

## Finance Act 2007

### Section 13 - Amendment of Section 36

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In section 36 of the Income-tax Act, in sub-section (1),--

(A) in clause (ib), for the words "paid by cheque", the words "paid by any mode of payment other than cash" shall be substituted with effect from the 1st day of April, 2008;

(B) in clause (viiia),--

(a) in sub-clause (a), after the words "or a non-scheduled bank", the words "or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank" shall be inserted;

(b) in the Explanation,--

(i) in clause (ii) at the end, the words ", but does not include a cooperative bank" shall be omitted;

(ii) after clause (v), the following clause shall be inserted, namely:--

'(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;';

(C) for clause (viii), the following shall be substituted with effect from the 1st day of April, 2008, namely:--

'(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent. of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.--In this clause,--

(a) "specified entity" means,--

(i) a financial corporation specified in section 4A of the Companies Act, 1956(1 of 1956);

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,--

(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for industrial or agricultural development or development of infrastructure facility in India or construction or purchase of houses in India for residential purposes;

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to subsection (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956(1 of 1956);

(g) "infrastructure facility" means--

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;';

(D) clause (x) shall be omitted with effect from the 1st day of April, 2008;

(E) for clause (xii), the following clause shall be substituted with effect from the 1st day of April, 2008, namely:--

"(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,--

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;";

(F) after clause (xiii), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:-

'(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.--For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956(1 of 1956);'.