

Finance Bill, 2007
(As on 28th February, 2007)

Charging Section

In section 115WB of Income-tax Act, with effect from the 1st day of April, 2008, -

(iii) after clause (c), the following clause shall be inserted, namely: -

‘(d) any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees).

Explanation - For the purpose of this clause, -

- (i) “specified security” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes employees’ stock option;
- (ii) “sweat equity shares” means equity shares issued by a company to its employees or its directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.’

Quantification of Tax

In section 115WC of the Income-tax Act, in sub-section (1), after clause (b), the following shall be inserted with effect from the 1st day of April, 2008, namely: -

‘(ba) the fair market value of the specified security or sweat equity shares referred to in clause (d) of sub-section (1) of section 115WB, on the date of exercise of the option by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security or shares.

Explanation - For the purpose of this clause, “fair market value” means the value determined in accordance with the method as may be prescribed by the Board.’

Capital Gains

In section 49 of the Income-tax, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:-

“(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the value of which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC, the cost of acquisition of such security or shares shall be the value under that clause.”

Notice of Amendments in FBT in the Finance Bill 2007
(As on 3rd May 2007)

Quantification of Tax

Substitution in the above mentioned section 115WC (1) (ba) of the Income-tax Act,
'(ba) the fair market value of the specified security or sweat equity shares referred to in clause (d) of sub-section (1) of section 115WB, on the date on which the options vests with the employees as reduced by the amount actually paid by, or recovered from, the employee in respect of such security or shares.

Explanation - For the purposes of this clause, -

- (i) "Fair market value" means the value determined in accordance with the method as may be prescribed by the Board;
- (ii) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price.'

Recovery of FBT from employees

After section 115WK of the Income-tax Act, the following section shall be inserted, namely:-

"115WKA. Notwithstanding anything contained in any agreement or scheme under which any specified security or sweat equity shares referred to in clause (d) of sub-section (1) of section 115WB has been allotted or transferred, directly or indirectly, by the employer on or after 1st day of April, 2007, it shall be lawful for the employer to vary the agreement or scheme under which such specified security or sweat equity share has been allotted or transferred so as to recover from the employee the fringe benefit tax to the extent to which such employer is liable to pay the fringe benefit tax in relation to the value of fringe benefits provided to the employee and determined under clause (ba) of sub-section (1) of section 115WC."

Capital Gains

In section 49 of the Income-tax, with effect from the 1st day of April, 2008, -

ii) after sub-section (2AA), the following sub -section shall be inserted, namely:-

"(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub section (1) of section 115WC."