

The Finance Ordinance, 1985

(Ordinance NO. XXXII OF 1985)

[30th June, 1985]

An Ordinance to give effect to the financial proposals of the Government and to amend certain laws.

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Government and to amend certain laws for the purposes hereinafter appearing;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title and

1. (1) This Ordinance may be called the Finance Ordinance, 1985.

commencement

(2) Except as otherwise provided in this Ordinance, this section and sections 3 and 6 shall come into force at once, and other sections shall come into force on the first day of July, 1985.

Amendment of Act II of 1899

2. In the Stamp Act, 1899 (II of 1899), in Schedule I, in article No. 23,-

(a) for the figure “17.5%” the figure “18%” shall be substituted; and

(b) for the heading “Exemption.” and the existing entry thereunder the following shall be substituted, namely:-

“EXEMPTIONS.

(a) Assignment of copyright under the Copyright Ordinance, 1962, section 14.

(b) Transfer of landed property owned by an industrial entrepreneur to a limited company incorporated for industrial purposes, provided that the

entrepreneur becomes a shareholder of the company to the extent of the value of the property”.

**Amendment
of Act I of
1944**

3. The following amendments shall be made in the Excises and Salt Act, 1944 (I of 1944), namely:-

(1) in section 3A (1), for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :-

“Provided that, if the assessed amount has a fraction of less than five poisha, the assessment shall be rounded off to the next higher five poisha.”;

(2) The FIRST SCHEDULE shall be amended in the manner set out in the FIRST SCHEDULE to this Ordinance.

**Repeal of
Act XIV of
1963**

4. (1) The Gift-tax Act, 1963 (XIV of 1963), is hereby repealed.

(2) Notwithstanding its repeal under sub-section (1), the Gift-tax Act, 1963 (XIV of 1963), and the rules, orders, instructions or directions made or issued thereunder shall continue to apply to the levy and collection of gift-tax payable thereunder before the repeal of this Act and to all proceedings connected therewith as if the said Act had not been repealed.

**Amendment
of Act XV of
1963**

5. In the Wealth-tax Act, 1963 (XV of 1963), in section 5(1) (xii), for the words “Taka one lakh” the words “Taka three lakh” shall be substituted.

**Amendment
of Act IV of
1969**

6. The following amendments shall be made in the Customs Act, 1969 (IV of 1969), namely:-

(1) in section 25, after sub-section (7), the following new sub-section shall be added, namely:-

“(8) If the appropriate officer finds that the value of the goods declared by the importer in the bill of entry is less than the value determined under this section, he may, without prejudice to any other action which he may take in respect of the importer or such goods, require the importer to clear the goods

on paying the duty on their value determined as aforesaid, or if the importer is unwilling or fails to do so, acquire them on behalf of the Government by paying to the importer their value as declared in the bill of entry.”;

(2) in the First Schedule,-

(a) against Tariff Heading No. 25.01 in column (1), against sub-head A.1. in column (2), in column (3), for the figure “10%” the figure “50%” shall be substituted;

(b) against Tariff Heading No. 66.03 in column (1), in column (3), for the figure “50%” the figure “100%” shall be substituted; and

(c) against Tariff Heading No. 84.10 in column (1), in column (3), for the figure “50%”, wherever occurring, the figure “100%” shall be substituted.

Amendment of Act XXIII of 1980

7. In the Finance Act, 1980 (XXIII of 1980), in section 12(3), for the word, brackets and figure “sub-section (1)” the words “this section” shall be substituted and shall be deemed to have been so substituted on and from the 1st day of August, 1984.

Amendment of Ordinance XXXVI or 1984

8. The following amendments shall be made in the Income Tax Ordinance, 1984 (XXXVI of 1984), namely:-

(1) in section 32,-

(a) in sub-section (6) (a) (i), for the words “previous year” the words “income year” shall be substituted;

(b) after sub-section (8), the following new sub-sections (9), (10) and (11) shall be added, namely:-

“(9) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of a capital asset being buildings or lands which, within a period of one year immediately following the date on which the transfer took place, is invested in the acquisition of stocks or shares of public limited companies which fulfil the conditions laid down in

paragraph 8 of Part B of the Sixth Schedule and the stocks or shares are held by the assessee for at least two years from the date of acquisition, the capital gain shall not be charged to tax as income of the year in which the transfer took place.

(10) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of a capital asset being buildings or lands to a new company registered under the Companies Act, 1913 (VII of 1913), for setting up an industry and if the whole amount of capital gain is invested in the equity of the said company, then the capital gain shall not be charged to tax as income of the year in which the transfer took place.

(11) Notwithstanding anything contained in this section or section 31, where a capital gain arises from the transfer of a capital asset of a firm to a new company registered under the Companies Act, 1913 (VII or 1913), and if the whole amount of the capital gain is invested in the equity of the said company by the partners of the said firm, then the capital gain shall not be charged to tax as income of the year in which the transfer took place.”;

(2) in section 43(4),-

(a) in clause (a) (iii), the words “by way of gift or” shall be omitted;

(b) in clause (a) (iv), the words “by way of gift or” shall be omitted;

(c) in clause (b), the words “by way of gift or” shall be omitted;

(3) in section 45, after sub-section (2), the following new sub-sections (2A) and (2B) shall be inserted, namely:-

“(2A) Subject to the provisions of this Ordinance, the income, profits and gains of an industrial undertaking set up in Bangladesh between the first day of July, 1985, and the thirtieth day of June, 1990 (both days inclusive), shall be exempt from the tax payable under this Ordinance for the period specified below-

(a) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Special Economic Zone”, for a period of twelve years beginning with the month of commencement of commercial production of the undertaking;

(b) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Least Developed Areas”, for a period of nine years beginning with the month of commencement of commercial production of the undertaking;

(c) if the undertaking is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Less Developed Areas”, for a period of six years beginning with the month of commencement of commercial production of the undertaking; and

(d) if the undertaking is set up in the city of Dhaka, Chittagong or Khulna or the municipality of Narayanganj, or within ten miles from the outer limits thereof, for a period of four years beginning with the month of commencement of commercial production of the undertaking.

(2B) The exemption under sub-section (2A) shall apply to an industrial undertaking (hereinafter referred to as the “said under taking”) which fulfils the following conditions, namely:-

(a) that the said undertaking is owned and managed by-

(i) a body corporate established by, or in pursuance of, an Act of Parliament with its head office in Bangladesh; or

(ii) a company registered under the Companies Act, 1913 (VII of 1913), with its registered office in Bangladesh and having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of commercial production;

(b) that the said undertaking belongs to such class of industry as the Board may, by notification in the official Gazette, specify for the purpose of this sub-section;

(c) that a part of the income exempted under this sub-section is reinvested in the said undertaking or is invested in the purchase of bond issued by the Government and such reinvestment or investment is not-

(i) less than five per cent of such income, if it is an undertaking set up in the areas referred to in sub-section (2A) (a) and (b);

(ii) less than fifteen per cent of such income, if it is an undertaking set up in the areas referred to in sub-section (2A)(c); and

(iii) less than thirty per cent of such income, if it is an industrial undertaking set up in the areas referred to in sub-section (2A)(d);

(d) that the said undertaking is approved and, during the relevant income year, stands approved by the Board for the purposes of this section;

(e) that the application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within one hundred and twenty days from the date of commencement of commercial production:

Provided that the Board may admit an application after the expiry of the said period of one hundred and twenty days if it is satisfied that there was sufficient cause for not making the application within the said period.”;

(4) in section 46, after sub-section (2), the following new sub-sections (2A) and (2B) shall be inserted, namely:-

“(2A) Subject to the provisions of this Ordinance, the income, profits and gains of a tourist industry set up in Bangladesh between the first day of July, 1985, and the thirtieth day of June, 1990 (both days inclusive), shall be exempt from the tax payable under this Ordinance, for the period specified below-

(a) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Special Economic Zone”, for a period of

twelve years beginning with the month of commencement of its commercial service;

(b) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Least Developed Areas”, for a period of nine years beginning with the month of commencement of its commercial service;

(c) if the industry is set up in such areas as the Board may, by notification in the official Gazette, specify to be “Less Developed Areas”, for a period of six years beginning with the month of commencement of its commercial service; and

(d) if the industry is set up in the city of Dhaka, Chittagong or Khulna or the municipality of Rajshahi, or within fifteen miles from the outer limits thereof, for a period of four years beginning with the month of commencement of its commercial service.

(2B) The exemption under sub-section (2A) shall apply to a tourist industry (hereinafter referred to as the “said industry”), which fulfils the following conditions, namely:-

(a) that the said industry is owned and managed by a Bangladeshi company having a subscribed and paid up capital of not less than one lakh taka on the date of commencement of its commercial service;

(b) that the said industry shall have such service facilities as the Board may, by notification in the official Gazette, specify in this behalf;

(c) that a part of the income, profits and gains derived from the said industry exempted under sub-section (2A) is reinvested in it or is invested in the purchase of bond issued by the Government and such reinvestment or investment is not-

(i) less than five per cent of such income, profits and gains, if it is an industry set up in the areas referred to in sub-sections (2A)(a) and (b);

(ii) less than fifteen per cent of such income, profits and gains, if it is an industry set up in the areas referred to in sub-section (2A)(c);

(iii) less than thirty per cent of such income, profits and gains, if it is an industry set up in the areas referred to in sub-section (2A)(d);

(d) that an application in the prescribed form for approval for the purposes of this section, as verified in the prescribed manner, is made to the Board within one hundred and twenty days of the date of commencement of commercial service;

(e) that the said industry is approved and, during the relevant income year, stands approved by the Board for the purposes of this section.”;

(5) in section 47 (1), in the Explanation, in clause (a),-

(a) in sub-clause (ii), for the words “fifty thousand taka” the words “one lakh taka” shall be substituted; and

(b) in sub-clause (iii), for the word “ten” the word “fifteen” shall be substituted;

(6) in section 49 (1), after clause (b), the following new clause (bb) shall be inserted, namely:-

“(bb) income derived from fixed deposits in banks;”;

(7) after section 51, the following new section 51A shall be inserted, namely:-

“51A. Deduction at source from interest on fixed deposits.- Any person responsible for paying any sum by way of interest on any fixed deposit maintained with any scheduled bank including a co-operative bank or by way of share of profit on term deposit maintained with any bank run on Islamic principles, as the case may be, shall deduct, at the time of credit of such interest or share of profit to the account of the recipient, being resident, or at the time of the payment thereof, whichever is earlier, income tax at the following rates, namely:-

(i) Where the amount of deposit does not exceed Taka 40,000 Nil

(ii) Where the amount of deposit exceeds Taka 40,000 10 per cent of the sum of interest or share of profit, as the case may be, on the whole of such deposit:

Provided that nothing contained in this section shall apply to such recipient or class of recipients as the Board may, by a general or special order, specify in this behalf.”;

(8) in section 66, for the full-stop at the end, a colon shall be substituted and thereafter the following new proviso shall be added, namely:-

“Provided that, if before the fifteenth day of May of the year, an assessment of the assessee is completed in

respect of an income year, later than that on the basis of which the tax was computed under section 65, the assessee shall pay in one instalment on the specified date or in equal instalments on the specified dates, if more than one falling after the date of the said assessment, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original computation.”;

(9) in section 75(2) (d), for the words “fifty thousand taka” the words “eighty thousand taka” shall be substituted;

(10) in the Third Schedule, in paragraph 11,-

(a) in clause (3), in the proviso, for the words “one hundred and fifty thousand taka”, occurring twice, the words “two lakh taka” shall be substituted; and

(b) in clause (6) (a), for the words “one hundred and fifty thousand taka” the words “two lakh taka” shall be substituted;

(11) in the Sixth Schedule,-

(a) in Part A,-

(i) in paragraphs 10, 11 and 13, for the words “five thousand taka”, wherever occurring, the words “fifteen thousand taka” shall be substituted;

(ii) in paragraph 14(d), for the full-stop at the end a semi-colon shall be substituted and thereafter the following new sub-paragraphs (e) and (f) shall be added, namely:-

“(e) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1985 and the thirtieth day of June, 1990 (both days inclusive), and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits, namely:-

(i) in a case where the annual value of such building does not exceed fifteen thousand taka, the whole of such value;(ii) in a case where the annual value of such building exceeds fifteen thousand taka, fifteen thousand taka:

Provided that where an assessee claims exemption in respect of more than one such building, the exemption under this clause shall be restricted to such portion of the aggregate annual value of such building as does not exceed fifteen thousand taka;

(f) in respect of a building the erection of which is begun and completed at any time between the first day of July, 1985 and the thirtieth day of June, 1990 (both days inclusive), and which is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the condition that the plinth area of the building is not more than one thousand square feet. The exemption under this clause shall also apply in the case of housing companies, societies and estates where the construction comprises bungalows, flats, apartments or units (hereinafter referred to as units) each containing plinth area of not more than one thousand square feet provided the construction comprises not less than twenty-five units.”;

(iii) in paragraph 22, at the end an explanation shall be added, namely:-

“Explanation.- In this paragraph, “public limited companies” means companies-

- (i) in which not less than fifty per cent shares are held by the Government, or
- (ii) whose shares were subject of dealings in a registered Stock Exchange in Bangladesh at any time during the income year and remained listed in the Stock Exchange till the close of that year.”;
- (iv) after paragraph 22, the following new paragraph 23 shall be added, namely:-

“23. Any income derived by an assessee, being the author or co-author, of such literary works of a creative nature as may be approved by the Board for the purpose of this paragraph from such work.”;

(b) in Part B,-

- (i) in paragraph 10(1)(b), after the words “unit certificate”, the words “and mutual fund certificate” shall be inserted; and
- (ii) in paragraph 18, for the words “an individual” the words “a salaried employee” shall be substituted.

Income tax

9. (1) Subject to the provisions of sub-sections (2), (3), (4), (5) and (6), in making any assessment for the year beginning on the first day of July, 1985, income tax shall be charged at the rates as specified in the Second Schedule.

(2) In making any assessment for the year beginning on the first day of July, 1985,-

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or any income chargeable under the head “Interest on securities”, the income tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of income tax payable according to the rates applicable under the operation of the Finance

Ordinance, 1984 (XLII of 1984), on his total income the same proportion as the amount of such inclusion bears to his total income; and

(b) where the total income of a company includes any profits and gains from Life Insurance business, the income tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion.

(3) In making any assessment for the year beginning on the first day of July, 1985, where the assessee is a co-operative society, the tax shall be payable at the rate specified in paragraph A or B(i)(d) of the Second Schedule, whichever treatment is more beneficial to the assessee:

Provided that in calculating for the purpose of this sub-section, the amount of income tax at the rates specified in paragraph A of the Second Schedule, no deduction in respect of any allowance or sums referred to in the proviso to the said paragraph shall be made.

(4) (a) In making any assessment for the year beginning on the first day of July, 1985, where the total income of an assessee other a company not registered in Bangladesh, includes any profits and gains derived from the export of goods out of Bangladesh, income tax payable by him in respect of such profits and gains shall, subject to the provisions of clauses (b) and (c), be reduced by an amount computed in the manner specified hereunder:-

		Amount.
(i)	Where the goods exported abroad had not been manufactured by the assessee who exported them:	30 <i>per cent</i> of the income tax attributable to export sales.

	(a) and where the export sales during the relevant year exceed the export sales of the preceding year;	<i>Plus</i> an additional 1 <i>per cent</i> for every increase of 10 <i>per cent</i> in export sales over those of the preceding year, subject to an overall maximum of 40 <i>per cent</i> .
	(b) and where the export sales during the relevant year do not exceed the export sales of the preceding year;	<i>minus</i> 1 <i>per cent</i> for every decrease of 10 <i>per cent</i> in export sales from those of the preceding year, subject to an overall minimum of 20 <i>per cent</i> .
(ii)	Where the goods exported had been manufactured by the assessee who had exported them:	
	(a) where the export sales do not exceed 10 <i>per cent</i> of the total sales;	Nil.

(b) where the export sales exceed 10 <i>per cent</i> but do not exceed 20 <i>per cent</i> of the total sales;	30 <i>per cent</i> of the income tax attributable to export sales.

(c) where the export sales exceed 20 <i>per cent</i> but do not exceed 30 <i>per cent</i> of the total sales;	40 <i>per cent</i> of the income tax attributable to export sales.

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(d) Where the export sales exceed 30 <i>per cent</i> but do not exceed 40 <i>per cent</i> of the total sales;	50 <i>per cent</i> of the income tax attributable to export sales.	
	(e) where the export sales exceed 40 <i>per cent</i> of the total sales;	60 <i>per cent</i> of the income tax attributable to export sales:

Provided that the terms "export of goods out of Bangladesh", "goods exported abroad" and "export sales" used in this clause shall include sale of locally manufactured machinery, equipment and other finished products within the country to any agency against its procurement programme in foreign exchange.

(b) Nothing contained in clause (a) shall apply in respect of the following goods or classes of goods, namely:-
(i) tea;
(ii) raw jute;
(iii) jute manufactures;
(iv) raw hides and skin and wet-blue leather;
(v) such other goods as may be notified by the National Board of Revenue from time to time.

<p>(c) The National Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales and for such other matters as may be necessary to give effect to the provisions of this sub-section.</p>
<p>(5) In making any assessment for the year beginning on the first day of July, 1985, where the total income of an assessee other than a company not registered in Bangladesh, includes any profits and gains derived from plying of passenger buses and passenger launches, a rebate shall be allowed at the rate of twenty-five <i>per cent</i> of the income tax attributable to profits and gains derived from such passenger buses and passenger launches.</p>
<p>(6) In cases to which the Second Schedule to the Income Tax Ordinance, 1984 (XXXVI of 1984), applies, the tax chargeable shall be determined as provided in that Schedule but with reference to the rates imposed by sub-section (1), or in accordance, where applicable, with the provisions of sub-section (2).</p>
<p>(7) For the purpose of making deduction of tax under Chapter VII of the Income Tax Ordinance, 1984 (XXXVI of 1984), the rates specified in the Second Schedule shall apply as respects the year beginning on the first day of July, 1985, and ending on the thirtieth day of June, 1986.</p>
<p>(8) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purpose of income tax in accordance with the provisions of the Income Tax Ordinance, 1984 (XXXVI of 1984).</p>

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