



**PART-A**

**Basic Amendments for A.Y. 2014-15**

**I. Rates of income-tax in respect of income liable to tax for the assessment year 2014-2015.**

In respect of income of all categories of assessee liable to tax for the assessment year 2014-2015, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance Act, 2013, for the purposes of computation of “advance tax”, deduction of tax at source from “Salaries” and charging of tax payable in certain cases.

**(1) Surcharge on income-tax—**

Surcharge shall be levied in respect of income liable to tax for the assessment year 2014-2015, in the following cases:—

- (a) *in the case of every individual or Hindu undivided family or every association of persons or body of individuals*, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), cooperative societies, firms or local bodies, the amount of income-tax shall be increased by a surcharge for the purposes of the Union at the **rate of ten per cent.** of such income-tax in case of a person having a total income exceeding **one crore rupees** .

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income **exceeding one crore rupees** shall not exceed the total amount payable as income-tax on a total income of **one crore rupees by more than the amount of income that exceeds one crore rupees.**

Also, in the case of persons mentioned in (a) above having total income chargeable to tax under section 115JC of the Act and where such income exceeds one crore rupees, surcharge at the rate mentioned above shall be levied and marginal relief shall also be provided.

**(b) in the case of a domestic company-**

- (i) having total income exceeding **one crore rupees** but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at **the rate of five per cent.** of such income tax;
- (ii) having total income exceeding **ten crore rupees**, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the **rate of ten per cent** of such income-tax.

**(c) in the case of a company, other than a domestic company,-**

- (i) having total income exceeding **one crore rupees** but not **exceeding ten crore rupees**, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the **rate of two per cent.** of such income tax.
- (ii) having total income exceeding **ten crore rupees**, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the **rate of five per cent.** of such income-tax.

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore

rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Also, in the case of every company having total income chargeable to tax under section 115JB of the Act and where such income exceeds one crore rupees but does not exceed ten crore rupees, or exceeds ten crore rupees, as the case may be, surcharge at the rates mentioned above shall be levied and marginal relief shall also be provided.

*(d) In other cases (including sections 115-O, 115QA, 115R or 115TA), the surcharge shall be levied at the rate of ten percent.*

### **Marginal Relief (In Brief)**

- a. In case of I,II and III below, i.e. case of Individual, Huf, Local authority and Firm, where the total income exceeds ` 1 crore, then, the aggregate of income tax and surcharge shall be restricted to:  
(Tax on ` 1 crore) + ( Total Income- ` 1 Crore)
- b. In case of domestic/Foreign Company, where the total income exceeds ` 1 crore but does not exceed ` 10 crores, then the aggregate of income tax and surcharge shall be restricted to:  
Tax on ` 1 crore) + (Total Income - ` 1 crore)
- c. In case of domestic company, where the total income exceeds ` 10 crore, then the aggregate of income tax and surcharge shall be restricted to:  
(Tax on ` 10 crore with surcharge of 5%) + (Total Income - ` 10 crore)
- d. In case of foreign company, where the total income exceeds ` 10 crore, then the aggregate of income tax and surcharge shall be restricted to:
- e. (Tax on ` 10 crore with surcharge of 2%) + (Total Income - ` 10 crore)

### **(2) Education Cess —**

For assessment year 2014-2015, additional surcharge called the “Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax” shall continue to be levied at the rate of two per cent. and one per cent., respectively, on the amount of tax computed, inclusive of surcharge, in all cases. No marginal relief shall be available in respect of such Cess.

### **II. Rates for deduction of income-tax at source during the financial year 2014-2015 from certain incomes other than “Salaries”.**

The rates for deduction of income-tax at source during the financial year 2014-2015 from certain incomes other than “Salaries” have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2013, for the purposes of deduction of income-tax at source during the financial year 2013-2014.

### **(1) Surcharge—**

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees . The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,-

- (i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;
- (ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

No surcharge will be levied on deductions in other cases.

**(2) Education Cess—**

“Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax” shall continue to be levied at the rate of two per cent. and one per cent. respectively, of income tax including surcharge wherever applicable, in the cases of persons not resident in India including company other than a domestic company.

**III. Rates for deduction of income-tax at source from “Salaries”, computation of “advance tax” and charging of income-tax in special cases during the financial year 2014-2015.**

The rates for deduction of income-tax at source from “Salaries” during the financial year 2014-2015 and also for computation of “advance tax” payable during the said year in the case of all categories of assesseees have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 2014-2015 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc.

The salient features of the rates specified in the said Part III are indicated in the following paragraphs—

**A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.**

Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:-

- (i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Upto Rs.2,50,000	Nil.
Rs. 2,50,001 to Rs. 5,00,000	10 per cent.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

- (ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs. 5,00,000	10 per cent.
Rs. 5,00,001 to Rs.10,00,000	20 per cent.

Direct Tax Amendment for F.Y. 2014-15

Part [1/5]

Above Rs. 10,00,000	30 per cent.
(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year,—	
Upto Rs. 5,00,000	Nil.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a person having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**B. Co-operative Societies**

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for financial year 2013-14.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a co-operative society having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**C. Firms**

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for financial year 2013-2014.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a firm having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**D. Local authorities**

The rate of income-tax in the case of every local authority is specified in Paragraph D of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the financial year 2013-2014.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a local authority having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore

rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

#### **E. Companies**

The rates of income-tax in the case of companies are specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified for the financial year 2013-2014.

The existing surcharge of five per cent in case of a domestic company shall continue to be levied if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of ten percent shall continue to be levied if the total income of the domestic company exceeds ten crore rupees. In case of companies other than domestic companies, the existing surcharge of two per cent. shall continue to be levied if the total income exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of five percent shall continue to be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

In other cases (including sections 115-O, 115QA, 115R or 115TA) the surcharge shall continue to be levied at the rate of ten percent.

For financial year 2014-2015, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent. respectively, on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such Cess.

#### **Definition of Capital Assets**

"**Capital Asset**" means:

- a) Property of any kind held by an assessee, whether or not connected with his business or profession;
- b) Any security held by a foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the securities and Exchange Board in India Act, 1992,

But does not include-

- i) Any stock-in-trade [other than the securities referred to in sub-clause (b)],

#### ***Explanation 2- For the purposes of this clause-***

- a) The expression "Foreign Institutional Investor" means such investor as Central Government may, by notification in the Official Gazette, specify in this behalf;
- b) The expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956

### Characterisation of Income in case of Foreign Institutional Investors

Section 2 (14) of the Act defines the term "capital asset" to include property of any kind held by an assessee, whether or not connected with his business or profession, but does not include any stock-in-trade or personal assets as provided in the definition.

The foreign portfolio investors (referred as foreign institutional investors in the Act) face a difficulty in characterisation of their income arising from transaction in securities as to whether it is capital gain or business income. Further, the fund manager managing the funds of such investor remains outside India under the apprehension that its presence in India may have adverse tax consequences.

Therefore, in order to end this uncertainty, it is proposed to amend the Act to provide that any security held by foreign institutional investor which has invested in such security in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be treated as capital asset only so that any income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain.

This amendment will take effect from 1<sup>st</sup> April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

#### **Capital Gain Tenure:**

1. In relation to the assets referred to in (i) to (v) above, the option to take fair market value as on 1-4-1981 is available. If bonus shares were allotted before 1-4-1981, then FMV as on 1-4-1981 shall be the case of bonus shares.
2. Security means as defined in the Securities Contracts (Regulation) Act, 1956.
3. Section 2(42A) defines a short term capital asset to mean a capital asset held by an assessee for not more than 36 months immediately preceding the date of its transfer.

However, in case of-

- Any security (other than a unit) listed on a recognized stock exchange in India; or
- A unit of Unit Trust of India; or
- A Unit of an equity oriented fund; or
- A Zero coupon bond

The period of holding should be 12 months or less to qualify as short- term capital asset. However, in case of unlisted shares of a company and units of Mutual Fund (other than Equity Oriented Fund) which are transferred during the period beginning on 1-4-2014 and ending on 10th July, 2014, the period of holding shall be taken as 12 months or less to qualify as short term capital gains.

S.no.	Capital Assets	Holding period to qualify as short term capital asset under the existing provisions	Holding period to qualify as short term capital asset under amended provisions effective from Assessment year 2015-16
1	Shares of a company listed on a recognized stock exchange	12 months or less	12 months or less
2	Unlisted shares of Companies	12 months or less	12 months or less (if transferred on or before 10-7-2014)

Direct Tax Ammendment for F.Y. 2014-15  
Part [1/5]

			36 months or less (if transferred on or after 11-7-2014)
3	Units of equity oriented mutual funds	12 months or less	12 months or less
4	Units of debt oriented mutual funds	12 months or less	12 months or less (if transferred on or before 10-7-2014) 36 months or less (if transferred on or after 11-7-2014)
5	Units of Business Truse		36 months or less

According to Finance Bill  
**Long-term Capital Gains on debt oriented Mutual Fund and its qualification as Short-term capital asset**

The existing provisions contained in clause (42A) of section 2 of the Act provides that short-term capital asset means a capital asset held by an assessee for not more than thirty six months immediately preceding the date of its transfer. However, in the case of a share held in a company or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India or a unit of a Mutual Fund or a zero coupon bond, the period of holding for qualifying it as short-term capital asset is not more than twelve months.

The shorter period of holding of not more than twelve months for consideration as short-term capital asset was introduced for encouraging investment on stock market where prices of the securities are market determined.

Accordingly, it is proposed to amend the aforesaid clause (42A) of section 2 so as to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty-six months.

These amendments will take effect from 1<sup>st</sup> April, 2015 and will accordingly apply, in relation to the assessment year 2015-16 and subsequent assessment years.

**Tax on long-term capital gains on units**

Under the existing provisions of section 112 of the Act, where tax payable on long-term capital gains arising on transfer of a capital asset, being listed securities or unit or zero coupon bond exceeds ten per cent. of the amount of capital gains before allowing for indexation adjustment, then such excess shall be ignored. As long-term capital gains is not chargeable to tax in the case of transfer of a unit of an equity oriented fund which is liable to securities transaction tax, the benefit under section 112 in respect of unit cover only the unit of a fund, other than an equity oriented fund.

It is proposed to amend the provisions of section 112 so as to allow the concessional rate of tax of ten per cent. on long term capital gain to listed securities (other than unit) and zero coupon bonds.

This amendment will take effect from 1<sup>st</sup> April, 2015 and will accordingly apply, in relation to the assessment year 2015-16 and subsequent assessment years.

**Capital gains arising from transfer of an asset by way of compulsory acquisition**

The existing provisions contained in section 45 provide for charging of any profits or gains arising from transfer of a capital asset. Sub-section (5) of the said section provides for dealing with capital gains arising from transfer by way of compulsory acquisition where the compensation is enhanced or further enhanced by the court, Tribunal or any other authority. Clause (b) of the said sub-section provides that where the amount of compensation is enhanced or further enhanced by the court it shall be deemed to be the income chargeable of the previous year in which such amount is received by the assessee.

There is uncertainty about the year in which the amount of compensation received in pursuance of an interim order of the court is to be charged to tax, due to court orders.

Accordingly, it is proposed to provide that the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be deemed to be income chargeable under the head 'Capital gains' in the previous year in which the final order of such court, Tribunal or other authority is made.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

