of commercial production, depreciation allowance in respect of machinery and plant purchased or acquired for extracting the ore shall be allowed as a deduction against profits and gains of the year in which they are used for the first time in an amount equal to the original cost of such asset; where such allowance cannot be made in full in any year owing to there being no profits or gains chargeable for that year or owing to the profits and gains so chargeable being less than the allowance, the allowance

or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of allowance for depreciation for the following year and deemed to be part of that allowance or, if there is no allowance for that year, be deemed to be allowance for that year, and so on for succeeding year:

Provided that where any loss has also to be carried forward under sub-paragraph (3) effect shall be given to that paragraph.

3. Depletion allowance.-

- (1) In computing the profits and gains of such undertaking for any year, an additional allowance (hereinafter referred to as the depletion allowance) shall be made equal to fifteen per cent. of the total income of such undertaking (before the deduction of such allowance) or fifty per cent. of the capital employed in such undertaking (such capital being computed in accordance with such provisions as may be made by the Board for the purpose of this paragraph), whichever is the less.
- (2) No deduction on account of the depletion allowance shall be allowed under sub-paragraph (1) unless an amount equal to the depletion allowance is debited to the profit and loss account of the relevant tax year and credited to a reserve account to be utilised for the development and expansion of such undertaking.
- (3) Where an allowance by way of depletion allowance has been made in any year and subsequently it is utilised for a purpose not specified in sub-paragraph (2), the amount originally allowed shall be deemed to have been wrongly allowed and the Deputy Commissioner of Taxes may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant tax year and the provisions of sections 93 and 94 shall, so far as may be, apply thereto, the period of four years specified in section 94 being reckoned from the end of the tax year in which the amount was so utilised.

4. Tax exemption of profits from refining or concentrating mineral deposits.-

- (1) Where such undertaking is also engaged in the business of refining or concentrating in Bangladesh the mineral deposits extracted by it in Bangladesh, so much of the profits and gains (hereinafter referred to in sub-paragraph (2) as the said amount of profit and gains) derived from such business as does not exceed five percent of the capital employed in such business, such capital being computed in accordance with such rules as may be made by the Board for the purposes of this paragraph, shall be exempt from tax.
- (2) Where the profits and gains of such business, computed for any year of assessment cover a period which is less or more than one year, the amount of profits and gains exempt under sub-paragraph (1) shall be the amount which bears the same proportion to the said amount of profits and gains at the same proportion as the said period bears to a period of one year.
- (3) The profits and gains of the business to which this paragraph applies shall be computed in accordance with the provisions of sections 28 and 29.
- (4) Nothing contained in this paragraph shall apply to an undertaking which is formed by the splitting up, or the reconstruction of, a business already in existence, or by the transfer to a new business of any building, machinery or plant used in a business which was being carried on, on or before the first day of July, 2012.
- (5) The provisions of this paragraph shall apply to the assessment for the year next following the tax year in which commercial production is commenced, or the loss under paragraph 2(3) or allowance, if any, under paragraph 2(4), as the case may be, has been set off or deducted in full, whichever is the later, and for the next following four years.

Fifth Schedule
Computation of the profits and gains of insurance business
[See section 25]

Part A
Life insurance

1. **Profits on life insurance to be computed separately-**The profits and gains of a taxpayer carrying on life insurance business chargeable under the head “Income from Business” shall be computed separately from the taxpayer’s income from other business. Income from other business shall be profit or loss before tax as per profit and loss account prepared under **বীমা আইন, ২০১০** (২০১০ সনের ১৩ নং আইন), excluding any surplus appropriation made during the year.
2. **Computation of profits and gains of life insurance business.-** The profits and gains of a life insurance business shall be the current year’s surplus appropriated to profit and loss account prepared under **বীমা আইন, ২০১০** (২০১০ সনের ১৩ নং আইন), as per advice of the Appointed Actuary, net of adjustments under **বীমা আইন, ২০১০** (২০১০ সনের ১৩ নং আইন), so as to exclude from it any expenditure other than expenditure which is, under the provisions of section 27, allowed as a deduction in computing profits and gains of a business to the extent of the proportion of surplus not distributed to policy holders.
3. **Computing the Surplus under paragraph 2.-**
 - (1) The following provisions shall apply in computing the surplus for the purposes of paragraph 2, namely:—
 - (a) the amounts paid to, or reserved for, or expended on behalf of policy-holders shall be allowed as a deduction;
 - (b) any amount either written off or reserved in the accounts, or through the actuarial valuation balance sheet to meet depreciation, or loss on the realization of investments shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation, or gains on the realisation of investments shall be included in the surplus; and
 - (c) profit on debt accrued in the inter-valuation period in respect of any securities of the Government which have been issued or declared to be income tax-free shall not be excluded, but shall be exempt from tax.
 - (2) For the purposes of clause (a) of sub-paragraph (1) –
 - (a) in the first computation of the surplus, no account shall be taken of amounts referred to in the said clause to the extent to which they are paid out, or in respect of any surplus brought forward from a previous inter-valuation period; and
 - (b) if any amount reserved for policy-holders ceases to be so reserved, and is not paid to, or expended on behalf of policyholders, the sums previously allowed as a deduction under this Act or the repealed Ordinance shall be treated as part of the respective statutory fund for the tax year in which the amount ceased to be so reserved.
 - (3) For the purposes of clause (b) of sub-paragraph (1), if it appears to the Commissioner, after consultation with the Securities and Exchange Commission of Bangladesh, that the rate of profit on debt or other factors employed in determining the liability in respect of

outstanding policies is inconsistent with the valuation of investments so as artificially to reduce the surplus, বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ may make such adjustment to the allowance for depreciation, or in respect of appreciation, of such investment as the Commissioner thinks reasonable.

4. Adjustment of tax deducted at source.- Where, for any tax year, an assessment of the profits and gains of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter valuation period exceeding twelve months, then, in computing the tax due for that year, no credit shall be allowed for the tax paid in the tax year, but credit shall be given for the annual average of the tax paid by deduction or otherwise on profit on debt received on any security of the Government, a local authority or a company during the period.

Part B

General insurance

5. **General insurance.-** The profits and gains of any business of insurance (other than life insurance) shall be taken to be the balance of the profits disclosed by the annual accounts required under বীমা আইন, ২০১০ (২০১০ সনের ১৩ নং আইন), to be furnished to বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ subject to the following adjustments –
 - (a) any expenditure or allowance, or any reserve or provision for any expenditure, or the amount of any tax deducted at source from dividends or profit on debt received which is not deductible in computing the income chargeable under the head “Income from Business” shall be excluded;
 - (b) any amount either written off or taken to reserve to meet depreciation or loss on the realization of investments shall be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation, or gains on the realization of investments shall be treated as part of the profits and gains, provided the Commissioner considers the amount to be reasonable; and
 - (c) no deduction shall be allowed for any expenditure, allowance, reserve, or provision in excess of the limits laid down in বীমা আইন, ২০১০ (২০১০ সনের ১৩ নং আইন), unless the excess is allowed by বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ and is incurred in deriving income chargeable to tax
6. **Mutual insurance association.-** These rules shall also apply to the assessment of the profits and gains of any business of insurance carried on by a mutual insurance association and such profits and gains shall be chargeable to tax under the head “Income from Business”
7. **Exemption of capital gains from the sale of shares.-** In computing income under this Schedule, there shall not be included “capital gains”, being income from the sale of Mutual Unit Certificates or any instrument of redeemable capital as defined in কোম্পানী আইন, ১৯৯৪ (১৯৯৪ সনের ১৮ নং আইন) listed on any stock exchange in Bangladesh or shares of a public company.
8. **Definitions.-**In this Schedule, –
 - (a) “investments” includes all forms of shares, debentures, bonds, deposits and other securities, derivative instruments, and includes immovable property whether or not occupied by the insurer;
 - (b) “life insurance business” means life insurance business as defined in section 4 of the Insurance Act, 2010 (XXXIX of 2010);and

- (c) বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ means বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ established under বীমা উন্নয়ন ও নিয়ন্ত্রণ কর্তৃপক্ষ, ২০১০ (২০১০ সনের ১২ নং আইন).

Sixth Schedule Depreciation and amortization

Part A Depreciation

1. Depreciation rates for agriculture income in accordance with section 22 shall be,-

Sl. No.	Classification of irrigation or protective work or other capital assets.	Rate in percentage of the written down value, except as otherwise indicated.	Remarks.
(1)	(2)	(3)	(4)
1.	Pacca buildings	10	
2.	Kutchha and pucca buildings	15	
3.	Kutchha buildings	20	
4.	Temporary structure	---	No rate is specified; renewal will be allowed as revenue
5.	Pucca walls	5	
6.	Fencing of substantial material	10	
7.	Tube-well	15	
8.	Tanks	10	
9.	Pucca irrigation channel	15	
10.	Kutchha irrigation channel	20	
11.	Kutchha irrigation wells	33 $\frac{1}{3}$	
12.	Pucca irrigation wells	5	
13.	Bullock drawn iron implements	15	

2. (1) Depreciation rates for business purposes in accordance with **section 27** shall be,-

Sl. No.	Description.	Rate in percentage of the written down value
1.	Building (not otherwise specified)	5 (General rate)
2.	Factory, workshop, cinema, hotel, hospital	10
3.	Residential quarters for employees	10
4.	Furniture (including fittings)	10
5.	Machinery and plant (not otherwise specified)	10 (General rate)
6.	Computer hardware, including printer, monitor and allied items	30
7.	Technical or professional books.	20
8.	Ships: (a) New. (b) Second hand. Age at time of purchase: (i) Not more than ten years (ii) Ten or more years.	5 10 20
9.	Motor vehicles (all types)	20

10.	Aircraft, aero-engines and aerial photographic apparatus	30
11.	Below ground installations in mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part I of the Fifth Schedule	100
12.	Below ground installations, including but not limited to the cost of drilling, casing, cementing, logging and testing of wells, in offshore mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part I of the Fifth Schedule.	100
13.	Offshore platforms and production installation in mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part I of the Fifth Schedule.	20
14.	Furniture (including fittings) and machinery and plant (not otherwise specified), Motor vehicles (all types), ships, technical or professional books.	15
15.	Computer hardware including printer, monitor and allied items, machinery and equipment used in manufacture of I.T. products, aircrafts and aero engines.	30
16.	In case of mineral oil concerns the income of which is liable to be computed in accordance with the rules in Part-I of the Fifth Schedule: (a) Below ground installations (b) Offshore platform and production installations.	100 20
17.	Physical infrastructure undertaking- (a) Bridge (b) Road (c) Fly over (d) Sea port (e) Internal container deport (f) Railway	 2 2 2 2 2 2

- (2) No allowance under this paragraph shall be made for a leasing company on such machinery, plant, vehicle or furniture given to any leasee on financial lease.
- (3) No allowance under paragraph 2 shall be made in the case of any asset falling under the description "Machinery and Plant" the normal useful life of which does not exceed one year, but the cost of renewal or replacement thereof shall be allowed as a revenue expenditure.
- (4) The aggregate of the allowances for depreciation allowed under this Act or the Income-tax Act, 1984 (Ord. No XXXVI of 1984), in respect of any asset, shall not exceed the original cost of the asset.
- (5) Where full effect cannot be given to depreciation allowances under this Schedule in the year in which it is admissible, there being no income chargeable for that year or such income being less than the allowance admissible, then, subject first to carrying forward of the loss, if any, under section 38, the allowances or the part thereof to which effect has not been given shall be added to the amount of the allowance for the following year or, if no allowance is admissible for such following year, shall be deemed to be allowance admissible for such year and so on for

succeeding years till such time as the entire allowance on this account is adjusted against the profits.

- (6) Where the actual cost of a motor vehicle not plying for hire, is, in accordance with paragraph 1 taken to be two million taka, the sale-proceeds thereof shall be taken to be a sum which bears to the amount for which the said vehicle is sold, together with any insurance, salvage or compensation money received or receivable, or as the case may be, scrap value in respect thereof, at the same proportion as the said sum of twenty lakh taka bears to the actual cost of the said vehicle to the assessee, had the said sub-clause not been applicable to such vehicle.

Part B

Balancing charge from the disposal of depreciable property

(See section 26)

1. Where any building, machinery or plant having been used by an assessee for the purpose of any business or profession carried on by him is disposed of during any income year and the sale proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the assessee for that income year classifiable under the head "Income from business or profession".
2. Where any insurance, salvage or compensation moneys are received in any income year in respect of any building, machinery or plant which having been used by the assessee for the purpose of business or profession is discarded, demolished or destroyed and the amount of such moneys exceed the written down value of such building, machinery or plant, so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be the income of the assessee for that income year classifiable under the head "Income from business or profession".

Part C

Amortisation of pre-commencement expenditure

(See section 27)

The rate of amortisation of pre-commencement expenditure under section 27 shall be 20%.

Part D
Amortisation of other intangible assets
(See section 27)

1. A deduction for the amortization of intangible assets used in the generation of income shall be allowed under this section.
2. For the purposes of this section, an “intangible asset” means –
 - (a) a patent, invention, design or model, secret formula or process, trademark, copyright, or any other like property or right;
 - (b) contractual rights with a benefit for a period of more than one year; or
 - (c) an expenditure that provides an advantage or benefit for a period of more than one year, other than expenditure incurred to acquire a depreciable asset, land, works of art, or trading stock.
3. The amortization deduction for a tax year shall be calculated by dividing the cost of the intangible asset by the useful life of the intangible asset in whole years.
4. An intangible asset with a useful life of more than ten years, or that does not have an ascertainable useful life, shall be treated as having a useful life of ten years.
5. If an intangible asset is not used for the whole of the tax year in deriving business income, the amortization deduction for the year is adjusted by multiplying the deduction by the number of days in the tax year that the intangible asset is used in deriving income by the number of days in the tax year.
6. The total amortization deductions allowed to a person under this section in the current tax year and all previous tax years in respect of an intangible asset shall not exceed the cost of the intangible asset.
7. If a person disposes of an intangible asset in a tax year, no amortization deduction shall be allowed for that tax year and –
 - (a) if the consideration received by the person exceeds the written-down value of the intangible asset at the time of disposal, the excess is included in the gross business income of the person for that year; or
 - (b) if the consideration received is less than the written-down value of the intangible asset at the time of disposal, the difference is allowed as a deduction in computing the person’s business income for that year.
8. The written-down value of an intangible at the time of disposal shall be the cost of the intangible reduced by the total amortization deductions allowed to the person under this section in respect of the intangible.
9. If the tax year is less than 12 months, the amortization deduction shall be adjusted by multiplying it by the number of days in the tax year divided by the number of days in the calendar year in which the tax year ends.

Part E

Balancing charge from the disposal of intangible asset (See section 26)

1. Where any intangible property having been used by an assessee for the purpose of any business or profession carried on by him is disposed of during any income year and the proceeds thereof exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be the income of the assessee for that income year classifiable under the head “Income from business or profession”.

Seventh Schedule

Part A Recognized provident fund

(See section)

1. Recognition of provident funds. –

- (1) The Commissioner may accord recognition to any provident fund which, in his opinion, complies with the requirements as may be prescribed, and may at any time, withdraw such recognition if, in his opinion, the circumstances of the fund cease to warrant the continuance of the recognition.
- (2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with such rules as the Board may make in this behalf, such date not being later than the last day of the financial year in which the order is made.
- (3) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to, or merged in, the undertaking of the employer maintaining the first-mentioned fund.
- (4) An order withdrawing recognition shall take effect from such date as the Commissioner may fix.
- (5) The Commissioner shall neither refuse nor withdraw recognition of any provident fund, unless he has given to the trustees of the fund a reasonable opportunity of being heard.

2. Conditions for approval.-

- (1) In order that a provident fund may receive and retain recognition it shall satisfy the conditions hereinafter specified and any other conditions which the Board may, by rules, prescribe -
 - (a) all employees shall be employed in Bangladesh , or shall be employed by an employer whose principal place of business is in Bangladesh:

Provided that the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in Bangladesh, provided the proportion of employees employed outside Bangladesh does not exceed ten *per cent*;

- (b) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund:

Provided that an employee, who retains his employment while serving in armed forces of Bangladesh or when taken into, or employed in, the national service under any law for the time being in force, may, whether he receives from the employer any salary or not contribute to the fund during his service in the armed forces of Bangladesh or while so taken into, or employed in, the national service a sum not

exceeding the amount he would have contributed had he continued to serve the employer;

- (c) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year:

Provided that, subject to any rules which the Board may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of this clause -

- (i) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not, in each case, exceed five hundred taka per month;
 - (ii) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund;
- (d) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund:

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and accumulations thereof;

- (e) the fund shall be vested in two or more trustees or in the Official Trustees under a trust which shall not be recoverable save with the consent of all the beneficiaries;
- (f) the fund shall consist of contributions as above specified, received by the trustees, or accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums;
- (g) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund:

Provided that notwithstanding anything contained in clause (f) or (g):-

- (i) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand;
 - (ii) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance;

(iii) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof;

(h) save as provided in clause (g) or in accordance with such conditions and restrictions as the Board may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him:

Provided that in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 7, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 7 had not been included in his total income.

3. Employer's annual contributions, when deemed to be income received by employee. –

That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of -

- (a) contributions made by the employer in excess of one-tenth of the salary of the employee; and
- (b) interest credited on the balance to the credit of the employee in so far as it exceeds one-third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Government in this behalf by notification in the official Gazette, shall be treated to have been received by the employee in that year and shall be included in his total income for that year and shall be liable to income tax.

4. Exclusion from total income of accumulated balance. –

- (1) Subject to such rules as may be made by the Board in this behalf, the accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income.
- (2) The provisions of sub-rule (1) shall also apply where, on the cessation of his employment, the employee obtains employment with any other employer and the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.

5. Tax on accumulated balance.-

Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, the Commissioner shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund and the amount by which such total exceeds the total of all sums paid by, or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other tax for which he may be liable for the tax year in which the accumulated balance due to him becomes payable.

6. Deduction at source of tax payable on accumulated balance. –

The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balance due to employees shall, in cases where rule 5 applies, at the time an accumulated balance due to an employee is paid, deduct therefrom the amount payable under that rule and the provisions of **Part V of Chapter X** shall, so far as may be, apply as if the accumulated balance were income chargeable under the head "Salary".

7. Treatment of balance in newly recognised provident fund. –

- (1) Where recognition is accorded to a provident fund with existing balance, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect showing the balance to the credit of each employee on such day and containing such further particulars as the Board may prescribe.
- (2) The account referred to in **sub-rule (1)** shall also show in respect of the balance to the credit of an employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his 'transferred balance') shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and the provisions **of sub-rule (4) and the proviso to clause (h) of rule 2** shall apply thereto.
- (3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income tax in accordance with the provisions of this Act, other than this Part.
- (4) Subject to such rules as the Board may make in this behalf, the Commissioner shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate, if any, shall be deemed to be income received by the employee in the tax year in which the recognition of the fund takes effect and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance:

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate.

- (5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employees, before recognition is accorded, in any manner which may be lawful.

8. Accounts of recognised provident funds. –

- (1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as may be prescribed.
- (2) The accounts shall be open to inspection at all reasonable times by income tax authorities, and the trustees shall furnish to the Commissioner such abstracts thereof as may be prescribed.

9. Treatment of fund transferred by employer to trustee. –

- (1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.
- (2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangement

to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer, within the meaning of **section incurred** in the tax year in which the accumulated balance due to the employee is paid.

10. Particulars to be furnished in respect of recognised provident funds. -

The trustees of a recognised provident fund and any employer who contributes to a recognised provident fund shall, when required by notice from the Commissioner, within such period (not being less than twenty one days from the date of service of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Commissioner may require.

11. Provisions of this Part to prevail against regulations of the fund. –

Where there is repugnance between any regulations of a recognised provident fund and any provision of this Part or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect, and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

12. Appeals. –

- (1) An employer objecting to an order of Commissioner refusing to recognise, or an order withdrawing recognition from a provident fund may appeal, within sixty days of the service of such order, to the Board.
- (2) The Board may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.
- (3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

13. Provisions relating to rules. –

In addition to any power conferred by this Part, the Board may make rules:-

- (a) prescribing the form of application for recognition and the statement and other particulars and documents to be submitted therewith;
- (b) limiting the contributions to a recognised provident fund by employees of a company, who are shareholders in the company;
- (c) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund;
- (d) determining the extent to, and the manner in, which exemption from payment of tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn;
- (e) regulating the investment of the moneys of a recognised provident fund; and
- (f) generally, to carry out the purposes of this Part and to secure such further control over the recognition of provident funds and the administration of recognised provident funds as it may deem requisite.

14. Definitions. –

In this Part, unless the context otherwise requires ,

- (a) "accumulated balance due to an employee" means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund;

- (b) "annual accretion" in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest;
- (c) "balance to the credit of an employee" means the total amount to the credit of his individual account in a provident fund at any time;
- (d) "contribution" means any sum credited by or on behalf of, any employee out of his salary or by an employer out of his own money, to the individual account of an employee, but does not include any sum credited as interest;
- (e) "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;
- (f) "employer" means any person who maintains a provident fund for the benefit of his or its employees, being an individual, a company or an association of persons engaged in any business the profits and gains whereof are chargeable to income tax under the head "Income from Business";
- (g) "regulations of fund" means the special body of regulations governing the constitution and administration of a particular provident fund; and
- (h) "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites.

15. Application of this Part.-

This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

Part B

Approved superannuation fund or pension fund

[See section]

1. Approval of superannuation fund. –

- (1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 2, and may, at any time withdraw such approval if, in his opinion, the circumstances of the fund or the part, as the case may be, cease to warrant the continuance of the approval.
- (2) An order according approval or withdrawing approval shall take effect from such date as the Commissioner may fix.
- (3) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

2. Conditions for approval. –

In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Board may, by rules prescribe -

- (a) the fund shall be a fund established under an irrevocable trust, in connection with a trade or undertaking carried on in Bangladesh, and not less than ninety per cent of the employees shall be employed in Bangladesh;

- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for widows, children or dependants of persons who are or have been such employees on the death of these persons;
- (c) the employer in the trade or undertaking shall be a contributor to the fund; and
- (d) all annuities, pensions and other benefits granted from the fund shall be payable only in Bangladesh.

3. Application for approval. –

- (1) An application for approval of a superannuation fund, or part of a superannuation fund, shall be made in writing by the trustees of the fund to the Commissioner by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the regulations and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the funds relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.
- (2) If any alteration in the regulations, constitutions, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Commissioner mentioned in sub-rule (1), and, in default of such communication, any approval given shall, unless the Commissioner otherwise directs, be deemed to have been withdrawn from the date on which the alteration took effect.

4. Contributions by employer, when deemed to be his income.-

Where any contributions by an employer (including the interest thereon, if any), are repaid to the employer, the amount so repaid shall be deemed for the purpose of tax to be the income of the employer of the tax year in which it is so repaid.

5. Deduction of tax on contributions paid to an employee. –

Where any contributions made by an employer (including interest on contributions, if any), are repaid to an employee during his life-time in circumstances other than those referred to in clause (25) of Part I of the Second Schedule, tax on the amount so repaid shall be deducted by the trustees at the average rate of tax at which the employee was liable to tax during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Government within such time and in such manner as may be prescribed.

6. Deduction from pay of and contributions on behalf of employees to be included in a statement under section

Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in a statement which he is required to furnish under section

7. Liability of trustees on cessation of approval. –

If a fund, or a part of a fund, for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund, as the case may be, ceased to be an approved superannuation fund under the provisions of this Part.

8. Particulars to be furnished in respect of superannuation fund. –

The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Commissioner, within such period (not being less than twenty-one days from the date of service of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Commissioner may require.

9. Provisions of the Part to prevail against regulations of the fund. -

Where there is a repugnance between any regulation of an approved superannuation fund and any provision of this Part or of the rules made thereunder the regulation shall, to the extent of the repugnance, be of no effect ; and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

10. Appeals. –

- (1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of the service of such order, to the Board.
- (2) The Board may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.
- (3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

11. Provisions relating to rules. –

- (1) In addition to any power conferred by this Part, the Board may make rules -
 - (a) prescribing the statements and other information to be submitted along with an application for approval;
 - (b) prescribing the returns, statements, particulars, or information which the Commissioner may require from the trustees of an approved superannuation fund or from the employer;
 - (c) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer;
 - (d) regulating the investment or deposit of the moneys of any approved superannuation fund;
 - (e) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund;
 - (f) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder; and
 - (g) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administration of approved superannuation funds as it may deem requisite.

Part C
Approved gratuity fund
[See sections]

1. Approval of Gratuity Funds. –

- (1) The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 2 and may, at any time, withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval.
- (2) An order according approval or withdrawing approval shall take effect from such date as the Commissioner may fix.
- (3) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

2. Conditions for approval. –

In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Board may, by rules, prescribe –

- (a) the fund shall be a fund established under an irrevocable trust in connection with trade or undertaking carried on in Bangladesh, and not less than ninety *per cent* of the employees shall be employed in Bangladesh;
- (b) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or on termination of their employment after a minimum period of service specified in the regulations of the fund or to the widows, children or dependents of such employees on their death;
- (c) the employer in the trade or undertaking shall be a contributor to the fund; and
- (d) all benefits granted by the fund shall be payable only in Bangladesh.

3. Application for approval. –

- (1) An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Commissioner by whom the employer is assessable and shall be accompanied by copy of the instrument under which the fund is established and by two copies of the rules and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding year in which the said application is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.
- (2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Commissioner mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

4. Gratuity deemed to be salary. –

Where any gratuity is paid to an employee during his life-time, the gratuity shall be treated as salary paid to the employee for the purposes of this Act.

5. Liability of trustees on cessation of approval. –

If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee.

6. Contributions by employer, when deemed to be his income.-

Where any contributions by an employer including the interest thereon, if any, are repaid to the employer, the amount so repaid shall be deemed for the purposes of tax to be the income of the employer of the tax year in which they are so repaid.

7. Particulars to be furnished in respect of gratuity funds. –

The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Commissioner, furnish, within such period not being less than twenty-one days from the date of service of the notice as may be specified in the notice, such return, statement, particulars or information, as the Commissioner may require.

8. Provisions of the Part to prevail against regulations of the fund. –

Where there is a repugnance between any rule of an approved gratuity fund and any provision of this Part or of the rules made thereunder the said rule shall, to the extent of repugnance, be of no effect and the Commissioner may, at any time, require that such repugnance shall be removed from the rules of the fund.

9. Appeals. –

- (1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of the receipt of such order, to the Board.
- (2) The Board may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.
- (3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

10. Provisions relating to rules. –

- (1) In addition to any power conferred in this Part, the Board may make rules –
 - (a) prescribing the statements and other information to be submitted along with an application for approval;
 - (b) limiting the ordinary annual and other contributions of an employer to the fund;
 - (c) regulating the investment or deposit of the moneys of an approved gratuity fund;
 - (d) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund;
 - (e) providing for withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder; and
 - (f) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite.

Eighth Schedule

PART A

Exclusion from total income for persons other than a company

[See section 44(1)]

1. (1) Any income derived from house property held under trust or other legal obligation, other than a NGO, wholly for religious or charitable purposes.

(2) where income referred to in sub-paragraph (1) is partly held for religious or charitable purposes, the income applied, or finally set apart for application, thereto.
2. Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes:
Provided that nothing contained in paragraph 1 or 2 shall operate to exempt from the provisions of this Act that part of the total income of a private religious trust which does not ensure for the benefit of the public.
3. Any income derived from operation of micro credit by a non-government organisation registered with NGO Affairs Bureau.
4. The income of a local government.
5. (1) Any income accruing to, or derived by, a provident fund to which the Provident Fund Act, 1925 (XIX of 1925), applies.

(2) Any income accruing to, or derived by, workers participation fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968), subject to any such conditions and limits as may be prescribed.

(3) Any income received by the trustees on behalf of a recognised provident fund, an approved superannuation fund and an approved gratuity fund.
6. Any special allowance, benefits or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
7. Any income received.-
 - (a) by any ambassador, high commissioner, envoy, minister, charge d'affairs, commissioner, counsellor, consul de carriere, secretary, adviser or attache of an embassy, high commission, legation or commission of a foreign State, as remuneration from such State for service in such capacity;
 - (b) by a trade commissioner or other official representative in Bangladesh of a foreign State (not holding office as such in an honorary capacity) as his official salary, if the official salary of the corresponding officials, if any, of the Government, resident for similar purposes in the country concerned, enjoy a similar exemption in that country;
 - (c) Salary income received or deemed to have been received from the United Nations or its subsidiary organizations.
8. Any pension due to, or received by an assessee.
9. Any income received by an assessee in respect of any share of income out of the capital gains on which tax has been paid by the firm of which the assessee is a partner.

10. Any income of an assessee representing payment received as gratuity.
11. Any payment from.-
 - (a) A provident fund to which the Provident Funds Act, 1925 (XIX of 1925), applies; or
 - (b) a recognised provident fund, subject to any such conditions and limits as may be prescribed; or
 - (c) an approved superannuation fund, subject to any such conditions and limits as may be prescribed; or
 - (d) a workers participation fund established under the Companies Profit (Workers Participation) Act, 1968 (XII of 1968), subject to any such conditions and limits as may be prescribed.
12. Any sum representing interest credited on the accumulated balance of an employee in a recognised provident fund, in so far as it does not exceed one-third of the salary of the employee for the year concerned and in so far as it is allowed at a rate not exceeding such rate as the Board may, by notification in the official Gazette, fix in this behalf.
13. Any amount received by an employee of a Government organisation, a local authority, or an autonomous or semi-autonomous body including the units or enterprises controlled by it, at the time of his voluntary retirement in accordance with any scheme approved by the Government in this behalf.
14. Notwithstanding anything contained in any order or regulation for the time being in force, any income of an individual, being an indigenous hillman of any of the hill districts of Rangamati, Bandarban and Khagrachari, which has been derived solely from economic activities undertaken within the said hill districts.
15. Any income, not exceeding fifty thousand taka, chargeable under the head “Agricultural income” of an assessee, being an individual, whose only source of income is agriculture.
16. Any income derived from the business of software development and Information Technology Enabled Services (ITES) for the period from the first day of July, 2008 to the thirtieth day of June, 2011:
Explanation.-Information Technology Enabled Services (ITES) means Digital Content Development and Management, Animation (both 2D and 3D), Geographic Information Services (GIS), IT Support and Software Maintenance Services, Web Site Services, Medical Transcription, Business Process Outsourcing, Data entry, Data Processing, Call Centre, Computer Aided Engineering and Design, Remote IT Maintenance.
17. Subject to the conditions made hereunder any income from fisheries, poultry, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, horticulture, frog farming, mushroom farming, floriculture, sericulture-
 - (a) if such income exceeds taka 2,00,000/- an amount not less than 10% of the said income shall be invested in the purchase of bond or securities issued by the Government within six month from the end of the income year;
 - (b) the person shall file return in accordance with the provisions of section 75(2)(c) of the Act; and
 - (c) no such income shall be transferred within five years from the end of the income year.

18. Any income derived from the export of handicrafts for the period from the first day of July, 2008 to the thirtieth day of June, 2011.
19. Income of any private Agricultural College or private Agricultural University derived from agricultural educational activities.
20. Income of district, divisional or national level sports association or national level sports federation or national sports council.
21. Exemption of income of co-operative societies.-
 - (1) The tax shall not be payable by a co-operative society including a co-operative society carrying on the business of banking in respect of—
 - (a) so much of its income as is derived by it as a result of such of its dealings with its members as involve sale of goods, the lending of money or the lease of buildings and land which is for the personal use of such members, or where such member is a firm or an association of persons, for the personal use of the partners or members thereof;
 - (b) the entire income from business carried on by it, if it is engaged in the following:—
 - (i) agricultural or rural credit;
 - (ii) cottage industry;
 - (iii) marketing of agricultural produce of its members;
 - (iv) purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members; or
 - (v) such processing, not being the performance of any manufacturing operation with the aid of power, of the agricultural produce of its members as is ordinarily employed by a cultivator to render marketable the agricultural produce raised by him;
 - (c) any income from interest and dividends derived from its investments with any other co-operative society; and
 - (d) any income derived from the letting of godowns or warehouses for the purpose of storage, processing or facilitating the marketing of commodities belonging or meant for sale to its members.

Explanation.—For the purpose of this section,—

- (a) “cottage industry” means an enterprise, not being owned by a joint stock company which fulfils the following conditions, namely:—
 - (i) it is basically an enterprise in which the owner is the investor, a full-time worker and the actual entrepreneur;
 - (ii) the capital invested in plant, machinery and equipment does not exceed five hundred thousand taka at any time during the tax year;
 - (iii) the number of workers, including the owner and the members of his family, shall not on any one twenty-four hour day during the tax year, exceed fifteen; and
 - (iv) the owner of the enterprise or any member of his family does not own any other industrial or commercial enterprise either in his own name or in the name of any other person; and
- (b) “member of his family”, in relation to the owner of an enterprise, means the parents, spouse and children dependent on the owner and employed in the

enterprise, whether working full-time or part-time, or whether for or without any wages, remuneration or compensation in any form.

- (2) Nothing contained in sub-section (1) shall apply to a co-operative society carrying on such business of insurance as is carried on by a mutual insurance association in respect of its profits and gains to which paragraph 8 of the Fourth Schedule applies.

Part B
Exclusion from total income for persons being a company

(see section-----)

1. Income from poultry farming, cattle farming, dairy farming, frog farming, horticulture, mushroom farming, floriculture, dairy up to June 2015. Provided that when the income of such farming exceeds three hundred thousand taka, ten percent of such income shall be invested in the purchase of bonds or securities issued by the Government within ninety days of the end of the tax year.
2. Income from business of a new manufacturing unit for the first two years from commencement of commercial operation if-
 - (a) the new manufacturing unit begins commercial operation within 30th June 2009; and
 - (b) the accounts of the new manufacturing unit are separately maintained; and
 - (c) the machinery used in the new manufacturing unit was not previously used in Bangladesh; and
 - (d) the new manufacturing unit are not engaged in producing goods which was earlier produced by other units of the company; and
 - (e) the new manufacturing unit is engaged in producing textile, textile machinery, jute goods, high value garments, pharmaceuticals, melamine, plastic products, ceramics, sanitary ware, steel from iron ore, MS Rod, CI Sheet, fertilizer, insecticide and pesticide, computer hardware, petro-chemicals, agriculture machinery, boilers, compressors, energy saving bulb, solar energy panel, barrier contraceptive or rubber latex, basic raw materials of drugs, chemicals and pharmaceuticals and any other category of industrial undertaking as the Government may by notification in the official Gazette specify;
3. Income from business of a new physical infrastructure facility for the first four years from commencement of commercial operation if-
 - (a) the physical infrastructure facility begins commercial operation within 30th June 2009; and
 - (b) the accounts of the new physical infrastructure facility are separately maintained; and
 - (c) the machinery used in the new physical infrastructure facility was not previously used in Bangladesh; and
 - (d) for the purpose of this paragraph "physical infrastructure facility" means power generation unit, sea or river port, container terminals, internal container depot, container freight station, Liquefied Natural Gas (LNG) terminal and transmission line, Compressed Natural Gas (CNG) terminal and transmission line, gas pipe line, flyover, mono-rail, underground rail, telecommunication other than mobile phone, large water treatment plant and supply through pipe line, waste treatment plant, solar energy plant, export processing zone and any other category of physical infrastructure facility as the Government may by notification in the official Gazette specify;
4. Income of a stock exchange

Ninth Schedule
Concessionary rate of tax on income
(see section 210)

1. Tax at the rate of five per cent. on income of a company from production of pelleted poultry feed;
2. Tax at the rate of five per cent. on income of a company from fish farming.
3. Tax at the rate of twenty per cent. for the first three years on income from business of a company engaged in manufacturing goods in a export processing zone.
4. Tax at the rate of twenty per cent. on income from business of a new manufacturing unit for the third, fourth and fifth year from commencement of commercial operation if-
 - (a) the new manufacturing unit begins commercial operation within 30th June 2009; and
 - (b) the accounts or the new manufacturing unit are separately maintained; and
 - (c) the machinery used in the new manufacturing unit was not previously used in Bangladesh; and
 - (d) the new manufacturing unit are not engaged in producing goods which was earlier produced by other units of the company; and
 - (e) the new manufacturing unit is engaged in producing textile, textile machinery, jute goods, high value garments, pharmaceuticals, melamine, plastic products, ceramics, sanitary ware, steel from iron ore, MS Rod, CI Sheet, fertilizer, insecticide and pesticide, computer hardware, petro-chemicals, agriculture machinery, boilers, compressors, energy saving bulb, solar energy panel, barrier contraceptive or rubber latex, basic raw materials of drugs, chemicals and pharmaceuticals and any other category of industrial undertaking as the Government may by notification in the official Gazette specify;
5. Income from business of a new physical infrastructure facility for the fifth, sixth and seventh year from commencement of commercial operation if-
 - (a) the physical infrastructure facility begins commercial operation within 30th June 2009; and
 - (b) the accounts or the new physical infrastructure facility are separately maintained; and
 - (c) the machinery used in the new physical infrastructure facility was not previously used in Bangladesh; and
 - (d) for the purpose of this paragraph "physical infrastructure facility" means power generation unit, sea or river port, container terminals, internal container depot, container freight station, Liquefied Natural Gas (LNG) terminal and transmission line, Compressed Natural Gas (CNG) terminal and transmission line, gas pipe line, flyover, mono-rail, underground rail, telecommunication other than mobile phone, large water treatment plant and supply through pipe line, waste treatment plant, solar energy plant, export processing zone and any other category of physical infrastructure facility as the Government may by notification in the official Gazette specify;

Tenth Schedule

Part A

Items subject to tax rebate at specified rate

[See section 217]

1. Any sum paid by an assessee, being an individual, to effect an insurance, or a contract for deferred annuity, on the life of the assessee or on the life of a wife or husband or a minor child of the assessee, subject to the limit of such payment, in the case of insurance, to ten per cent. of the actual sum assured excluding bonus or other benefits.
2. Any sum deducted from salary payable by or on behalf of the Government to any individual, being a sum deducted in accordance with the conditions of his service for the purpose of securing to him a deferred annuity or of making provisions for his wife or children, provided that the sum so deducted shall not exceed one-fifth of the salary.
3. Any sum paid by the assessee as a contribution to any provident fund to which Provident Fund Act, 1925 (XIX of 1925), applies.
4. Any sum representing the assessee's and the employer's contribution to a recognised provident fund in which the assessee is a participant.
5. Any sum paid by the assessee as ordinary annual contribution to approved superannuation fund in which the assessee is a participant.
6. (1) Subject to the maximum laid down in sub-paragraph (2), any sum invested by an assessee, not being a company, in the purchase of the following, namely:—
 - (a) such savings certificates or instruments as the Board may specify in this behalf.
 - (b) unit certificates and mutual fund] certificates issued by the Investment Corporation of Bangladesh and its subsidiaries;
 - (c) such Government securities (including Development loans or Bonds) as the Board may specify in this behalf ; and
 - (d) shares of such investment companies as the Board may specify in this behalf.
 - (e) for the purpose of clause (d) “investment companies” means companies engaged principally or wholly in buying and selling securities of other companies and includes a company eighty per cent. of whose paid up capital is employed at any one time as investment in other companies, but does not include a bank or an insurance company or a corporation which is a member of stock exchange.
- (2) Where any certificate, security or share (herein referred to as “the certificate”) to which clause (a), (b), (c) and (d) of sub-paragraph (1) apply and in respect of which any credit in tax has been allowed to the assessee, is disposed of by sale, transfer or in any other manner within five years from the date of its purchase or before the maturity thereof, as the case may be, then, notwithstanding anything contained in this Act, the amount of tax payable by the assessee under the other provisions of this Act in respect of the income year in which such certificate was so disposed of, shall be increased by an amount equal to the credit in tax allowed to the assessee in respect of such certificate (hereinafter referred to as the “said amount”) and the sum so arrived at or where no tax is payable by the assessee under the other provisions of this Act in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and other provisions of this Act shall, so far as may be, apply accordingly.

7. Any sum contributed by an individual in any deposit pension scheme sponsored by the Government or by a Scheduled Bank.
8. Any sum paid by an assessee as Zakat to the Zakat Fund or as donation or contribution to a charitable fund established by or under the Zakat Fund Ordinance, 1982 (XI of 1982).
9. Any sum paid by an assessee as donation to any socio-economic or cultural development institution established in Bangladesh by the Aga Khan Development Network.
10. Any sum paid by an assessee as donation to a philanthropic or educational institution which is approved by the Government for this purpose.
11. Any sum invested in the purchase of one computer or one laptop by an individual assessee.
12. Contribution made to National and International sports competition.
13. Any contribution made in the corporate social responsibility by a company where-
 - (a) the contribution is not charged in profit and loss account of the company; and
 - (b) the institution to which this contribution is made is approved by the Board; and
 - (c) the institution is engaged in the following activities-
 - (i) waste treatment or waste management;
 - (ii) old age home;
 - (iii) welfare of the retarded people;
 - (iv) public university or college or vocational institutions;
 - (v) voluntary sterilization camp or propagation of family planning;
 - (vi) disaster relief and rehabilitation;
 - (vii) rehabilitation of acid survivals;
 - (viii) eye camp.

Part B

Items subject to tax rebate at average rate

1. Any sum being the share or portion of the share of the assessee in the income of a firm if tax of such income has already been paid by the firm:

Provided that where there is included in the total income of an assessee any income exempted under this paragraph, the tax payable by the assessee shall be an amount bearing to the total amount of the tax which would have been payable on the total income had no part of it been exempted, at the same proportion as the unexempted portion of the total income bears to the total income.

2. Any sum which the assessee is entitled to receive out of the income of an association of persons (other than a company or a firm) on which tax has already been paid by the association:

Provided that where there is included in the total income of an assessee any income exempted under this paragraph, the tax payable by the assessee shall be an amount bearing to the total amount of the tax which would have been payable on the total income had no part of it been exempted, at the same proportion as the unexempted portion of the total income bears to the total income.