

THE BURMA INCOME-TAX (AMENDMENT) ACT, 1950.

[Act No. XXVIII OF 1950.]

WHEREAS it is expedient further to amend the Burma Income-tax Act to provide for the recognition of Superannuation Funds; it is hereby enacted as follows:—

1. (1) This Act may be called the Burma Income-tax (Amendment) Act, 1950.

(2) It shall come into force on the 1st October 1950.

2. In the Burma Income-Tax Act, after Chapter IXA the following new Chapter shall be inserted, namely:—

“CHAPTER IXB.

*Special provision relating to certain classes of Superannuation Funds.*

58N. In this Chapter, unless there is anything repugnant in the subject or context,—  
Definitions.

- (a) ‘approved superannuation fund’ means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the Commissioner in accordance with the provisions of this Chapter;
- (b) ‘employer’, ‘employee’ and ‘contribution’ have, in relation to superannuation funds, the meanings assigned to those expressions in section 58A in relation to provident funds;
- (c) ‘ordinary annual contribution’ means an annual contribution of a fixed amount or an annual contribution computed on some definite basis by reference to the earnings, the contributions or the number of members of the fund.

58O. (1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which in his opinion complies with the requirements of section 58P, and may at any time withdraw such approval, if in his opinion the circumstances of the fund or part cease to warrant the continuance of the approval.

(2) The Commissioner shall communicate in writing to the trustees of the fund the grant of approval with the date on which the approval is to take effect, and, where the approval is granted subject to conditions, those conditions.

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(3) The Commissioner shall communicate in writing to the trustees of the fund any withdrawal of approval with the reasons for such withdrawal and the date on which the withdrawal is to take effect.

(4) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard in the matter.

56P. In order that a superannuation fund may receive and retain approval the following conditions shall be satisfied, namely—

- (a) the fund shall be a fund established under an irrevocable trust in connection with a trade or undertaking carried on in the Union of Burma ;
- (b) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or for the widows, children or dependants of persons who are or have been such employees on the death of those persons ; and
- (c) the employer in the trade or undertaking shall be a contributor to the fund :

Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the approval, approve a fund or any part of a fund—

- (i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund, or
- (ii) if the main purpose of the fund is the provision of such annuities as aforesaid, notwithstanding that such provision is not its sole purpose, or
- (iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in the Union of Burma.

58Q. (1) An application for approval of a superannuation fund or part of a superannuation fund for any year of assessment shall be made in writing before the end of that year by the trustees of the fund to the Commissioner, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and of the accounts of the fund for the last year for which such accounts have been made up. The Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alteration to the Commissioner and in default of such communication any approval given may be withdrawn from the date on which the alteration took effect.

58r. Income derived from investments of an approved super-annuation fund shall be exempt from payment of income-tax, and any sum paid by an employer or an employee by way of contribution towards an approved superannuation fund shall, in the case of an employer, be deducted in computing his income, profits or gains for the purpose of assessment, and, in the case of an employee, be treated for all the purposes of this Act as if it were a sum to which the provisions of section 15 apply :

Exemption of super-annuation fund from income-tax.

Provided that no such exemption shall be allowable to an employee in respect of any sum which is not an ordinary annual contribution :

Provided further that where a contribution by an employer is not an ordinary annual contribution it shall, for the purposes of this section, be treated, as the Commissioner may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over such period of years as the Commissioner thinks proper.

58s. (1) Where any contributions (including interest on contributions, if any) are repaid to an employee, the amount so repaid shall be deemed for the purposes of income-tax to be the income of the employee for that year.

Treatment of repaid contributions.

(2) Where any contributions (including interest on contributions, if any) are repaid to an employee during his life-time but not at or in connection with the termination of his employment, income-tax on the amount so repaid or paid shall, except in the case of an employee whose employment was carried on abroad, be deducted by the trustees of the fund at the average rate of tax at which the employee was liable to income-tax during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Government within the prescribed time and in such manner as the Commissioner may direct.

58t. Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in the return which he is required to furnish under section 21.

58u. If a fund or a part of a fund for any reason ceases to be an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to account for tax on any sum paid—

- Liabilities of trustees on cessation of approval of fund.
- (a) on account of returned contributions (including interest on contributions, if any), and
  - (b) in commutation or in lieu of annuities,

in so far as the sum so paid is in respect of contributions made before the fund or part of the fund ceased to be an approved fund under the provisions of this Chapter.

58v. The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income-tax Officer, within twenty-one days of the date of such notice :—

Particulars to be furnished in respect of superannuation funds.

- (a) furnish to the Income-tax Officer a return containing such particulars of contributions made to the fund as the notice may require ;
- (b) prepare and deliver to the Income-tax Officer a return containing—
  - (i) the name and place of residence of every person in receipt of an annuity from the fund ;
  - (ii) the amount of the annuity payable to each annuitant ;
  - (iii) particulars of every contribution (including interest on contributions, if any) returned to the employer or to employees ; and
  - (iv) particulars of sums paid in commutation or in lieu of annuities ;
- (c) furnish to the Income-tax Officer a copy of the accounts of the fund to the last date prior to such notice to which such accounts have been made up, together with such other information and particulars as the Commissioner may reasonably require. "