

THE COMPULSORY DEPOSIT (SCHEMES) ACTS

FOR
ASSESSMENT YEARS:
1975-76 & 1976-77

WITH
TEXTS, COMMENTS, EXPLANATIONS, TABLES AND EXAMPLES

UNDER
THE COMPULSORY DEPOSIT SCHEME (Income-tax Payers) ACT, 1974
THE ADDITIONAL EMOLUMENTS (Compulsory Deposit) ACT, 1974
THE COMPANIES (Temporary Restriction on Dividends) ACT, 1974
THE FINANCE (No. 2) ACT, 1974

BY
V. G. MEHTA
INCOME-TAX PRACTITIONER
TEL. No. 315532

343.030
095 4 M 474 C

PUBLISHERS:
SHRI KUBER PUBLISHING HOUSE
COURT HOUSE, DHOBI TALAO,
BOMBAY-400 002.

PRICE: Rs. 5/-



***INDIAN INSTITUTE OF
ADVANCED STUDY
LIBRARY SIMLA***

THE COMPULSORY DEPOSIT (SCHEMES) ACTS

FOR
ASSESSMENT YEARS:
1975-76 & 1976-77

WITH
TEXTS, COMMENTS, EXPLANATIONS, TABLES AND EXAMPLES

UNDER
THE COMPULSORY DEPOSIT SCHEME (Income-tax Payers) ACT, 1974
THE ADDITIONAL EMOLUMENTS (Compulsory Deposit) ACT, 1974
THE COMPANIES (Temporary Restriction on Dividends) ACT, 1974
THE FINANCE (No. 2) ACT, 1974

BY
V. G. MEHTA
INCOME-TAX PRACTITIONER
TEL. No. 315532

PUBLISHERS:
SHRI KUBER PUBLISHING HOUSE

COURT HOUSE, DHOBI TALAO,

BOMBAY-400 002.

©

PRICE: Rs. 5/-

INDEX

Salient features in a nut-shell

	Page
Important features of various anti-inflationary measures as passed by the Parliament ..	3 - 4

The Finance (No. 2) Act, 1974

Amendment in respect of long term capital gains	5
---	---

The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974

1. Persons liable to make deposits	6 - 7
2. Requirement as to compulsory deposits with examples	7 - 10
3. Time for making compulsory deposit & order by Income-tax Officer	10 - 11
4. Interest payable by Government on compulsory deposit	11 - 12
5. Repayment of compulsory deposit	12
6. Penalty for failure to make compulsory deposit	12 - 13
7. Appeals and revision, rectification of mistakes and collection & recovery & rounding off	14 - 15
8. Protection against attachment, power to frame compulsory deposit scheme, power to remove difficulties & repeal & saving	15 - 16
9. The Schedule : Rates of compulsory deposit	16
10. TABLES FOR CALCULATION of compulsory deposit payable by income-tax payers :	
From Rs. 15,000 current income to Rs. 5,00,000 current income	17 - 21

The Additional Emoluments (Compulsory Deposit) Act, 1974

1. Definitions and examples	22 - 25
2. Persons to whom the Act applies	25 - 26
3. Duty of employer to make deductions under the Act with prescribed form of challan & place for payment	26 - 29
4. Interest payable by Government on compulsory deposit	29
5. Assessment for the purpose of income-tax with examples	30
6. Repayment of deposit & power to frame scheme under the Act	31 - 32
7. Rounding off, penalties and offences by companies	32 - 33
8. Power to exempt, power to delegate and protection against attachment	34
9. Power to call for returns & inspect accounts	34 - 35
10. Protection of action taken in good faith & recovery of arrears	35
11. Power to make rules, power to remove difficulties, repeal & saving	35

The Companies (Temporary Restrictions on Dividends) Act, 1974

1. Definitions of: Company, distributable profits, net profits etc. with example	36 - 37
2. Companies to which the Act applies	38
3. Restriction on declaration of dividends	38 - 39
4. Dividend in excess of distributable profits to be void	39
5. Restriction on interim dividends & other distribution	39
6. Act to have overriding effect, penalties, offences, power to delegate .. power to make rules	39 - 40
7. Act not to apply to companies in liquidation	40
8. Power to remove difficulties and repeal and saving	40



SALIENT FEATURES

of the following acts explained in a nut shell.

(i) The Finance (No. 2) Act, 1974

(a) Deduction in respect of long term capital gains for tax payers other than companies stands reduced as under :

	Deduction for the assessment year 1974-75	Deduction for the assessment year 1975-76
(1) Capital gains relating to buildings or lands	Rs. 5,000 Plus 35% of such gains	Rs. 5,000 Plus 25% of such gains
(2) Capital gains relating to other capital assets	Rs. 5,000 Plus 50% of such gains	Rs. 5,000 Plus 40% of such gains

(b) Increase in the rate of Income-tax in respect of long term capital gains for companies is as under :

	Rate of Income-tax for the assessment year 1974-75	Rate of Income-tax for the assessment year 1975-76
(1) Capital gains relating to buildings or lands	45%	55%*
(2) Capital gains relating to other capital assets	35%	45%

* Where the company is a company in which the public are substantially interested and the total income of such company (as reduced by the amount of capital gains included therein) does not exceed Rs. 1,00,000, the rate of income-tax to be applied is 47%.

Since the above rates are under the Income-tax Act (and not under the Finance Act), the question of applying surcharge on Income-tax does not arise.

(ii) The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974

(1) The provisions of the above Act shall apply only for the assessment years 1975-76 and 1976-77. [Refer section 3(1) on page 6].

(2) Persons liable to make deposits are individuals (who are citizens of India), Hindu undivided families, trustees of discretionary trusts and representative assessee described under Chapter XV of the Income-tax Act. [Refer section 3(2) on page 6].

(3) Registered firms, unregistered firms, association of persons, companies etc. are outside the scope of this Act.

(4) The provisions of this Act applies only in cases where the current income exceeds Rs. 15,000. [Refer section 4(1) on page 7].

(5) Deductions permissible under Chapter VIA of the Income-tax Act are to be deducted to arrive at the "current income". [Refer definition of current income under section 4(3) on page 7].

(6) In cases where the compulsory deposit is less than Rs. 100, it is not necessary to make the deposit. (Refer 2nd proviso to the schedule on page 16).

(7) Compulsory deposit paid under Additional Emoluments (Compulsory Deposit) Act, 1974 is deductible from the amount payable under this Act. [Refer section 4(2) on page 7].

(8) In cases where the advance tax notice is received, the deposit under this Act is to be paid either on 15th December or 15th March, as the case may be. In any other case, the deposit is to be paid before the end of the financial year i.e. 31st March (Refer section 5 on page 10).

(9) Capital gains in respect of capital assets whether long term or short term is not to be considered at all to arrive at the current income liable to this Act. Accordingly, income referred to in section 2(24) (ix) of the Income-tax Act, viz. winnings from lotteries, crossword puzzles, races, card games etc. are to be excluded to arrive at the current income [Refer section 4(3) and example on page 7 & 11 respectively].

(10) Compulsory deposit under this Act is payable on the income returned and not on the basis of income assessed. [Refer section 6(2) (i) on page 10].

(11) Deposits made under this act shall carry interest at a rate equal to the bank deposit rate. At present, the bank deposit rate is 10%. [Refer section 7(1) on page 11].

(12) Interest received under this Act shall be deemed to be interest received on a deposit with a banking company and will be deductible under section 80L of the Income-tax Act. [Refer section 7(3) on page 11].

(13) The deposits made under this Act is repayable in five equal annual instalments commencing from the expiry of two years from the end of the financial year together with interest. [Refer section 8 and example on page 12].

(14) At the time when the return of income is to be submitted for the assessment years 1975-76 and 1976-77, proof of the fact that deposit under this Act is made is to be sent along with the return of income [Refer section 9 on page 12].

(15) Failure to make the compulsory deposit under this Act will attract the penalty under section 10 of this Act which is equivalent to 25% of the compulsory deposit required to be made [Refer section 10 on page 12 & 13].

(16) The right of appeal and revision is provided under section 12 of this Act against the order of the Income-tax Officer.

(17) The deposit under this Act is to be rounded off to the nearest multiple of ten rupees. [Refer section 15 on page 14].

(18) The amount of compulsory deposit and interest thereon is not liable to attachment under a decree or order of any court. [Refer section 17 on page 15].

(19) Where the current income exceeds Rs. 15,620, the whole of the current income will be liable to deposit under this Act at the rates specified in the Schedule. In such cases, rupees fifteen thousands is not to be considered as exempted slab. [Refer the Schedule on page 16].

(iii) **The Additional Emoluments (Compulsory Deposit) Act, 1974.**

1. "Additional dearness allowance" means such dearness allowance which is over and above the amount of dearness allowance sanctioned on or before the 6th day of July, 1974. [Refer section 2(b) on page 22].
2. "Additional wages" means such wages which is over and above the amount of wages payable before the 6th day of July, 1974. [Refer section 2(c) on page 22].
3. Increment due to the employee in accordance with the time scale of pay, higher wages payable on promotion to a higher post and any post involving higher responsibilities and duties, any special pay, honorarium, fee or reward and any remuneration for overtime work etc. are outside the definition of "additional wages" and hence the provisions of this Act do not apply to such increment, reward or remuneration for overtime work etc. [Refer section 2(c) (i) to (vi) on page 22 & 23].
4. The deduction in respect of "additional wages" is for a period of one year from the 6th day of July, 1974. [Refer section 6(1)(a) on page 26].
5. The deduction in respect of "additional dearness allowance" is for a period of two years from the 6th day of July, 1974. [Refer section 6(1)(b) on page 26].
6. It is the duty of every employer to deduct :
 - (a) the whole of the "additional wages" and
 - (b) one half of the "additional dearness allowance" from the emoluments paid to the employees and remit the amounts so deducted to the nominated authority. [Refer section 6(2) on page 26].
7. Deposits under this act shall carry interest which shall be two and a half per cent. over and above the bank deposit rate. [Refer section 7(1) on page 29].
8. Interest received under this Act shall be deemed to be interest received on a deposit with a banking company and will be deductible under section 80L of the Income-tax Act. [Refer section 7(4) on page 29].
9. The amounts credited to "Additional Dearness Allowance Deposit Account" and "Additional Wages Deposit Account" are not to be included in the total income for the purposes of computing total income under the Income-tax Act but the repayment of amount is to be included in the total income of the previous year in which it is repaid. The repayments shall be deemed to be salary paid to the assessee in arrears and the provisions of section 89(1) of the Income-tax Act shall apply. [Refer section 8 and examples on page 30].
10. The repayment in respect of :

"Additional Wages Deposit Account" shall be repayable with interest after the 6th day of July, 1975;

"Additional Dearness Allowance Deposit Account" shall be repayable with interest after the 6th day of July 1976.

The aggregate amount credited to the deposit accounts shall be repaid to the employee in five equal annual instalments. (Refer section 9 with example on page 31).

The amounts standing to the credit of either of the "Deposit Account" is repayable immediately on superannuation, or resignation or on termination of employment of an employee. (Refer section 9 on page 31).
11. The deposit under this Act is to be rounded off to the nearest rupee. (Refer section 11 on page 32).
12. The nominated authority is authorised to call for returns and inspect accounts under this Act. (Refer section 20 on page 34).

(iv) **The Companies (Temporary Restrictions on Dividends) Act, 1974.**

- (1) "Distributable profits" means :
 - (i) One third of the net profits of the company
or
 - (ii) 12% dividend on the face value of equity shares of the company and dividend payable on its preference shares whichever is lower. [Refer section 2(c) and example on page 36 & 37].
- (2) "Net profits" means net profits of the company as computed under section 349 of the Companies Act, 1956 subject to the following conditions :
 - (i) Income-tax and sur-tax to be deducted from such net profits; and
 - (ii) Depreciation to be provided in accordance with the provisions of section 205 of the Companies Act, 1956. [Refer section 2(e) and example on page 36 & 37].
- (3) The restrictive provisions of this Act applies only for a period of two years from the appointed day, viz. 6th day of July, 1974. [Refer section 4(1) on page 38].
- (4) No further distribution by way of dividends can be made in cases where the company has declared interim dividend in excess of its distributable profits before the appointed day viz. 6th day of July, 1974. [Refer section 4(2) on page 39].
- (5) Dividend in excess of distributable profits, declared and paid after the appointed day shall be void to the extent of such excess. (Refer section 5 on page 39).
- (6) For a period of two years from the appointed day, no company shall pay or distribute any interim dividends for any financial year without the previous approval of the Central Government (Refer section 6 on page 39).

THE FINANCE (No. 2) ACT, 1974

AN ACT

further to amend the Income-tax Act, 1961.

[As passed by the Lok-Sabha on 20th day of August, 1974].

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows :—

1. Short title. This Act may be called the Finance (No. 2) Act, 1974.

2. Amendment of Act 43 of 1961. In the Income-tax Act, 1961, with effect from the 1st day of April, 1975,—

(1) in section 80T, in clause (b),—

(a) in sub-clause (i), for the words “thirty-five per cent.”, the words “twenty-five per cent.” shall be substituted;

(b) in sub-clause (ii) and in the proviso, for the words “fifty per cent.”, wherever they occur, the words “forty per cent.” shall be substituted;

(2) in section 115, for clause (i), the following clause shall be substituted, namely :—

“(i) the amount of income-tax calculated on the amount of long-term capital gains included in the total income—

(a) on so much of the amount of such long-term capital gains as relate to buildings or lands or any rights in buildings or lands—

(1) where the company is a company in which the public are substantially interested and the total income of the company (as reduced by the amount of long-term capital gains included therein) does not exceed one hundred thousand rupees, at the rate of forty-seven per cent.; and

(2) in any other case, at the rate of fifty-five per cent; and

(b) on the balance of such long-term capital gains, if any, at the rate of forty-five per cent.; and”.

*Modifications in the long term Capital Gains under Section 80T and Section 115 of the Income-tax Act 1961,
effective for and from the assessment year 1975-76*

(i) Tax payers other than companies :

(a) Long-term capital gains relating to buildings or lands or any rights therein—the deduction from the gross total income for the assessment year 1975-76 and onwards will be Rs. 5,000 plus 25 per cent. of the amount of such gains over Rs. 5,000 (as against 35 per cent. upto the assessment year 1974-75).

(b) Long-term capital gains relating to other capital assets—the deduction from the gross total income for the assessment year 1975-76 and onwards will be Rs. 5,000 plus 40 per cent. of the amount by which the gains exceed Rs. 5,000 (as against 50 per cent. upto the assessment year 1974-75).

(ii) Companies :

(a) Long-term capital gains relating to buildings or lands or any rights therein—these will be chargeable at the rate of 55 per cent. as against 45 per cent. upto the assessment year 1974-75. A lower rate of 47 per cent. will, however, be applied in the case of widely-held companies having taxable income (other than long-term capital gains) not exceeding Rs. 1 lakh.

(b) Long-term capital gains relating to other assets—these will be chargeable to tax at the rate of 45 per cent. in the case of all companies as against 35 per cent. upto the assessment year 1974-75.

The above changes will come into force from 1st April, 1975 and will accordingly apply to the assessment year 1975-76 and subsequent assessment years.

THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS) ACT, 1974

[Received the assent of the President on 1st day of September, 1974].

AN ACT

to provide, in the interest of national economic development, for compulsory deposit by certain classes of income-tax payers and for the framing of a scheme in relation thereto, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. Short title, extent and commencement. (1) This Act may be called the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 17th day of July, 1974.

2. Definitions. In this Act, unless the context otherwise requires,—

(a) “compulsory deposit” means compulsory deposit under this Act;

(b) “deposit” means a deposit of money;

(c) “depositor” means a person who is liable to make a compulsory deposit;

(d) “Income-tax Act” means the Income-tax Act, 1961;

(e) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

3. Persons liable to make compulsory deposits. (1) Subject to the provisions of this Act, the persons specified in sub-section (2) shall be liable to make compulsory deposits for the assessment year commencing on the 1st day of April, 1975 and the assessment year commencing on the 1st day of April, 1976.

(2) The persons referred to in sub-section (1) are the following, namely:—

(a) every person, being—

(i) an individual, who is a citizen of India;

(ii) a Hindu undivided family;

(iii) a trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), if the income in respect of which the trustee is liable to income-tax as a representative assessee or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown; and

(b) every person who is assessable under the Income-tax Act in respect of the total income of an individual, or a Hindu undivided family or a trustee specified in clause (a).

SECTION 3

The deposit under the Compulsory Deposit Scheme (Income-tax Payers) Act is required to be made only for the assessment years, 1975-76 and 1976-77.

The accounting periods relevant to assessment years 1975-76 and 1976-77 are as under:

Assessment year	Financial year	Calendar year	Samvat year
1975-76	1-4-74 to 31-3-75	1-1-74 to 31-12-74	2030 (27-10-73 to 13-11-74)
1976-77	1-4-75 to 31-3-76	1-1-75 to 31-12-75	2031 (14-11-74 to 3-11-1975)

Under the provisions of the Compulsory Deposit Scheme (Income-tax Payers) Act, the following categories of persons are liable to make compulsory deposit.

1. Individual who is a citizen of India
2. Hindu undivided families

3. Trustees of discretionary trusts i.e. where the individual shares of the persons on whose behalf the income or any part thereof is receivable are indeterminate or unknown or where such income or such part thereof is not specifically receivable on behalf or for the benefit of any one person.

4. Persons who are assessable under the Income-tax Act in respect of the total income of individuals, Hindu undivided families, and the trustees referred to in (3) above.

4. Requirement as to compulsory deposit. (1) Where, in relation to an assessment year referred to in sub-section (1) of section 3, the current income of any person, being an individual or a Hindu undivided family or a trustee specified in clause (a) of sub-section (2) of that section, exceeds fifteen thousand rupees, such person, or if any other person is assessable under the Income-tax Act in respect of the total income of such person, the person so assessable, shall make, in accordance with and subject to the provisions of this Act and any scheme framed thereunder, a compulsory deposit for that assessment year at the rates specified in the Schedule.

(2) Where, in the case of any person specified in sub-section (2) of section 3, a deduction is required to be made under the Additional Emoluments (Compulsory Deposit) Ordinance, 1974, the amount of the compulsory deposit which such person is liable to make under this Act for any assessment year shall be reduced by the amount deducted under that Ordinance during the financial year immediately preceding that assessment year; and where such deduction is equal to or exceeds the amount of such compulsory deposit, it shall not be necessary for such person to make a compulsory deposit for that assessment year.

Explanation.—When any Central Act repeals and replaces (with or without any modification) the Additional Emoluments (Compulsory Deposit) Ordinance, 1974, the references to the said Ordinance in this sub-section shall be construed as references to such Central Act.

(3) For the purposes of this section, “current income”, in relation to an assessment year, means,—

(a) in a case where the Income-tax Officer has made an order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act requiring the person to pay advance tax during the financial year immediately preceding that assessment year and the person has not sent an estimate under sub-section (1) or sub-section (2) or sub-section (3A) of section 212 of that Act,—

(i) if the total income of the latest previous year in respect of which the person has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

(ii) if the total income of the previous year on the basis of which income-tax has been paid by the person under section 140A of the Income-tax Act forms the basis of computation of advance tax, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, returned by the person in the return of income for the assessment year relevant to that previous year;

(b) in a case where an estimate is sent by the person under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 of the Income-tax Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as estimated by him, of the period which would be the previous year for that assessment year, as increased by the net agricultural income, if any, of that period, as estimated by him;

(c) in any other case, if the total income of the person, as estimated by him, of the period which would be the previous year for that assessment year exceeds the maximum amount not chargeable to income-tax in his case, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, of that period, as estimated by him.

Explanation.—In this sub-section, “net agricultural income” means the net agricultural income as defined in the Finance Act of the relevant year.

SECTION 4

The persons referred to above viz. individuals, Hindu undivided families and trustees of discretionary trust are required to make compulsory deposit at the Scheduled rates (refer page 16) provided the “Current income” of such persons exceeds Rs. 15,000.

[The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974].

EXAMPLE:—1. The gross total income of a person is Rs. 20,000 and he pays life insurance premium of Rs. 4,000

1. Property income	Rs. 5,000
2. Dividend income	Rs. 5,000
3. Business or professional income	Rs. 8,000
4. Interest on deposits from companies	Rs. 2,000
	Gross total income .. Rs. 20,000
Less : deductions :	
1. Life insurance premiums	Rs. 4,000
On the first Rs. 2,000 @ 100%	Rs. 2,000
On the balance Rs. 2,000 @ 50%	Rs. 1,000
	Rs. 3,000
2. Dividend income	Rs. 5,000
Restricted under section 80L to Rs. 3,000	Rs. 3,000
	Rs. 6,000
	Current income .. Rs. 14,000

As the current income will be less than Rs. 15,000, the person is not required to make compulsory deposit under the scheme.

EXAMPLE:—2. The gross total income of a person is Rs. 30,000 but after claiming deductions under Chapter VIA of the Income-tax Act, the total income is Rs. 25,000. In addition, the person has net agricultural income of Rs. 15,000. The amount of compulsory deposit payable will be as under :

1. Property income	Rs. 10,000
2. Income in respect of Units from Unit Trust of India	Rs. 4,000
3. Business income	Rs. 16,000
	Gross total income .. Rs. 30,000

Less : deductions under Chapter VIA :—

1. Life insurance premiums (Section 80C)	Rs. 2,000
2. Income in respect of Units (Section 80L)	Rs. 3,000
	Total income .. Rs. 25,000

Add : Agricultural income Rs. 17,000

Less : Taxes levied by the State Government on the agricultural income Rs. 2,000

Net agricultural income .. Rs. 15,000

Current income liable to compulsory deposit .. Rs. 40,000

Compulsory deposit payable on Rs. 40,000 at the Scheduled rates is as under :

1. On the first Rs. 25,000 of Current income @ 4%	Rs. 1,000
2. On the balance of Rs. 15,000 Current income @ 6%	Rs. 900
	Compulsory deposit payable .. Rs. 1,900

For ready reference tables appear on PP. 17-21 for finding out the correct amount of compulsory deposit required to be made.

Under sub-section (2), relief is provided in cases where the total income of a person includes income under the head "Salaries" and such person is required to make compulsory deposit under the Additional Emoluments (Compulsory Deposit) Act, 1974. The relief from the payment of deposits under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 is to be worked out as under :

1. Salary including taxable perquisites & allowances for the year ending 31-3-1975	Rs. 23,333*
Less : Deduction permissible under section 16 (i) :	
On the first Rs. 10,000 salary @ 20%	Rs. 2,000
On the balance Rs. 13,333 salary @ 10%	Rs. 1,333
	Rs. 3,333
2. Property income	Rs. 5,000
	Gross total income C/over Rs. 25,000

	Gross total income B/o. . .	Rs. 25,000
Less: Deductions on account of provident fund contributions & payment of life insurance premiums :		
Contributions & payments	Rs. 2,000	
100% of Rs. 2,000	Rs. 2,000
	Current income . .	Rs. 23,000
Compulsory deposit payable @ 4% on Rs. 23,000		Rs. 920
Less: Deduction made under the Additional Emoluments (Compulsory deposit) Act, 1974 . .		Rs. 520
Compulsory deposit required to be made under the Compulsory Deposit (Income-tax Payers) Scheme		Rs. 400

In the above example, if the deposit made under the Additional Emoluments (Compulsory Deposit) Act, 1974 were Rs. 1,000, then such person would not be required to make any deposit under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

*It is assumed that the assessee is neither in receipt of conveyance allowance nor he is provided any motor car, motor cycle, scooter or other moped otherwise than wholly and exclusively in the performance of his duties.

DEFINITION OF "CURRENT INCOME"

(i) In the case of persons who are already assessed by way of regular assessment and who are required to pay advance tax under section 210, "current income" would be the total income of the latest completed regular assessment which forms the basis of computation of the advance tax payable as reduced by capital gains and income from winnings from lotteries etc. referred to in section 2(24)(ix) of the Income-tax Act and increased by the net agricultural income, if any, which has been taken into account for charging income-tax as per the said latest completed assessment.

(ii) In the case of persons who are required to pay advance tax under section 210(3) of the Income-tax Act on the basis of self assessment under section 140A of the Income-tax Act, "current income" would be the total income of the assessment year on the basis of which self assessment tax has been paid as reduced by the capital gains and income from lotteries etc., if any, and increased by the net agricultural income, if any, returned in the return of income for the relevant assessment year which forms the basis for computation of advance tax.

(iii) In the case of assessee who have filed estimate of advance tax under sub-section (1) or (2) or (3) or (3A) of section 212 of the Income-tax Act: In such cases, "current income" would be the total income (exclusive of capital gains and winnings from lotteries etc.) as estimated by the assessee for the year for which compulsory deposit is payable.

(iv) In the case of any other person (i.e. those who are not required to pay advance tax): "current income" would be the total income (exclusive of capital gains and winnings from lotteries etc.) of the relevant previous year for which compulsory deposit is payable as estimated by the assessee. It may be noted that even if no advance tax is payable in such cases after taking into account the tax deductible at source, compulsory deposit would still be payable by such persons if their "current income" exceeds Rs. 15,000.

EXAMPLE:—The Income-tax Officer passed an order under section 210 requiring the assessee to pay "advance tax". The order is on the basis of last completed assessment viz. assessment year 1973-74 where the total income determined (after claim of all deductions under chapter VIA) is Rs. 20,200. The assessee is required to pay tax of Rs. 2,519 payable in three instalments viz. 15th June, 15th September and 15th December.

The amount of compulsory deposit required to be made is as under :

Total income as per notice issued under "advance tax" by Income-tax officer	Rs. 20,200
Add: Estimated net agricultural income	Rs. 10,000
Aggregated current income . .	Rs. 30,200

Computation of "compulsory deposit"

1. On the first Rs. 25,000 of current income @ 4%	Rs. 1,000
2. On the balance of Rs. 5,200 of current income @ 6%	Rs. 312
	Rs. 1,312
Rounded off compulsory deposit (Refer page 17)	Rs. 1,310

If the accounting period of the above assessee ends on or before 31st December, 1974, the compulsory deposit under the taxpayers scheme is to be made on or before 15th December, 1974. This may be paid according to the convenience of the assessee in one sum or in instalments of his choice. If the accounting period ends after 31-12-1974, the compulsory deposit has to be made on or before 15-3-1975.

In cases where the assessee desires to submit an estimate of his income (whether lower or higher) he has to make the compulsory deposit in accordance with the income estimated by him.

Any person who has not previously been assessed by way of regular assessment under the Income-tax Act, but is required to submit the estimate of his total income under section 212(3) of the Income-tax Act is also required to make the "compulsory deposit" at the Scheduled rates as explained above if his current income exceeds Rs. 15,000/-.

5. Time for making compulsory deposit.—A depositor shall make the compulsory deposit for an assessment year referred to in sub-section (1) of section 3,—

(a) in a case where such depositor is required to pay advance tax under the Income-tax Act in the financial year immediately preceding that assessment year, at any time (in one sum or in instalments of his choice) before the expiry of the date on which the last instalment of advance tax is payable by him in accordance with the provisions of section 211 or, as the case may be, sub-section (3A) of section 212 of that Act;

(b) in any other case, at any time (in one sum or in instalments of his choice) before the end of the financial year immediately preceding that assessment year.

SECTION 5:

Compulsory deposit is required to be made during the financial year immediately preceding the relevant assessment year. Thus, in respect of the assessment year 1975-76, compulsory deposit is required to be made in advance during the financial year 1974-75 and for the assessment year 1976-77, it will be required to be made during the financial year 1975-76.

Such depositors are again divided into the following two categories:

(i) Those who are required to pay advance tax under the Income-tax Act:—In such cases, compulsory deposit has to be made at any time either in one sum or in instalments of assessee's choice but before the date on which the last instalment of advance tax falls due.

(ii) Other cases in which assessee is not required to pay advance tax: If the "current income" in such cases exceeds Rs. 15,000, the compulsory deposit is required to be made before 31st March of the year preceding the assessment year. Thus, for the assessment year 1975-76, compulsory deposit will have to be made before 31-3-1975 in such cases, irrespective of the accounting year followed.

6. Order by Income-tax Officer for compulsory deposit in certain cases.—(1) If, in relation to an assessment year referred to in sub-section (1) of section 3, the correct income of a person falling under clause (c) of sub-section (3) of section 4 exceeds fifteen thousand rupees and such person has failed to make the compulsory deposit for that assessment year, the Income-tax Officer shall, by order in writing, direct that such person shall make the compulsory deposit with reference to his correct income.

(2) For the purposes of this section, "correct income" of a person, in relation to an assessment year, means—

(i) in a case where the person has furnished the return of income under section 139 of the Income-tax Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] returned by him, as increased by the net agricultural income, if any, returned by him;

(ii) in a case where the person has failed to furnish the return of income under section 139 of the Income-tax Act and assessment is made under section 144 of that Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] determined on assessment, as increased by the net agricultural income, if any, determined on assessment.

Explanation.—In this sub-section, "net agricultural income" has the meaning assigned to it in the *Explanation* to sub-section (3) of section 4.

SECTION 6:

Under section 4(3)(c), a person whose total income exclusive of capital gains and winnings from lotteries etc., but inclusive of net agricultural income exceeds Rs. 15,000 is required to make compulsory deposit even though he is not required to pay advance tax under section 210(1) or (3) or section 212(1) or (2) or (3) or (3A) of the Income-tax Act. The Income-tax Officer is empowered under section 6(1) of this Act to make an order for compulsory deposit on the basis of return of income furnished under section 139 of the Income-tax Act in relation to the assessment year 1975-76 and/or 1976-77 if the "correct income" of such person for the relevant assessment year exceeds Rs. 15,000 and such person has failed to make compulsory deposit under this Act.

The "correct income" as defined under sub-section (2) of section 6 means the income declared by the assessee in his return of income (exclusive of capital gains and income from winnings from lotteries etc. referred to in section 2(24)(ix) of the Income-tax Act), as increased by his net agricultural income, if any, declared in the return. Where no return is furnished under section 139 and ex-parte assessment is made under section 144, the total income determined on assessment including net agricultural income, if any, but excluding capital gains and the income referred to in section 2(24)(ix) of the Income-tax Act will be taken to be the "correct income".

EXAMPLE:—The correct income for the purposes of Compulsory deposit scheme is to be computed as under :

1. Property income	Rs. 20,000
2. Business income	Rs. 30,000
3. Interest on fixed deposits from banks	Rs. 5,000
4. Winnings from lottery	Rs. 10,000
5. Capital gains (either short term or long term)	Rs. 30,000
6. Winnings from races	Rs. 5,000
	Income ..	Rs. 1,00,000

Less: Exclusions under section 6 of this Act :

1. Winnings from lottery	Rs. 10,000	
2. Capital gains	Rs. 30,000	
3. Winnings from races..	Rs. 5,000	Rs. 45,000
	Reduced total income ..		Rs. 55,000

Less: deductions under Chapter VIA of the Income-tax Act :

1. Subscriptions to Public Provident fund	Rs. 5,000	
On the first Rs. 2,000 @ 100%	Rs. 2,000	
On the balance Rs. 3,000 @ 50%	Rs. 1,500	
		Rs. 3,500	
2. Interest on fixed deposits under section 80L:			
Maximum permissible deduction	Rs. 3,000	Rs. 6,500
Correct income liable to compulsory deposit		Rs. 48,500

Compulsory deposit required to be made :

1. On the first Rs. 25,000 @ 4%	Rs. 1,000
2. On the balance of Rs. 23,500 @ 6%	Rs. 1,410
	Compulsory deposit payable (Refer page 18)	Rs. 2,410

7. Compulsory deposit to carry simple interest.—(1) Every compulsory deposit made by or recovered from a depositor shall carry simple interest at a rate equal to the bank deposit rate.

Explanation.—In this sub-section, “bank deposit rate” means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by charitable or religious institutions) by different classes of scheduled banks in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949.

(2) The interest shall be calculated in such manner as may be specified in the scheme framed under section 19.

(3) For the purposes of the deduction under section 80L of the Income-tax Act, interest received on a compulsory deposit shall be deemed to be interest received on a deposit with a banking company to which the Banking Regulation Act, 1949, applies.

SECTION 7:

Deposits made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 shall carry simple interest at the highest of the maximum rates at which interest may be paid by different classes of scheduled banks on different classes of deposits in accordance with the directions given by the Reserve Bank of India.

The interest received on compulsory deposit under this Act is deductible under section 80L of the Income-tax Act, 1961 as explained hereunder :

EXAMPLE:—An assessee has made compulsory deposit for the assessment years 1975-76 and 1976-77. In the assessment year 1978-79, he received Rs. 2,000 as interest on account of deposits made during the assessment year 1975-76. The interest of Rs. 2,000 received is deductible under section 80L of the Income-tax Act.

[The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974].

Assessment year 1978-79

(Financial year ending 31-3-78)

1. Business income	Rs. 10,000
2. Dividend income	Rs. 500
3. Interest on compulsory deposit ..	Rs. 2,000
	Rs. 12,500
Gross total income ..	
Less: deduction under section 80L:	
1. Dividend income	Rs. 500
2. Interest on compulsory deposit ..	Rs. 2,000
	Rs. 2,500
Taxable income for the assessment year 1978-79	Rs. 10,000

8. Repayment of compulsory deposit.—The amount of compulsory deposit made by or recovered from a depositor in any financial year shall be repayable in five equal annual instalments commencing from the expiry of two years from the end of that financial year, together with the interest due on the whole or, as the case may be, part of the amount of the compulsory deposit which has remained unpaid:

Provided that nothing in this section shall prevent earlier repayment of the deposit or any instalment thereof together with the interest due in any case in which the Income-tax Officer is satisfied that extreme hardship will be caused unless such repayment is made.

SECTION 8:

The compulsory deposit made by the assessee is repayable with interest in five equal annual instalments commencing from the expiry of two years from the end of the financial year in which the deposit is made.

Suppose Mr. A has made compulsory deposit for the assessment years 1975-76 and 1976-77 as under:

Deposits made during the financial year	Assessment year	Amount of deposit
1974-75 ..	1975-76	Rs. 1,000
1975-76 ..	1976-77	Rs. 1,500
		Rs. 2,500

The repayment of deposit together with interest will be as under:

1st April 1977	Rs. 200 + Interest
1st April 1978	Rs. 500 + Interest
1st April 1979	Rs. 500 + Interest
1st April 1980	Rs. 500 + Interest
1st April 1981	Rs. 500 + Interest
1st April 1982	Rs. 300 + Interest

In cases of hardship, the Income-tax Officer is authorised to direct the deposit office to make earlier repayment of the deposits made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

9. Intimation regarding compulsory deposit.—Every depositor shall send to the Income-tax Officer, along with the return of income for the assessment year for which he is liable to make a compulsory deposit, proof of the fact of such deposit having been made.

SECTION 9:

This section requires the assessee to file along with the return of income, proof of the fact that compulsory deposit is made.

10. Penalty for failure to make compulsory deposit.—(1) If, in relation to an assessment year referred to in sub-section (1) of section 3, any person who is liable to make a compulsory deposit [being a person falling under clause (a) or clause (b) of sub-section (3) of section 4]—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time but the deposit so made falls short of the requisite amount, the Income-tax Officer shall, by order in writing, direct that such person shall pay, by way of penalty, a sum—

(i) which, in the case referred to in clause (a), shall be equal to twenty-five per cent. of the compulsory deposit which he is liable to make; and

(ii) which, in the case referred to in clause (b), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the requisite amount.

(2) If, in relation to an assessment year referred to in sub-section (1) of section 3, the correct income of a person falling under clause (c) of sub-section (3) of section 4, exceeds fifteen thousand rupees and such person—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time on the basis of his own estimate but the deposit so made is less than seventy-five per cent. of the compulsory deposit which he would have been liable to make on the basis of his correct income, the Income-tax Officer shall, by order in writing, direct that such person shall pay by way of penalty a sum—

(i) which, in the case referred to in clause (a), shall be equal to twenty-five per cent. of the compulsory deposit calculated with reference to his correct income; and

(ii) which, in the case referred to in clause (b), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the compulsory deposit calculated with reference to his correct income.

Explanation.—In this sub-section, “correct income” has the meaning assigned to it in sub-section (2) of section 6.

(3) No order imposing a penalty under this section shall be made against any person unless such person has been heard or has been given a reasonable opportunity of being heard.

SECTION 10:

In the event of failure to make the compulsory deposit within the time allowed or where the deposit made falls short of the amount required to be paid, the assessee will be liable to penalty as under :

(a) where the assessee is required to pay advance income-tax and fails to make the required amount of compulsory deposit before the expiry of the date on which the last instalment of “advance tax” is payable by him, the penalty payable shall be equal to 25% of the compulsory deposit.

(b) where the assessee is required to pay “advance tax” but makes the compulsory deposit which is less than the amount he is required to make, the penalty will be equal to 25% of the amount by which the compulsory deposit made by him falls short of the requisite amount.

(c) where the assessee is not required to pay advance tax but his correct income exceeds Rs. 15,000 and he has failed to make the compulsory deposit before the end of the financial year, the penalty payable shall be equal to 25% of the compulsory deposit required to be made.

(d) where the current income of an assessee is in excess of Rs. 15,000 but has made the compulsory deposit of an inadequate amount before the end of the financial year, the penalty payable will be equal to 25% of the amount by which the compulsory deposit made by him falls short of the requisite amount.

No penalty under this section will be imposed unless an assessee has been given a reasonable opportunity of being heard.

11. Authorities. (1) Every Director of Inspection, Commissioner of Income-tax, Additional Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax, shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act and for this purpose compulsory deposit under this Act shall be deemed to be tax chargeable under that Act.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board :

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any authority referred to in sub-section (1) to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions, issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

12. Appeals and revision. Any depositor, aggrieved by any order of the Income-tax Officer imposing a penalty under section 10, may appeal to the Appellate Assistant Commissioner and the provisions of the Income-tax Act relating to appeals, reference and revision shall, so far as may be, apply in relation to such order as they apply in relation to an order of the Income-tax Officer imposing a penalty under section 221 of that Act.

13. Rectification of mistakes. (1) With a view to rectifying any mistake apparent from the record, the Income-tax Officer, the Appellate Assistant Commissioner, the Commissioner and the Appellate Tribunal may, of his, or its, own motion or on an application by the depositor in this behalf, amend any order passed by him or it in any proceeding under this Act, within four years of the date on which such order was passed.

(2) An amendment which has the effect of enhancing the compulsory deposit or any penalty imposed under this Act shall not be made under this section unless the authority concerned has given notice to the depositor of its intention so to do and has allowed the depositor a reasonable opportunity of being heard.

(3) Where an amendment is made under this section, the order shall be passed in writing by the authority concerned.

(4) Where any such amendment has the effect of enhancing the compulsory deposit or the penalty imposed under this Act, the Income-tax Officer shall serve on the depositor a notice specifying the sum which has to be deposited or paid.

14. Collection and recovery of compulsory deposit and penalty. (1) When, in consequence of any order passed under this Act, any compulsory deposit or penalty has to be made or paid, the Income-tax Officer shall serve upon the depositor a notice specifying the sum which has to be deposited or paid.

(2) The sum specified in a notice under sub-section (1) shall be deposited or, as the case may be, paid within thirty-five days of the service of the notice at the place and with or to the person mentioned in the notice:

Provided that on an application made by the depositor before the expiry of the said period of thirty-five days, the Income-tax Officer may extend the time for making the deposit or payment or allow the deposit or payment to be made by instalments subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) If a depositor fails to make the compulsory deposit within the time allowed under section 5, or if he fails to deposit or, as the case may be, pay the amount which he is required to deposit or pay by notice under sub-section (1) within the time allowed under sub-section (2) (whether fixed originally or on extension), at the place and with or to the person mentioned in the said notice, the depositor shall be deemed to be in default.

(4) Any arrear of compulsory deposit and any penalty imposed under this Act shall be recoverable in the manner provided in Chapter XVII-D of the Income-tax Act for recovery of arrears of tax and for this purpose the provisions of that Chapter shall apply as if references to the assessee therein were references to the depositor.

15. Rounding off. (1) The amount of the current income, correct income and compulsory deposit shall be rounded off to the nearest multiple of ten rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then,

if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.

Explanation.—In this sub-section, “current income” and “correct income” have the meanings respectively assigned to them in sub-section (3) of section 4 and sub-section (2) of section 6.

(2) The amount of penalty payable under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

SECTION 15:

The amount of compulsory deposit is to be rounded off to the nearest multiple of ten rupees while the amount of penalty is to be rounded off to the nearest rupee.

16. Applicability of Chapter XV of Income-tax Act.—The provisions of Chapter XV of the Income-tax Act relating to liability in special cases shall, so far as may be, apply in relation to compulsory deposits and penalties imposable under this Act as they apply in relation to income-tax payable and penalties imposable under that Act.

SECTION 16:

Under Chapter XV of the Income-tax Act, 1961, the following persons are liable to pay income-tax in special cases.

- | | |
|---|---|
| 1. Legal representative | — Section 159 of the Income-tax Act |
| 2. Representative assessee | — Section 160, 163, & 166 of the Income-tax Act |
| 3. Executors | — Section 168 of the Income-tax Act |
| 4. Succession to business | — Section 170 of the Income-tax Act |
| 5. Assessment after partition of a Hindu undivided family | — Section 171 of the Income-tax Act |
| 6. Discontinuance of business | — Section 176 of the Income-tax Act |

The above representative assessee is liable to make compulsory deposit and penalties imposable under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974.

17. Protection against attachment.—(1) The amount of compulsory deposit and interest thereon standing to the credit of any depositor shall not be liable to attachment under a decree or order of any court in respect of any debt or liability incurred by the depositor.

(2) The amount of compulsory deposit and interest thereon standing to the credit of a depositor at the time of his death and payable to his nominee shall vest in the nominee and shall be free from debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor.

18. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or against any officer of the Government for anything which is in good faith done or intended to be done under this Act or any scheme framed thereunder.

19. Compulsory Deposit Scheme.—(1) The Central Government shall, by notification in the Official Gazette, frame a scheme or schemes, to be called Compulsory Deposit (Income-tax Payers) Scheme or Schemes, in relation to compulsory deposits.

(2) A scheme framed under sub-section (1) may provide for—

- (a) the manner in which compulsory deposits shall be made;
- (b) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;
- (c) the authority or authorities by or through whom the deposits may be collected;
- (d) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death or in cancellation or change of such nomination;
- (e) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee (not exceeding two rupees) on the payment of which such duplicate may be issued;

(f) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) The Central Government may, by notification in the Official Gazette, add to, amend or vary any scheme framed under sub-section (1).

(4) A scheme framed under sub-section (1) or a notification issued under sub-section (3) may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the scheme or notification.

(5) Any scheme framed under sub-section (1) or any notification issued under sub-section (3) shall have effect notwithstanding anything contained in any law for the time being in force (other than this Act) or any instrument having effect by virtue of any law other than this Act.

(6) Every scheme framed under sub-section (1) and every notification issued under sub-section (3) shall be laid, as soon as may be, after it is framed or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the scheme or notification or both Houses agree that the scheme or notification should not be framed or issued, the scheme or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme or notification.

20. Power to remove difficulties. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

21. Repeal and saving. (1) The Compulsory Deposit Scheme (Income-tax Payers) Ordinance, 1974, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See section 4(1)]

RATES OF COMPULSORY DEPOSIT

- | | |
|--|---|
| (1) Where the current income exceeds Rs. 15,000 but does not exceed Rs. 25,000 | 4 per cent. of the current income; |
| (2) Where the current income exceeds Rs. 25,000 but does not exceed Rs. 70,000 | Rs. 1,000 plus 6 per cent. of the amount by which the current income exceeds Rs. 25,000; |
| (3) Where the current income exceeds Rs. 70,000 | Rs. 3,700 plus 8 per cent. of the amount by which the current income exceeds Rs. 70,000 : |

Provided that where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000 :

Provided further that where in the case of any depositor the amount of compulsory deposit calculated in accordance with the foregoing provisions is less than Rs. 100, it shall not be necessary for him to make such deposit.

Explanation.—In this Schedule, “current income” has the meaning assigned to it in sub-section (3) of section 4.

TABLE FOR:
**COMPULSORY DEPOSIT REQUIRED TO BE MADE WITH REFERENCE TO
 CURRENT INCOME**

Applicable to:
**Individuals (Citizens of India), Hindu undivided families and trustees of private and
 discretionary trusts**

Where the current (taxable) income is between:
Rs. 15,000 & Rs. 1,00,000

Current income *	Com- pulsory deposit required to be made Rs.	Current income *	Com- pulsory deposit required to be made Rs.	Current income *	Com- pulsory deposit required to be made Rs.	Current income *	Com- pulsory deposit required to be made Rs.	Current income *	Com- pulsory deposit required to be made Rs.
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
15000	Nil	15270	270	15540	540	20130-20370	810	26090-26240	1070
15010	Nil	15280	280	15550	550	20380-20620	820	26250-26410	1080
15020	Nil	15290	290	15560	560	20630-20870	830	26420-26580	1090
15030	Nil	15300	300	15570	570	20880-21120	840	26590-26740	1100
15040	Nil	15310	310	15580	580	21130-21370	850	26750-26910	1110
15050	Nil	15320	320	15590	590	21380-21620	860	26920-27080	1120
15060	Nil	15330	330	15600	600	21630-21870	870	27090-27240	1130
15070	Nil	15340	340	15610	610	21880-22120	880	27250-27410	1140
15080	Nil	15350	350	15620	620	22130-22370	890	27420-27580	1150
15090	Nil	15360	360	15630-15870	630	22380-22620	900	27590-27740	1160
15100	100	15370	370	15880-16120	640	22630-22870	910	27750-27910	1170
15110	110	15380	380	16130-16370	650	22880-23120	920	27920-28080	1180
15120	120	15390	390	16380-16620	660	23130-23370	930	28090-28240	1190
15130	130	15400	400	16630-16870	670	23380-23620	940	28250-28410	1200
15140	140	15410	410	16880-17120	680	23630-23870	950	28420-28580	1210
15150	150	15420	420	17130-17370	690	23880-24120	960	28590-28740	1220
15160	160	15430	430	17380-17620	700	24130-24370	970	28750-28910	1230
15170	170	15440	440	17630-17870	710	24380-24620	980	28920-29080	1240
15180	180	15450	450	17880-18120	720	24630-24870	990	29090-29240	1250
15190	190	15460	460	18130-18370	730	24880-25000	1000	29250-29410	1260
15200	200	15470	470	18380-18620	740	25000-25080	1000	29420-29580	1270
15210	210	15480	480	18630-18870	750	25090-25240	1010	29590-29740	1280
15220	220	15490	490	18880-19120	760	25250-25410	1020	29750-29910	1290
15230	230	15500	500	19130-19370	770	25420-25580	1030	29920-30080	1300
15240	240	15510	510	19380-19620	780	25590-25740	1040	30090-30240	1310
15250	250	15520	520	19630-19870	790	25750-25910	1050	30250-30410	1320
15260	260	15530	530	19880-20120	800	25920-26080	1060	30420-30580	1330

*CURRENT INCOME MEANS:—

Gross total income under the Income-tax Act as reduced by deductions permissible under chapter VIA of the said Act

Plus

Net agricultural income, if any.
 For examples, refer page 8, 9 & 11.

[The Compulsory Deposit Scheme (Income-tax Payers) Act, 1974].
TABLE—(Contd.)

Current income* between Rs.	Com- pulsory deposit required to be made Rs.	Current income* between Rs.	Com- pulsory deposit required to be made Rs.	Current income* between Rs.	Com- pulsory deposit required to be made Rs.	Current income* between Rs.	Com- pulsory deposit required to be made Rs.	Current income* between Rs.	Com- pulsory deposit required to be made Rs.
30590-30740	1340	35920-36080	1660	41250-41410	1980	46590-46740	2300	51920-52080	2620
30750-30910	1350	36090-36240	1670	41420-41580	1990	46750-46910	2310	52090-52240	2630
30920-31080	1360	36250-36410	1680	41590-41740	2000	46920-47080	2320	52250-52410	2640
31090-31240	1370	36420-36580	1690	41750-41910	2010	47090-47240	2330	52420-52580	2650
31250-31410	1380	36590-36740	1700	41920-42080	2020	47250-47410	2340	52590-52740	2660
31420-31580	1390	36750-36910	1710	42090-42240	2030	47420-47580	2350	52750-52910	2670
31590-31740	1400	36920-37080	1720	42250-42410	2040	47590-47740	2360	52920-53080	2680
31750-31910	1410	37090-37240	1730	42420-42580	2050	47750-47910	2370	53090-53240	2690
31920-32080	1420	37250-37410	1740	42590-42740	2060	47920-48080	2380	53250-53410	2700
32090-32240	1430	37420-37580	1750	42750-42910	2070	48090-48240	2390	53420-53580	2710
32250-32410	1440	37590-37740	1760	42920-43080	2080	48250-48410	2400	53590-53740	2720
32420-32580	1450	37750-37910	1770	43090-43240	2090	48420-48580	2410	53750-53910	2730
32590-32740	1460	37920-38080	1780	43250-43410	2100	48590-48740	2420	53920-54080	2740
32750-32910	1470	38090-38240	1790	43420-43580	2110	48750-48910	2430	54090-54240	2750
32920-33080	1480	38250-38410	1800	43590-43740	2120	48920-49080	2440	54250-54410	2760
33090-33240	1490	38420-38580	1810	43750-43910	2130	49090-49240	2450	54420-54580	2770
33250-33410	1500	38590-38740	1820	43920-44080	2140	49250-49410	2460	54590-54740	2780
33420-33580	1510	38750-38910	1830	44090-44240	2150	49420-49580	2470	54750-54910	2790
33590-33740	1520	38920-39080	1840	44250-44410	2160	49590-49740	2480	54920-55080	2800
33750-33910	1530	39090-39240	1850	44420-44580	2170	49750-49910	2490	55090-55240	2810
33920-34080	1540	39250-39410	1860	44590-44740	2180	49920-50080	2500	55250-55410	2820
34090-34240	1550	39420-39580	1870	44750-44910	2190	50090-50240	2510	55420-55580	2830
34250-34410	1560	39590-39740	1880	44920-45080	2200	50250-50410	2520	55590-55740	2840
34420-34580	1570	39750-39910	1890	45090-45240	2210	50420-50580	2530	55750-55910	2850
34590-34740	1580	39920-40080	1900	45250-45410	2220	50590-50740	2540	55920-56080	2860
34750-34910	1590	40090-40240	1910	45420-45580	2230	50750-50910	2550	56090-56240	2870
34920-35080	1600	40250-40410	1920	45590-45740	2240	50920-51080	2560	56250-56410	2880
35090-35240	1610	40420-40580	1930	45750-45910	2250	51090-51240	2570	56420-56580	2890
35250-35410	1620	40590-40740	1940	45920-46080	2260	51250-51410	2580	56590-56740	2900
35420-35580	1630	40750-40910	1950	46090-46240	2270	51420-51580	2590	56750-56910	2910
35590-35740	1640	40920-41080	1960	46250-46410	2280	51590-51740	2600	56920-57080	2920
35750-35910	1650	41090-41240	1970	46420-46580	2290	51750-51910	2610	57090-57240	2930

*CURRENT INCOME MEANS:—

Gross total income under the Income-tax Act as reduced by deductions permissible under chapter VIA of the said Act

Plus
Net agricultural income, if any.
For examples, refer page 8, 9 & 11

Current income* between Rs.	Compulsory deposit required to be made Rs.	Current income* between Rs.	Compulsory deposit required to be made Rs.	Current income* between Rs.	Compulsory deposit required to be made Rs.	Current income* between Rs.	Compulsory deposit required to be made Rs.	Current income* between Rs.	Compulsory deposit required to be made Rs.
57250-57410	2940	62590-62740	3260	67920-68080	3580	72320-72430	3890	76320-76430	4210
57420-57580	2950	62750-62910	3270	68090-68240	3590	72440-72560	3900	76440-76560	4220
57590-57740	2960	62920-63080	3280	68250-68410	3600	72570-72680	3910	76570-76680	4230
57750-57910	2970	63090-63240	3290	68420-68580	3610	72690-72810	3920	76690-76810	4240
57920-58080	2980	63250-63410	3300	68590-68740	3620	72820-72930	3930	76820-76930	4250
58090-58240	2990	63420-63580	3310	68750-68910	3630	72940-73060	3940	76940-77060	4260
58250-58410	3000	63590-63740	3320	68920-69080	3640	73070-73180	3950	77070-77180	4270
58420-58580	3010	63750-63910	3330	69090-69240	3650	73190-73310	3960	77190-77310	4280
58590-58740	3020	63920-64080	3340	69250-69410	3660	73320-73430	3970	77320-77430	4290
58750-58910	3030	64090-64240	3350	69420-69580	3670	73440-73560	3980	77440-77560	4300
58920-59080	3040	64250-64410	3360	69590-69740	3680	73570-73680	3990	77570-77680	4310
59090-59240	3050	64420-64580	3370	69750-69910	3690	73690-73810	4000	77690-77810	4320
59250-59410	3060	64590-64740	3380	69920-70000	3700	73820-73930	4010	77820-77930	4330
59420-59580	3070	64750-64910	3390	70000-70060	3700	73940-74060	4020	77940-78060	4340
59590-59740	3080	64920-65080	3400	70070-70180	3710	74070-74180	4030	78070-78180	4350
59750-59910	3090	65090-65240	3410	70190-70310	3720	74190-74310	4040	78190-78310	4360
59920-60080	3100	65250-65410	3420	70320-70430	3730	74320-74430	4050	78320-78430	4370
60090-60240	3110	65420-65580	3430	70440-70560	3740	74440-74560	4060	78440-78560	4380
60250-60410	3120	65590-65740	3440	70570-70680	3750	74570-74680	4070	78570-78680	4390
60420-60580	3130	65750-65910	3450	70690-70810	3760	74690-74810	4080	78690-78810	4400
60590-60740	3140	65920-66080	3460	70820-70930	3770	74820-74930	4090	78820-78930	4410
60750-60910	3150	66090-66240	3470	70940-71060	3780	74940-75060	4100	78940-79060	4420
60920-61080	3160	66250-66410	3480	71070-71180	3790	75070-75180	4110	79070-79180	4430
61090-61240	3170	66420-66580	3490	71190-71310	3800	75190-75310	4120	79190-79310	4440
61250-61410	3180	66590-66740	3500	71320-71430	3810	75320-75430	4130	79320-79430	4450
61420-61580	3190	66750-66910	3510	71440-71560	3820	75440-75560	4140	79440-79560	4460
61590-61740	3200	66920-67080	3520	71570-71680	3830	75570-75680	4150	79570-79680	4470
61750-61910	3210	67090-67240	3530	71690-71810	3840	75690-75810	4160	79690-79810	4480
61920-62080	3220	67250-67410	3540	71820-71930	3850	75820-75930	4170	79820-79930	4490
62090-62240	3230	67420-67580	3550	71940-72060	3860	75940-76060	4180	79940-80060	4500
62250-62410	3240	67590-67740	3560	72070-72180	3870	76070-76180	4190	80070-80180	4510
62420-62580	3250	67750-67910	3570	72190-72310	3880	76190-76310	4200	80190-80310	4520

*CURRENT INCOME MEANS:—

Gross total income under the Income-tax Act as reduced by deductions permissible under chapter VIA of the said Act
Plus

Net agricultural income, if any.
For examples, refer page 8, 9 & 11

TABLE—(Contd.)

Current income * between Rs.	Com- pulsory deposit required to be made Rs.	Current income * between Rs.	Com- pulsory deposit required to be made Rs.	Current income * between Rs.	Com- pulsory deposit required to be made Rs.	Current income * between Rs.	Com- pulsory deposit required to be made Rs.	Current income * between Rs.	Com- pulsory deposit required to be made Rs.
80320-80430	4530	84320-84430	4850	88320-88430	5170	92320-92430	5490	96320-96430	5810
80440-80560	4540	84440-84560	4860	88440-88560	5180	92440-92560	5500	96440-96560	5820
80570-80680	4550	84570-84680	4870	88570-88680	5190	92570-92680	5510	96570-96680	5830
80690-80810	4560	84690-84810	4880	88690-88810	5200	92690-92810	5520	96690-96810	5840
80820-80930	4570	84820-84930	4890	88820-88930	5210	92820-92930	5530	96820-96930	5850
80940-81060	4580	84940-85060	4900	88940-89060	5220	92940-93060	5540	96940-97060	5860
81070-81180	4590	85070-85180	4910	89070-89180	5230	93070-93180	5550	97070-97180	5870
81190-81310	4600	85190-85310	4920	89190-89310	5240	93190-93310	5560	97190-97310	5880
81320-81430	4610	85320-85430	4930	89320-89430	5250	93320-93430	5570	97320-97430	5890
81440-81560	4620	85440-85560	4940	89440-89560	5260	93440-93560	5580	97440-97560	5900
81570-81680	4630	85570-85680	4950	89570-89680	5270	93570-93680	5590	97570-97680	5910
81690-81810	4640	85690-85810	4960	89690-89810	5280	93690-93810	5600	97690-97810	5920
81820-81930	4650	85820-85930	4970	89820-89930	5290	93820-93930	5610	97820-97930	5930
81940-82060	4660	85940-86060	4980	89940-90060	5300	93940-94060	5620	97940-98060	5940
82070-82180	4670	86070-86180	4990	90070-90180	5310	94070-94180	5630	98070-98180	5950
82190-82310	4680	86190-86310	5000	90190-90310	5320	94190-94310	5640	98190-98310	5960
82320-82430	4690	86320-86430	5010	90320-90430	5330	94320-94430	5650	98320-98430	5970
82440-82560	4700	86440-86560	5020	90440-90560	5340	94440-94560	5660	98440-98560	5980
82570-82680	4710	86570-86680	5030	90570-90680	5350	94570-94680	5670	98570-98680	5990
82690-82810	4720	86690-86810	5040	90690-90810	5360	94690-94810	5680	98690-98810	6000
82820-82930	4730	86820-86930	5050	90820-90930	5370	94820-94930	5690	98820-98930	6010
82940-83060	4740	86940-87060	5060	90940-91060	5380	94940-95060	5700	98940-99060	6020
83070-83180	4750	87070-87180	5070	91070-91180	5390	95070-95180	5710	99070-99180	6030
83190-83310	4760	87190-87310	5080	91190-91310	5400	95190-95310	5720	99190-99310	6040
83320-83430	4770	87320-87430	5090	91320-91430	5410	95320-95430	5730	99320-99430	6050
83440-83560	4780	87440-87560	5100	91440-91560	5420	95440-95560	5740	99440-99560	6060
83570-83680	4790	87570-87680	5110	91570-91680	5430	95570-95680	5750	99570-99680	6070
83690-83810	4800	87690-87810	5120	91690-91810	5440	95690-95810	5760	99690-99810	6080
83820-83930	4810	87820-87930	5130	91820-91930	5450	95820-95930	5770	99820-99930	6090
83940-84060	4820	87940-88060	5140	91940-92060	5460	95940-96060	5780	99940-100000	6100
84070-84180	4830	88070-88180	5150	92070-92180	5470	96070-96180	5790		
84190-84310	4840	88190-88310	5160	92190-92310	5480	96190-96310	5800		

*CURRENT INCOME MEANS:—

Gross total income under the Income-tax Act as reduced by deductions permissible under chapter VIA of the said Act

Plus

Net agricultural income, if any.
For examples, refer page 8, 9 & 11.

TABLE FOR:
**COMPULSORY DEPOSIT REQUIRED TO BE MADE WITH REFERENCE TO
 CURRENT INCOME**

Applicable to:
**Individuals (Citizens of India), Hindu undivided families and trustees of private and
 discretionary trusts.**

Where the current (taxable) income is between:
Rs. 1,00,000 & Rs. 5,00,000

Current income *	Compulsory deposit required to be made	Current income *	Compulsory deposit required to be made	Current income *	Compulsory deposit required to be made	Current income *	Compulsory deposit required to be made	Current income *	Compulsory deposit required to be made
Rs.	Rs. P.	Rs.	Rs. P.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
10	0-80	60	4-80	100	8	500	40	900	72
20	1-60	70	5-60	200	16	600	48	1000	80
30	2-40	80	6-40	300	24	700	56	2000	160
40	3-20	90	7-20	400	32	800	64	3000	240
50	4-00	100	8-00	500	40	900	72	4000	320
100000	6100	180000	12500	260000	18900	340000	25300	420000	31700
105000	6500	185000	12900	265000	19300	345000	25700	425000	32100
110000	6900	190000	13300	270000	19700	350000	26100	430000	32500
115000	7300	195000	13700	275000	20100	355000	26500	435000	32900
120000	7700	200000	14100	280000	20500	360000	26900	440000	33300
125000	8100	205000	14500	285000	20900	365000	27300	445000	33700
130000	8500	210000	14900	290000	21300	370000	27700	450000	34100
135000	8900	215000	15300	295000	21700	375000	28100	455000	34500
140000	9300	220000	15700	300000	22100	380000	28500	460000	34900
145000	9700	225000	16100	305000	22500	385000	28900	465000	35300
150000	10100	230000	16500	310000	22900	390000	29300	470000	35700
155000	10500	235000	16900	315000	23300	395000	29700	475000	36100
160000	10900	240000	17300	320000	23700	400000	30100	480000	36500
165000	11300	245000	17700	325000	24100	405000	30500	485000	36900
170000	11700	250000	18100	330000	24500	410000	30900	490000	37300
175000	12100	255000	18500	335000	24900	415000	31300	495000	37700
180000	12500	260000	18900	340000	25300	420000	31700	500000	38100

*CURRENT INCOME MEANS:—

Gross total income under the Income-tax Act as reduced by deductions permissible under chapter VIA of the said Act
 Plus

Net agricultural income, if any.

For examples, refer page 8, 9 & 11.

ROUNDING OFF:

In view of section 15 of the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974, the amount of compulsory deposit payable is to be rounded off to the nearest multiple of ten rupees. For example:

Current income	Compulsory deposit as per Schedule rates & amount given in this table	Rounded off compulsory deposit to be made
Rs. 1,10,860	Rs. 6,968.80	Rs. 6,970
Rs. 1,35,900	Rs. 8,972.00	Rs. 8,970
Rs. 2,40,600	Rs. 17,348.00	Rs. 17,350

49445

THE ADDITIONAL EMOLUMENTS (COMPULSORY DEPOSIT) ACT, 1974.

(Received the assent of the President on 1st day of September, 1974).

AN ACT

to provide, in the interests of national economic development, for the compulsory deposit of additional emoluments and for the framing of a scheme in relation thereto, and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Additional Emoluments (Compulsory Deposit) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 6th day of July, 1974, except section 14 which shall come into force at once.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 6th day of July, 1974;

(b) “additional dearness allowance” means such dearness allowance as may be sanctioned from time to time, after the appointed day, over and above the amount of dearness allowance payable in accordance with the rate in force immediately before the date from which such sanction of additional dearness allowance is to take effect.

Explanation I.—Where payment of dearness allowance is linked to a cost of living index or any other factor, any automatic payment, after the appointed day, of dearness allowance in consequence of any rise in such cost of living index or in consequence of any change in such other factor shall, notwithstanding the provisions of this clause, be deemed to be the additional dearness allowance.

Explanation II.—For the purpose of computation of the additional dearness allowance in relation to an employee who enters into any post after the appointed day, dearness allowance payable, immediately before the appointed day, in relation to such post shall be deemed to be the dearness allowance payable to such employee as if he were holding that post on the appointed day and any excess over and above the said dearness allowance shall be deemed, for the purposes of this Act, to be the additional dearness allowance in relation to such employee;

(c) “additional wages” means such wages, over and above the wages payable to an employee in accordance with the rates in force immediately before the appointed day, as may become payable to the employee in respect of any period after the appointed day in pursuance of any wage revision, whether by or under an agreement or settlement between the parties or any award, decree or order of any court, tribunal or other authority or otherwise, but does not include—

(i) any increment due to the employee in accordance with the time scale of pay applicable to the post held by him immediately before the appointed day, and any consequent increase in any allowance (not being dearness allowance) admissible under any rule or order in force immediately before the appointed day;

(ii) any higher wages payable to the employee on his—

(a) promotion to a higher post and any increment, being an increment within the prescribed limits, due to the employee in such higher post;

(b) deputation or transfer to an equivalent post or to any post involving higher responsibilities and duties;

(iii) any special pay, honorarium, fee or reward payable for any special work done;

- (iv) any remuneration payable for overtime work;
- (v) Any increase in wages consequent on the revision of the minimum rates of wages fixed under the Minimum wages Act, 1948;
- (vi) any increase in wages sanctioned in pursuance of the recommendations made—
 - (a) by the Third Central Pay Commission;
 - (b) before the appointed day, by any Pay Commission appointed by a State Government, in relation to the employees of that Government;
 - (c) by any committee constituted, before the appointed day, by Parliament, Supreme Court or any High Court in relation to any employee of Parliament, Supreme Court or High Court, as the case may be.

Explanation I.—Where any wage revision made after the appointed day is to be effective from a date prior to the appointed day, the wages payable immediately before the appointed day, before such wage revision, shall, for the purposes of computation of additional wages, be deemed to be the wages.

Explanation II.—Any bonus (including incentive and production bonus) paid after the appointed day at a rate over and above the rate at which it was last paid before the appointed day, shall be deemed for the purposes of this Act, to be additional wages;

- (d) “bank deposit rate” means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by charitable or religious institutions) by different classes of scheduled banks in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949;
- (e) “dearness allowance” means all cash payments, by whatever name called, made to an employee on account of rise in the cost of living;
- (f) “Deposit Account” means an account opened and maintained under section 5;
- (g) “emoluments” includes wages and dearness allowance;
- (h) “employer” means,—
 - (i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, and where a person is named as manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948), the person so named;
 - (ii) in relation to an establishment belonging to or under the control of the Central Government or a State Government, the person or authority appointed by the appropriate Government for the supervision and control of the employees, or where no person has been so appointed, the head of the Department concerned;
 - (iii) in relation to an establishment belonging to or under the control of any local authority, the person appointed by such authority for the supervision and control of the employees, or where no person has been so appointed, the Chief Executive Officer of the local authority;
 - (iv) in any other case, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to any other person, whether called a manager, managing director or by any other name, such person;
 and includes, in the case of a deceased employer, the legal representative of such deceased employer;
- (i) “local authority” means any municipal committee, district board, body of port commissioners, panchayat or other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of any municipal or local fund;
- (j) “nominated authority” means such authority as may be nominated by the Central Government for the purposes of this Act and different authorities may be nominated for different purposes;
- (k) “notification” means a notification published in the Official Gazette;
- (l) “prescribed” means prescribed by rules made under this Act;

- (m) "scheme" means a scheme framed under this Act;
- (n) "specified authority" means the authority specified under sub-section (1) of section 5;
- (o) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed, or capable of being expressed, in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—
- (i) any remuneration payable under any agreement, or settlement between the parties or any award, decree or order of any court, tribunal or other authority;
 - (ii) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
 - (iii) any additional remuneration payable under the terms of employment, including bonus, whether under a scheme of profit sharing or otherwise;
 - (iv) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;
 - (v) any allowance paid for house accommodation, or where house accommodation is provided, the value of such accommodation, and the value of electricity or water, or both, supplied, and the value of medical attendance or other amenity,

but does not include—

- (1) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (2) any travelling or running allowance or the value of any travelling concession;
- (3) any sum, not exceeding rupees two hundred and fifty per annum, paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- (4) any compensation or gratuity payable on the termination of employment;
- (5) any dearness allowance.

SECTION 2:

Clause (b) of section 2 defines "additional dearness allowance" and accordingly "additional dearness allowance" means such dearness allowance as may be sanctioned from time to time after the 6th day of July, 1974, over and above the amount of dearness allowance payable before the date from which the additional dearness allowance is sanctioned. Where payment of dearness allowance is linked to a cost of living index or any other factor, any automatic payment, after 6-7-1974, of dearness allowance in consequence of any rise in such cost of living index shall be deemed to be the dearness allowance.

Example: The dearness allowance due to an employee for the period June, 1974 to August, 1974 is as under:

June 1974	Rs.	90
July 1974	Rs.	90
August 1974	Rs.	190

The additional dearness allowance subject to the Additional Emoluments (C. D.) Act, 1974 will be as under:

July 1974	Nil
August 1974	Rs. 100 (Rs. 190 — Rs. 90) subject to deduction of provident fund contribution.*

* If the provident fund contribution is at the rate of 8%, the additional dearness allowance would be Rs. 100 less Rs. 8 i.e. Rs. 92. One half of the additional dearness allowance viz. Rs. 46 is required to be deducted by the employer. The amount so deducted is to be remitted to the nominated authority.

In cases where the employee enters into service after the 6th day of July, 1974, Explanation II provides that in such cases it is to be presumed that such employee was holding that post before the 6th day of July, 1974 and any increase in dearness allowance is to be deemed as "additional dearness allowance".

Clause (c) of section 2 defines "additional wages" and accordingly "additional wages" means any increase in wages after the appointed day viz. 6th day of July, 1974, in pursuance of any wage revision, whether by or under an agreement or settlement between the parties or any award, decree or order of any court or tribunal or other authority.

* By its letter dated 16th September 1974, the Ministry of Finance has issued the clarification in an Explanatory note which runs as under:

Provident Fund and other contributions:

Where it is statutorily compulsory to contribute to a provident fund or any other fund any part of the additional wages or additional dearness allowance to be deposited in terms of the Act, the amount to be deposited would be reduced to the extent of such compulsory contribution. Even in cases where an employee was contributing to a recognised provident fund at a particular rate from out of his wages and/or dearness allowance, he can continue to do so at the same rate in respect of his increased wages and/or dearness allowance and the deposit of additional wages or additional dearness allowance would be reduced by an amount which bears the same rate as his contribution.

In cases where any wage revision is made after the 6th day of July, 1974, but is made applicable retrospectively i.e. before the 6th day of July, 1974, the wages payable on the 6th day of July, 1974, before such revision shall, for the purpose of computation of 'additional wages', be deemed to be the wages. In other words, increase in wages after 6th day of July, 1974, will have to be determined with reference to the wages drawn on 6-7-1974 before such retrospective revision.

It has been specifically provided that "additional wages" does not include:—

- (i) any increment due to the employee in accordance with the time scale of pay applicable to the post held by him before the 6th day of July 1974 and any consequent increase in any allowance (not dearness allowance) admissible under any rule or order in force before the 6th day of July 1974;
- (ii) (a) any higher wages payable to the employee on his promotion to a higher post and any consequent increment within the prescribed limits for such higher post;
- (b) any higher wages payable to the employee on his deputation or transfer to any post involving higher responsibilities and duties;
- (iii) any special pay, honorarium, fee or reward payable for any special work done;
- (iv) any remuneration paid for overtime work;
- (v) any increase in wages sanctioned by :
 - (a) The Third Central Pay Commission,
 - (b) any Pay Commission appointed by a State Government before the 6th day of July 1974 in relation to its employees,
 - (c) any committee constituted, before the 6th day of July 1974, by Parliament, Supreme Court or High Court in relation to its employees.

However, any bonus paid after the 6th day of July 1974 at a rate over and above the rate at which it was last paid before the 6th day of July, 1974, such increase in rate shall be deemed to be "additional wages" and will be liable for deduction under this Act.

DEFINITION OF WAGES

"Wages" includes the following payments to employees—

- (1) Remuneration payable to a person employed in respect of his employment.
- (2) Remuneration payable under any agreement or settlement between the parties, or any award, decree or order of any court or tribunal.
- (3) Remuneration in respect of overtime work or holidays or any leave period.
- (4) Any additional remuneration including bonus.
- (5) Any sum to which the employee is entitled under any scheme framed under any law.
- (6) (a) Any allowance paid for house accommodation or where house accommodation is provided, the value of such accommodation,
- (b) the value of electricity, water,
- (c) the value of medical attendance or other amenity.

"Wages" does not include the following payments to employees—

- (1) Any contribution paid by the employer to any pension or provident fund and the interest which may have accrued thereon.
- (2) Any travelling allowance or the value of travel concession.
- (3) Any sum, subject to a maximum of Rs. 250 per annum to defray special expenses.
- (4) Any compensation or gratuity payable on the termination of employment.
- (5) Any dearness allowance.

3. Persons to whom this Act applies.—This Act shall apply to an employee of—

- (a) the Central or State Government;
- (b) a local authority;
- (c) a company as defined in section 3 of the Companies Act, 1956, including a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), and a Government company as defined in section 617 of that Act;
- (d) any other corporation, including a society or body established by, or registered under, a Central, Provincial or State Act;
- (e) any individual, association of persons or body of individuals, partnership firm or Hindu undivided family required by the Income-tax Act, 1961 to deduct income-tax at source from the emoluments paid to their employees;
- (f) any establishment owned or maintained in India by a trust, fund or institution established for a charitable or religious purpose, and required by the Income-tax Act, 1961, to deduct income-tax at source from the emoluments paid to their employees;

- (g) any establishment, not being an establishment owned by Government, local authority or person specified, respectively, in clauses (a) to (f) [both inclusive], to which the provisions of any law relating to provident funds (other than those established under the Public Provident Fund Act, 1968) apply;
- (h) any other establishment, not being an establishment to which any of the foregoing clauses apply, established at the instance, or in pursuance of a resolution, of the Central or State Government or wholly or substantially financed by the Central or State Government.

Explanation.—Where any grant or loan to an establishment from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly in a financial year is not less than rupees five lakhs and the amount of such grant or loan is not less than seventy-five per cent. of the total expenditure of that establishment, such establishment shall be deemed, for the purposes of this Act, to be substantially financed by the Central or State Government, as the case may be.

4. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II

Compulsory Deposit of Additional Emoluments

5. Additional Wages Deposit Account and Additional Dearness Allowance Deposit Account.—(1) There shall be opened by such authorities as may be specified in the scheme two separate accounts, to be known, respectively, as the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, and different authorities may be specified for different establishments or different categories of employees or establishments.

(2) The specified authority shall, in relation to each Deposit Account, open a separate ledger account in the name of each employee in relation to whom any contribution is made to the said Account, and credit the contributions so made in the said ledger account.

6. Duty of employer or other person to make deductions of additional wages and additional dearness allowance from emoluments.—(1) For the purposes of this Act, the deductions specified in sub-section (2) shall be made,—

- (a) in the case of additional wages, for a period of one year from the appointed day; and
 - (b) in the case of additional dearness allowance, for a period of two years from the appointed day.
- (2) On the commencement of this section,—
- (a) every employer, who draws, from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, and disburses, after the appointed day, emoluments of an employee to whom this Act applies, shall, as and when emoluments are disbursed by him for any period, deduct from the emoluments so disbursed, the whole of the additional wages and one-half of the additional dearness allowance and credit the amount so deducted, in accordance with the scheme, to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively;
 - (b) every other employer, who disburses, after the appointed day, emoluments to any employee to whom this Act applies, shall, as and when emoluments are disbursed by him for any period, deduct from the emoluments so disbursed, the whole of the additional

wages and one-half of the additional dearness allowance, and shall remit, in accordance with the scheme, the amounts so deducted to the nominated authority and on receipt of such amounts the nominated authority shall credit the amounts so received to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively;

- (c) any employee, to whom this Act applies, who draws, after the appointed day, his own emoluments shall,—
- (i) if he is employed in an establishment owned or maintained by Government, make deductions from his salary bill in respect of the whole of the additional wages and one-half of the additional dearness allowance and the specified authority shall credit the amount so deducted, in accordance with the scheme, to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively;
 - (ii) if he is employed in any other establishment, remit the whole of the additional wages and one-half of the additional dearness allowance, in accordance with the scheme, to the nominated authority, and on receipt of such amount, the nominated authority shall credit the amount so received to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, respectively.

Explanation.—In computing the amount to be credited to the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account, the amount contributed in relation to such additional wages or additional dearness allowance shall not—

- (a) to the extent of the contribution which is compulsorily required to be made to any provident or other fund under any law for the time being in force; or
- (b) to the extent of the contribution made to any other provident fund, recognised under any other law for the time being in force, at a rate not exceeding the rate at which such contribution was being made immediately before the appointed day,

be taken into account.

(3) The specified authority shall, as soon as may be practicable after the end of each year, prepare separately, in relation to the amounts credited to the respective Deposit Accounts to the credit of each employee, and furnish to the employee a copy of the said accounts showing therein the amounts credited thereto in relation to the employee.

Section 6:

“ADDITIONAL DEARNESS ALLOWANCE”

- (1) The deduction is to be made only for two years beginning with the 6th day of July, 1974 and ending on the 5th day of July, 1976.
- (2) One half (50%) of the additional dearness allowance is subject to deduction under this Act as explained on page 30.

“ADDITIONAL WAGES”

- (1) The deduction is to be made for one year beginning with the 6th day of July 1974 and ending on the 5th day of July 1975.
- (2) The whole (100%) of the additional wages is subject to deduction under this Act. In arriving at the amount of “additional wages”, the following increments are to be disregarded as they do not fall within the definition of “additional wages” as explained on page 25.
 - (1) Any increment in accordance with the time scale of pay.
 - (2) Higher wages on promotion to a higher post.
 - (3) Transfer to any post involving higher responsibilities and duties.
 - (4) Any special pay for any special work done.
 - (5) Any remuneration paid for overtime work.

The remittance on account of “additional dearness allowance” and “additional wages” is to be made by means of separate cheques or drafts marked “account payee only” and made out in favour of the Regional Provident Fund Commissioner. Such remittances will be received by the branches of the Reserve Bank of India and the State Bank of India as per list (covering all states) given on page 28.

List showing the names of the banks that will accept remittances to the (i) Additional Emoluments (Compulsory Deposit) Wages Account and (ii) Additional Emoluments (Compulsory Deposit) Dearness Allowance Account and their jurisdiction.

S.No.	State/ Union Territory which will be catered by the bank.	Name and address of the bank at which deposits should be made.
1.	Andhra Pradesh and Yanam area of the Union Territory of Pondicherry :	Reserve Bank of India, Hyderabad.
2.	Bihar :	Reserve Bank of India, Patna.
3.	Delhi :	Reserve Bank of India, New Delhi.
4.	Gujarat :	Reserve Bank of India, Ahmedabad.
5.	Karnataka :	Reserve Bank of India, Bangalore.
6.	Maharashtra and Goa, Daman and Diu :	Reserve Bank of India, Bombay (Fort).
7.	Orissa :	Reserve Bank of India, Bhubaneswar.
8.	Tamil Nadu and Pondicherry and Karikal areas of the Union Territory of Pondicherry :	Reserve Bank of India, Madras.
9.	Uttar Pradesh :	Reserve Bank of India, Kanpur.
10.	West Bengal and Andamans and Nicobar Islands :	Reserve Bank of India, Calcutta.
11.	Assam, Nagaland, Manipur, Tripura and Meghalaya, and Mizoram and Arunachal Pradesh :	State Bank of India, Shillong.
12.	Kerala, Lakshadweep Islands and Mahe area of the Union Territory of Pondicherry :	State Bank of India, Trivandrum.
13.	Madhya Pradesh :	State Bank of India, Indore.
14.	Punjab, Haryana, Himachal Pradesh and Chandigarh :	State Bank of India, Chandigarh.
15.	Rajasthan :	State Bank of India, Jaipur.
16.	Jammu and Kashmir :	State Bank of India, Srinagar.

The cheques or drafts, as stated above, should be accompanied by challan in Form A or B as the case may be in duplicate. The prescribed forms of challan for the purposes of crediting the amount deducted under "Additional Wages Deposit Account" and "Additional Dearness Allowance Deposit Account" are given hereunder.

AECD — FORM A

Establishment
Code Number _____

CHALLAN — ORIGINAL

Reserve Bank of India/State Bank of India

Additional Emoluments (Compulsory Deposit) Wages Account.

Ledger Folio _____

Paid into the credit of the Additional Emoluments (Compulsory Deposit)

Wages Account of the Regional Provident Fund Commissioner _____

Rupees _____ (Rs. _____ only)

being the additional Wages deducted from the emoluments of the employees for the month of _____ 197 .

Name of the establishment _____

Passing official _____

Scroll transfer _____

Address _____

Signature of the Depositor

AECD — FORM B

Establishment
Code Number _____

CHALLAN — ORIGINAL

Reserve Bank of India/State Bank of India
Additional Emoluments (Compulsory Deposit) Dearness Allowance Account

Ledger Folio _____ Paid into the credit of the Additional Emoluments (Compulsory Deposit) Dearness

Particulars of cheque/draft		
No. & Date.	Name of the Bank and branch on which drawn	Rs.

Allowance Account of the Regional Provident Fund Commissioner —
Rupees _____ (Rs. _____ only)
being the additional Dearness Allowance deducted from the emoluments
of the employees for the month of _____ 197 .

Name of the establishment _____

Address _____

Passing official _____

Scroll transfer _____

Signature of the Depositor _____

7. Deposits to carry simple interest.—(1) Every amount credited under section 6, in relation to an employee in a Deposit Account, shall carry simple interest at a rate, which shall be two and a half per cent. over and above the bank deposit rate.

(2) The interest due on the amount credited in any Deposit Account shall be calculated in such manner as may be specified in the scheme.

(3) Interest accruing on amounts credited under section 6 to any Deposit Account shall enure to the benefit of the employees in relation to whom such amounts have been credited.

(4) For the purpose of the deductions under section 80L of the Income-tax Act, 1961 (43 of 1961), interest received on a deposit under this Act shall be deemed to be interest received on a deposit with a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies.

SECTION 7:

The amounts credited under the "Additional Dearness Allowance Deposit account" and "Additional Wages Deposit Account" shall carry simple interest at 12.5% per annum, that is 2.5% more than the maximum bank deposit rate which is 10% per annum at present.

The interest so received shall be deemed to be interest received on a deposit with a banking company and shall qualify for deduction under Section 80L of the Income-tax Act, 1961.

Example : An employee has the following sources of income for the financial year ending on 31-3-1978

Salary income	Rs.	30,000
Dividends from companies	Rs.	2,000
Repayment of Compulsory Deposit under :		
(a) Additional Dearness Allowance A/c	Rs.	1,000
(b) Additional Wages A/c.	Rs.	2,000
Interest on deposits :		
under additional dearness allowance deposit account	Rs.	300
under additional wages deposit account	Rs.	500
		Rs. 800

Gross total income **Rs. 35,800**

Less : deduction under sec. 80L :

1. Dividends from Indian companies	Rs.	2,000
2. Interest on compulsory deposits	Rs.	800
		*Rs. 2,800

Taxable income for the assessment year 1978-79 **Rs. 33,000**

* As the aggregate of dividends from companies and interest on deposits under Additional Emoluments (Compulsory Deposit) Act does not exceed Rs. 3,000, the whole amount of Rs. 2,800 is deductible from the gross total income under section 80L of the Income-tax Act.

8. Assessment for the purpose of income-tax.—(1) For the purposes of computing, under the Income-tax Act, 1961 (43 of 1961), the total income of an employee, the amount credited to his ledger account in the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account shall not be included in his total income of the previous year in which it is so credited; but so much of the amount as is repaid to him shall be liable to be included in his total income of the previous year in which it is repaid.

(2) For the purposes of computing, under the Income-tax Act, 1961 (43 of 1961), the total income of an employee, the amount repaid to him under this Act shall be deemed to be salary paid to him in arrears and the provisions of sub-section (1) of section 8g of that Act shall apply accordingly.

Explanation.—In this section, “previous year” and “total income” have the meanings respectively assigned to them in the Income-tax Act, 1961 (43 of 1961).

SECTION 8:

The amounts credited in the “Additional Dearness Allowance Deposit Account” and “Additional Wages Deposit Account” are not to be included in the total income of the previous year in which it is credited but so much of the amount as is repaid to him shall be liable to be included in his total income of the previous year in which it is repaid.

This is explained by way of example as under :

Example: The total income under the head “salaries” of Mr. A for the year ending 31-3-1975 is as under :

Salary [after deduction permissible under section 16 (i) of the Income-tax Act.] ..	Rs.	20,000	
Dearness allowance	Rs.	6,000	
Additional dearness allowance for the period from 6-7-74 to 31-3-75	Rs.	3,000	
Bonus	Rs.	3,000	
Additional bonus at higher rate after 6-7-1974	Rs.	1,000	
			Rs. 33,000
Less: (1) 50% of additional dearness allowance credited to “Additional Dearness Allowance Deposit account”	Rs.	1,500	
(2) 100% of additional bonus credited to “Additional Wages deposit account”	Rs.	1,000	Rs. 2,500
Income under the head “salaries” for the financial year ending on 31-3-75			<u>Rs. 30,500</u>

Assuming that part of the deposits under additional wages and dearness allowance is refunded with interest in the financial year ending on 31-3-1978, the total income of Mr. A for the financial year ending on 31-3-1978 is to be computed as under :

(1) Salary			Rs. 24,000
(2) Dearness allowance			Rs. 8,000
(3) Bonus			Rs. 5,000
(4) Annual instalments received on account of:			
(i) Additional wages	Rs.	500	
Interest due and received thereon	Rs.	200	
			Rs. 700
(ii) Additional dearness allowance	Rs.	1,000	
Interest due and received thereon	Rs.	400	
			Rs. 1,400
(5) Income in respect of units from Unit Trust of India			Rs. 2,100
			Rs. 2,500
			<u>Rs. 41,600</u>

Less: Deduction under section 8oL:

Interest on additional wages & additional dearness allowance deposits account	Rs.	600
Income in respect of Units from Unit Trust of India	Rs.	2,500
		<u>Rs. 3,100</u>

The maximum permissible deduction under section 8oL is to be restricted to

Rs. 3,000

Salary income subject to deductions for L.I.P. & Contribution to Provident fund for the assessment year 1978-79

Rs. 38,600

9. Repayment of deposits.—(1) Subject to the provisions of sub-section (2), every amount credited to the Deposit Accounts shall be repayable with interest due thereon,—

- (a) in the case of an amount credited to the Additional Wages Deposit Account, at any time after the expiry of one year from the appointed day; and
- (b) in the case of an amount credited to the Additional Dearness Allowance Deposit Account at any time after the expiry of two years from the appointed day :

Provided that nothing in this section shall prevent earlier repayment of any amount credited to either of the Deposit Accounts with interest due thereon in any case in which any person authorised by the Central Government in this behalf is satisfied that extreme hardship will be caused unless such repayment is made :

Provided further that an employee may, at his option, retain the whole or any part of the amount credited in relation to him in the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account, or both, until his superannuation or until such date as may be specified by the Government in this behalf :

Provided also that the whole of the amount standing to the credit of an employee (not being an employee in a seasonal establishment) in either or both of the Deposit Accounts shall be repaid to him on his superannuation or resignation from office or on the termination of his employment.

(2) The aggregate amount credited to any Deposit Account by or in relation to an employee shall be repaid to the employee in five equal annual instalments commencing from the expiry of one year or two years, as the case may be, from the appointed day, together with interest due on the whole, or, as the case may be, part of the amount of compulsory deposit which remains unpaid.

SECTION 9:

(1) Deposits made under additional wages deposit account together with interest thereon shall be repayable after the 6th day of July, 1975.

(2) Deposits made under additional dearness allowance deposit account together with interest thereon shall be repayable after the 6th day of July, 1976.

Earlier repayment of the Deposits :

This is permissible in the following cases :

(1) Earlier repayment of any amount credited to either of the Deposit accounts with interest due thereon can be authorised by the authority prescribed in this behalf by the Central Government if it is satisfied that extreme hardship will be caused unless the repayment is made before the expiry of the prescribed period.

(2) The whole of the amount standing to the credit of the employee in either or both of the Deposit Accounts shall be repayable immediately on his superannuation or resignation from office or on the termination of his employment.

Repayment in instalments :

The aggregate amount credited to any Deposit Account in relation to any employee shall be repayable in five equal annual instalments commencing from the expiry of one year or two years, as the case may be, from 6-7-1974 together with interest on the whole; or, as the case may be, part of the compulsory deposit which remain unpaid.

<i>Example :</i> The amount credited in the "Additional Wages Deposit Account" from 6-7-1974 to 5-7-1975	Rs. 1,000
The amount credited in the "Additional Dearness Allowance Deposit Account" from 6-7-1974 to 5-7-1976	Rs. 3,000
Total deposit	Rs. 4,000

The repayment will be made as under :

<i>Period of repayment</i>	<i>Amount</i>
From 6-7-1975 to 5-7-1976	Rs. 200*
From 6-7-1976 to 5-7-1977	Rs. 800**
From 6-7-1977 to 5-7-1978	Rs. 800**
From 6-7-1978 to 5-7-1979	Rs. 800**
From 6-7-1979 to 5-7-1980	Rs. 800**
From 6-7-1980 to 5-7-1981	Rs. 600†

- * One fifth of "Additional Wages Deposit" due for repayment. In addition, interest due on deposit account is also payable during this period.
- ** One fifth of "Additional Wages Deposit" and "Additional Dearness Allowance" due for repayment. In addition, interest due on deposit accounts is also payable during this period.
- † One fifth of "Additional Dearness Allowance" due for repayment. In addition, interest due on deposit account is also payable during this period.

10. Power of Central Government to frame schemes.—(1) The Central Government shall, by notification, frame one or more schemes in relation to the amounts credited to the Deposit Accounts under this Act.

(2) A scheme framed under sub-section (1) may provide for—

- (a) the authorities by which the Additional Wages Deposit Account and the Additional Dearness Allowance Deposit Account shall be opened and maintained;
- (b) the time and manner in which amounts deducted from additional wages or additional dearness allowance shall be deducted and credited to the respective Deposit Account;
- (c) the documents to be issued to persons in relation to whom amounts have been credited to the Deposit Accounts as evidence of such credit;
- (d) authority or authorities by or through which credits to the Deposit Accounts may be made;
- (e) the accounts to be maintained with respect to the amounts credited to the Deposit Accounts and the officer by whom such accounts shall be maintained;
- (f) the nomination of persons to receive the amount standing in a Deposit Account to the credit of an employee in the event of his death, and cancellation or change of such nomination;
- (g) the issue of duplicate of any document issued as evidence of any credit in the event of loss or destruction of the original and the fee, not exceeding rupees two, on the payment of which such duplicate may be issued;
- (h) repayment of amounts credited to the Deposit Accounts with interest due thereon and the conditions, if any, under which such repayment may be made;
- (i) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect, either prospectively or retrospectively, on such date, not being a date earlier than the appointed day, as may be specified in this behalf in the scheme and every scheme framed under this section shall have effect notwithstanding anything contained in any law (other than this Act) for the time being in force or in any instrument having effect by virtue of any enactment other than this Act.

(4) The Central Government may make a scheme to add to, amend or vary any scheme framed under sub-section (1).

11. Rounding off.—Where the amount of any credit to be made in any Deposit Account contains a part of a rupee, then, such part, if it is fifty paise or more, shall be increased to one complete rupee and if it is less than fifty paise, it shall be ignored.

CHAPTER III

Miscellaneous

12. Amounts due to be first charge in the case of insolvency or liquidation of the employer.—(1) Where any amount required by this Act to be credited to any Deposit Account or remitted to a nominated authority has not been so credited or remitted by any employer, the amount in respect of which such omission or failure was made, together with interest due thereon calculated at the rate specified in sub-section (1) of section 7, shall, in the event of the employer being adjudicated by any court to be insolvent or, being a company is ordered by any court to be wound up, be deemed to be first charge on the assets of the insolvent or of the company, as the case may be, and shall have priority over all other debts and be paid in full.

(2) The court shall cause the sum which is required, under sub-section (1), to be paid in priority to all other debts to be remitted to the nominated authority for crediting the same to the appropriate Deposit Account.

13. Transfer of establishments.—Where an employer, in relation to an establishment to which this Act applies, transfers that establishment in whole or in part by sale, gift or otherwise or grants any licence in respect of such establishment, the employer and the person to whom the establishment is so transferred or the licence is so given shall be jointly and severally liable to credit to the appropriate

Deposit Account or, as the case may be, remit to the nominated authority, the sums which are required by this Act to be so credited or remitted :

Provided that the liability of the transferee or licensee shall be limited to the value of the assets obtained by him on such transfer or licence, as the case may be.

14. Penalties.—(1) Whoever, with a view to—

- (a) avoiding making any deduction of additional wages and additional dearness allowance and crediting the same to the Additional Wages Deposit Account or the Additional Dearness Allowance Deposit Account, as the case may be, or
- (b) aiding or abetting any other person to avoid making any such deduction or credit, knowingly makes, or causes to be made, any statement or representation which he knows to be false or does not believe to be true, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any employer who omits or fails to credit to any Deposit Account or remit any amount to the nominated authority, as and when such credit or remittance becomes due under this Act or any scheme framed thereunder, shall be punished—

- (a) with imprisonment for a term which shall not be less than three months but may extend—
 - (i) in the case of the first offence, to six months, and
 - (ii) in the case of any second or subsequent offence, to one year :

Provided that the court may, for any adequate and special reasons, to be recorded by it in the judgment, impose a sentence of imprisonment for a term lesser than three months or a fine in lieu of imprisonment; and

(b) also with fine which shall not be less than the amount which has not been credited to a Deposit Account or remitted to the nominated authority as required by this Act, and the interest due thereon, calculated at the rate specified in sub-section (1) of section 7, but may extend to twice the said amount and the interest due thereon, and out of the fine, if realised, the court trying the offence shall cause an amount equal to the amount which has not been credited to a Deposit Account or remitted to the nominated authority with interest due thereon, to be remitted to the nominated authority for crediting the same to the appropriate Deposit Account, and on such amount being remitted to the nominated authority, the liability of the employer shall, to the extent of the amount so remitted by the court, stand discharged.

(3) Whoever contravenes any provision of this Act or any scheme or order made thereunder for which no penalty has been separately provided for shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

15. Offences by companies.—(1) Where any offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) “company” means any body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm, and, in relation to a Hindu undivided family, means the *karta* of such family.

16. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Act except upon a complaint made by the Central Government or any officer or authority authorised in writing by the Central Government in this behalf.

17. Power to exempt.—Where the Central Government is of the opinion that it is necessary or expedient so to do either in the public interest or having regard to the peculiar circumstances of any case, it may, by notification, and subject to such conditions, if any, as it may specify in the notification,—

- (a) exempt any establishment or category of employees working in any establishment from the operation of all or any of the provisions of this Act;
- (b) exempt, in the case of extreme hardship to any employee, from crediting any amount in relation to such employee to the Additional Wages Deposit Account;
- (c) empower deductions from additional wages in relation to an employee or class of employees, at a rate lesser than the rate specified in this Act.

18. Power to delegate.—The Central Government may, by notification, direct that any power which may be exercised by it under this Act or any scheme framed under this Act shall, subject to such restrictions and conditions, if any, as it may specify in the notification, be exercised also by—

- (a) such officer or authority subordinate to the Central Government; or
- (b) such State Government or such officer or authority subordinate to a State Government; or
- (c) such other person or authority,

as may be specified in the notification :

Provided that the powers conferred by section 10 and section 24 shall not be delegated under this section.

19. Protection against attachment.—(1) The amount standing to the credit of any employee in any Deposit Account shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the employee.

(2) Any amount standing to the credit of an employee in any Deposit Account at the time of his death and payable to his nominee under the scheme shall vest in the nominee and shall be free from any debt or other liability incurred by the deceased or incurred by the nominee before the death of the employee.

20. Power to call for returns and inspect accounts.—(1) The nominated authority or any officer authorised by the nominated authority in this behalf may call for such returns, as may be prescribed, from any employer to whom this Act applies.

(2) The books of account and other books and papers of any employer to whom this Act applies shall be open to inspection by the nominated authority or any person authorised by the Central Government in this behalf during business hours :

Provided that such inspection may be made without giving any previous notice to the employer or any officer of the employer.

- (3) The nominated authority or any authorised officer may, during the course of inspection,—
 - (i) make, or cause to be made, copies of the books of account and other books and papers;
 - (ii) place, or cause to be placed, any marks of identification thereon in token of the inspection having been made.

(4) If after inspection the nominated authority or the authorised officer finds that any additional wages or additional dearness allowance has not been credited by the employer to the appropriate Deposit Account or, as the case may be, remitted to the nominated authority, it or he shall determine the amount in respect of which such credit or remittance has not been made :

Provided that no such determination shall be made except after giving to the employer a reasonable opportunity of being heard.

(5) It shall be the duty of every employer to whom this Act applies, to furnish to the nominated authority a copy of the award, decree or order of any court, tribunal or other authority or agreement or settlement relating to wage revision or revision of dearness allowance and also to produce such books

of account and other books and papers as the nominated authority or the officer making the inspection may require.

(6) Where any revision of wages or dearness allowance is made otherwise than in pursuance of any award, decree or order of any court, tribunal or other authority or agreement or settlement, the employer shall give an intimation to the nominated authority about such revision of wages or dearness allowance and furnish to the nominated authority such books of account and other books and papers as that authority may require.

21. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Central Government or any State Government or any officer authorised by the Central or State Government to discharge any functions under this Act, for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any scheme framed thereunder.

22. Persons performing functions under this Act to be public servants.—Any person to whom any power of the Central Government is delegated under section 18 or who is authorised to exercise any power specified in section 20 shall, if he is not a public servant, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

23. Recovery of arrears.—Without prejudice to the provisions of section 14, any amount which ought to have been credited under this Act to a Deposit Account or remitted to the nominated authority but has not been so credited or remitted in accordance with the provisions of this Act or scheme or order made thereunder, shall be payable by the employer, together with interest due thereon calculated at twice the rate at which interest is payable under sub-section (1) of section 7, and in default of such payment, such amount, together with interest due thereon at the aforesaid rate, shall be recoverable as an arrear of land revenue :

Provided that where any such amount has been recovered by the court under sub-section (2) of section 14, the said amount shall not be recoverable under this section.

24. Power to make rules.—The Central Government may, by notification, make rules to carry out the provisions of this Act.

25. Rules and schemes to be laid before Parliament.—Every rule and every scheme made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or the scheme, or both Houses agree that the rule or scheme should not be made, the rule or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or scheme.

26. Power to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

27. Repeal and saving.—(1) The Additional Emoluments (Compulsory Deposit) Ordinance, 1974 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed (including any appointment, exemption, nomination, direction or order made thereunder) shall be deemed to have been done or taken under the corresponding provisions of this Act; and the repeal of the said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against the said Ordinance or any investigation or legal proceeding in respect of such penalty or punishment and any such investigation or legal proceeding may be instituted or continued and any such penalty or punishment may be imposed as if section 12 and other provisions of the said Ordinance, necessary for the purposes aforesaid, had been included in this Act.

THE COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS) ACT, 1974

[Received the assent of the President on 31st day of August, 1974]

AN ACT

to provide, in the interests of national economic development, for temporary restrictions on the power of certain companies to declare dividends out of profits and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Companies (Temporary Restrictions on Dividends) Act, 1974.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 6th day of July, 1974.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appointed day” means the 6th day of July, 1974;

(b) “company” has the meaning assigned to it in the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956), which has made arrangements prescribed under the Income-tax Act, 1961 (43 of 1961), for the declaration and payment of dividends within India;

(c) “distributable profits”, in relation to a company to which this Act applies, means,—

- (i) one-third of the net profits of the company, or
- (ii) an amount required to pay twelve per cent. dividend on the face value of the equity shares of the company and dividend payable on its preference shares,

whichever is lower;

SECTION 2 (c):

Distributable profits determine the amount that can be utilised for the purpose of declaring the dividend for the financial year concerned. This should not exceed one-third of the net profits of the company or 12 per cent. dividend on the equity shares and dividend payable on the preference shares whichever is lower.

(d) “financial year” has the meaning assigned to it in section 2 of the Companies Act, 1956;

SECTION 2 (d):

Financial year means in relation to any body corporate, the period in respect of which any profit and loss account of the body corporate laid before at any annual general meeting is made up, whether that period is a year or not; provided that in relation to insurance companies financial year shall mean the calendar year referred to in sub-section 1 of section 11 of the Insurance Act 1938 (IV of 1938). Thus the financial year in the case of a company is the period for which the profit and loss account is drawn up.

(e) “net profits” means net profits of the company as computed in accordance with the provisions of section 349 of the Companies Act, 1956 (1 of 1956), subject to the modification that—

(i) any income-tax payable under the Income-tax Act, 1961, in respect of the profits as so computed or any tax of a similar character payable in respect of such profits under any law in force in any country outside India, and sur-tax payable in respect of such profits under the Companies (Profits) Sur-tax Act, 1964, shall also be deducted; and

(ii) depreciation shall be provided in accordance with the provisions of section 205 of the Companies Act, 1956;

SECTION 2 (e):

It has to be noted that the profit as per Profit and Loss account is not the same as the profit under section 349 of the Companies Act. Therefore, the first step is to compute the profit under section 349 of the Companies Act as per the various adjustments given therein and also deducting depreciation under income-tax rates as required under section 350 of the

Companies Act. The next step is to compute tax (income-tax, sur-charge & sur-tax) on this amount as per the provisions of the Income-tax Act and the Companies (Profits) Sur-tax Act. The tax thus computed should be deducted from the profits computed under section 349 of the Companies Act. To the figure thus arrived at should be added back depreciation computed according to income-tax rates. The last step would be to deduct from the above amount depreciation under section 205 of the Companies Act. The figure thus determined will give the net profits of the company for the purposes of this Act.

EXAMPLE: ABC is a public company (in which the public are substantially interested) having equity share capital of Rs. 6 lakhs.

“Net profits” as per section 349 of the Companies Act, 1956, after taking into consideration various adjustments enumerated in the said section and claiming deduction on account of depreciation (on the basis of written down value) under section 350 of the Companies Act, 1956, is Rs. 4,00,000

Depreciation in accordance with section 350 of the Companies Act, 1956 (on the basis of written down value) Rs. 1,00,000

Depreciation in accordance with section 205 (2) (b) of the Companies Act, 1956 (on the basis of straight line method) Rs. 75,000

Computation of “net profits” under section 349 read with section 205 of the Companies Act, 1956:

Net profits as computed under section 349 Rs. 4,00,000

Less:

Income-tax & sur-charge on Rs. 4,00,000 at the rates prescribed under the Finance Act, 1974 Rs. 2,31,000†
 Sur-tax payable Rs. Nil*
 Rs. 2,31,000

Net profits as computed under section 2(e)(i) of the Act Rs. 1,69,000

Add:

Depreciation (on the basis of written down value) claimed under section 350 of the Companies Act. Rs. 1,00,000
 Rs. 2,69,000

Less:

Depreciation (on the straight line method) under section 205(2)(b) of the Companies Act, 1956 Rs. 75,000
 Net profits as per section 2(e) of the Companies (Temporary Restrictions on Dividends) Act, 1974.. . . . Rs. 1,94,000

Distributable profits:

A One third of the net profits as computed under section 2(e) of the Act. 1/3rd of Rs. 1,94,000 Rs. 64,667

OR

B Dividend at 12% on equity capital of Rs. 6 lakhs Rs. 72,000

lower of A or B is the distributable profits.

Since “A” is lower than “B”, the distributable profits would be Rs. 64,667.

NOTES:

1. If the company had declared an interim dividend of Rs. 10,000 on 31-5-1974, i.e. before the appointed day, the distributable profits of Rs. 64,667 will be reduced to that extent and only Rs. 54,667 will be available for further declaration of dividend [vide section 4(2)].

2. If the company had declared and paid the interim dividend of Rs. 70,000 before the appointed day, no further dividend can be declared as the distributable surplus of Rs. 64,667 is less than Rs. 70,000. [vide section 4(2)].

3. If the company had declared a dividend of Rs. 70,000 before the appointed day but paid it after the appointed day, the arrears of Rs. 5,333 (Rs. 70,000—Rs. 64,667) will have to be recovered by the company from the shareholders (vide section 5). However, where any dividend is declared, and paid before the appointed day to a section of the shareholders but is not paid to another section of the shareholder before the appointed day, the provisions of section 4 (1) shall not apply.

4. In the above example, “B” would be lower than “A” if the equity capital had been Rs. 5 lakhs. The company would have been competent to declare dividend at the rate of 12% on its equity capital.

† It may be noted that the tax liability on account of Income-tax, sur-charge and sur-tax is to be computed with reference to “net profits” as computed under section 349 of the Companies Act, 1956 as reduced by the deductions permissible under the provisions of the Income-tax Act; and not with reference to actual amounts payable under the Income-tax Act, 1961 and the Companies (Profits) Sur-tax Act, 1964.

* The company is not liable to the Companies (Profits) Sur-tax Act as the total income after deduction of tax does not exceed Rs. 2 lakhs which is the minimum statutory deduction provided in sub-section (8) of section 2 of the Companies (Profits) Sur-tax Act, 1964.

- (f) "previous year" and "total income" have the meanings respectively assigned to them in the Income-tax Act, 1961.

3. Companies to which the Act applies.—This Act shall apply to the following categories of companies, namely :—

- (a) a company in which the public are substantially interested, as defined in clause (18) of section 2 of the Income-tax Act, 1961 (43 of 1961);
- (b) a company, at least 75 per cent. of the share capital of which is, throughout the financial year for which any dividend is declared or paid, beneficially held by an institution or fund established in India for a charitable purpose, the income from dividend whereof is exempt from income-tax under section 11 of the Income-tax Act, 1961 (43 of 1961);
- (c) an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power;
- (d) an Indian company, the value of whose capital assets, being machinery or plant (other than office appliances or road transport vehicles), as shown in its books on the last day of the financial year for which any dividend is declared or paid, is fifty lakhs of rupees or more;
- (e) a company which has been exempted under sub-section (3) of section 104 of the Income-tax Act, 1961 (43 of 1961), from the operation of that section.

Explanation I.—For the purpose of clause (c), the business of a company shall be deemed to consist mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, if the income attributable to any of the aforesaid activities included in its gross total income for the relevant financial year is not less than fifty-one per cent. of such total income.

Explanation II.—For the purposes of clauses (c) and (d), "Indian company" has the meaning assigned to it in clause (26) of section 2 of the Income-tax Act, 1961, but shall not include a corporation established by or under a Central, State or Provincial Act.

SECTION 3:

Under this Act, "company" has the meaning assigned to it in the Companies Act, 1956 and includes foreign companies within the meaning of section 591 of the Companies Act, 1956 which has made the prescribed arrangements under the Income-tax Act, 1961 for the declaration and payment of dividends within India. Companies broadly falling within the restrictive provisions of this Act are those companies which are exempted from the operation of section 104 of the Income-tax Act, 1961. Thus, this Act applies to the following categories of companies, namely :—

- (a) a company in which the public are substantially interested (Refer section 108 of the Income-tax Act).
- (b) a company, at least 75 per cent. of the share capital of which is throughout the financial year for which any dividend is declared or paid, beneficially held by an institution or fund established in India for a charitable purpose, the income from dividend whereof is exempt from income-tax under section 11 of the Income-tax Act, 1961 [Refer section 104(2)(iii) of the Income-tax Act].
- (c) an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power. [Refer section 104(4)(a) of the Income-tax Act].
- (d) an Indian company, the value of whose capital assets, being machinery or plant (other than office appliances or road transport vehicles), as shown in its books on the last day of the financial year for which any dividend is declared or paid, is fifty lakhs of rupees or more. [Refer section 104(4)(b) of the Income-tax Act].
- (e) a company which has been exempted under subsection (3) of section 104 of the Income-tax Act, 1961 from the operation of that section.

4. Restriction on declaration of dividends by companies to which the Act applies.—

(1) For a period of two years from the appointed day, no company to which this Act applies shall declare or pay dividends for any financial year except out of the profits of the company for that financial year and no such dividend shall exceed, in the aggregate, the distributable profits of the company for that financial year :

Provided that nothing in this sub-section shall apply to any dividend which was declared and paid, before the appointed day, to a section of the shareholders of a company but was not paid, before the appointed day, to another section of the shareholders of that company.

(2) In computing the aggregate amount which may be declared or paid by a company to which this Act applies as dividends in accordance with the provisions of this Act, for any financial year, any amount paid or promised or partly paid and partly promised by the company before the appointed day by way of interim dividends for that financial year shall be taken into account; but where the amount of the interim dividend paid by the company before the appointed day exceeds its distributable profits for the financial year for which the interim dividend was paid, no further dividend shall be declared or paid by the company for that financial year.

Section 4:

It is provided that for a period of two years from the appointed day no company to which this Act applies shall declare or pay dividends for any financial year exceeding its distributable profits for that financial year. This restriction would apply even if dividend is declared or paid out of the accumulated profits of earlier years. Further, any amount declared or paid before the appointed day by way of interim dividend for the financial year concerned will also be taken into account for the purpose of the restriction. Where the amount of such interim dividend actually paid before the appointed day exceeds the distributable profits for the financial year for which interim dividend was paid, no further dividends can be declared by the company for that financial year.

5. Dividend in excess of distributable profits to be void and to be recovered.—For a period of two years from the appointed day, any dividend declared or paid after the appointed day by a company to which this Act applies, in excess of its distributable profits for a financial year shall, to the extent of such excess, be void, and any amount paid by the company to any shareholder in excess of its distributable profits for that year shall be recovered by the company and no such recovery shall be waived by the company:

Provided that where any such recovery is not practicable, the amount of dividend to the extent of such excess shall be adjusted against the dividend payable for the financial year next following the financial year for which such excess payment of dividend was made.

Section 5:

Any dividends declared or paid after the appointed day in excess of distributable profits shall be void and the excess amount shall have to be recovered, by the company from the shareholders concerned.

6. Restriction on interim dividends.—For a period of two years from the appointed day, no company to which this Act applies shall, except with the previous approval of the Central Government and subject to such conditions and limitations as may be specified by that Government, pay or distribute any interim dividends for any financial year, whether ending before or after the appointed day.

Section 6:

No interim dividend can be declared by a company to which this Act applies after the appointed day for a period of two years without the previous approval of the Central Government.

7. Restrictions on other distribution.—For a period of two years from the appointed day, no company to which this Act applies shall, except with the previous approval of the Central Government, by general or special order,—

- (a) make any distribution out of its assets;
- (b) assume, whether conditionally or otherwise, any obligation to make distribution out of its assets;
- (c) grant any loan to any shareholder of the company:

Provided that nothing in clause (c) shall apply to a company which is declared by the Central Government under sub-section (1) of section 620A of the Companies Act, 1956 (1 of 1956), to be a Nidhi or Mutual Benefit Society.

8. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Companies Act, 1956 (1 of 1956), or in any other enactment (other than this Act) or in any contract or instrument having effect by virtue of any enactment other than this Act.

9. Penalties.—(1) Whoever contravenes any provision of this Act, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount in relation to which such contravention has been made, or with both.

INCOME-TAX SUPER-TAX READY RECKONER

1939-40 to 1962-63

(Out of print)

*

INCOME-TAX READY RECKONER

1963-64 to 1965-66
(Few copies available)

*

1967-68 & 1968-69
(Few copies available)

*

1971-72
(Few copies available)

1966-67
(Out of print)

*

1969-70 & 1970-71
(Out of print)

*

1972-73
(Out of print)

1973-74 & 1974-75
(Few copies available)



Library IAS, Shimla



00049445