

Finance Act 1965**Section 62 - Insertion of New Chapter Xxiib**

After section 280X of the Income tax Act, the following Chapter and sections shall be inserted, namely :

Chapter XXIIB

Tax Credit Certificates

280Y. Definitions. In this Chapter,

- (a) "eligible of capital" means an issue of ordinary shares specified as such in the scheme;
- (b) "public company" means a public company as defined in section 3 of the Companies Act, 1956 (1 of 1956);
- (c) "scheme" means a scheme made under this Chapter;
- (d) "urban area" means any area which the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this Chapter.

280Z. Tax credit certificates to certain equity shareholders. (1) An individual shall be granted a tax credit certificate if he by himself or some other person on his behalf has subscribed to, and made payments in respect of, any eligible issue of capital.

(2) A Hindu undivided family shall also be granted a tax credit certificate if any person has subscribed to, and made payments in respect of, any eligible issue of capital on behalf of that Hindu undivided family.

(3) A tax credit certificate granted under the provisions of this section shall be for the amount or the aggregate of the amounts computed as hereunder with reference to the capital so subscribed and paid :

(i) On the first Rs. 15,000 of the amount paid in the financial year	at the rate of 5 per cent.;
(ii) On the next Rs. 10,000 of the amount paid in the financial year	at the rate of 3 per cent.;
(iii) On the next Rs. 10,000 of the amount paid in the financial year	at the rate of 2 per cent.;
(iv) On the balance of the amount paid in the financial year	Nil.

Explanation : For the purposes of this section

- (i) "subscribed" includes acquisition of the shares forming part of an eligible issue of capital from a person who is specified as an underwriter in pursuance of clause 11 of Part I of Schedule II to the Companies Act, 1956 (1 of 1956) (hereinafter in this section referred to as the underwriter);
- (ii) a payment shall be treated as having been made to the extent to which and on the date on which the amount of the said payment has been credited to the share capital account of the company.
- (4) A tax credit certificate for the amount specified in sub section (3) shall be granted to an individual or Hindu undivided family
- (a) where payment by way of subscription has been made to the company, in respect of the financial year in which payment has been made and each of the three financial years following that year; and
- (b) where the acquisition has been made from the underwriter, in respect of the financial year in which the capital was so acquired and each one, if any, of the following financial years not falling beyond the third financial year from the end of the financial year in which the payment by way of subscription has been made to the company by the underwriter :

Provided that, in either case, the capital is held by or on behalf of the individual or on behalf of the Hindu undivided family, as the case may be, at the end of the relevant financial year :

Provided further that where any part of the capital in respect of which a tax credit certificate had been

granted in a financial year (hereinafter referred to as the earlier financial year) is sold, transferred or otherwise disposed of in a subsequent financial year, the tax credit certificate to be granted with reference to the remaining capital in respect of the said subsequent financial year or any financial year following that year shall be for such amount as bears to the amount for which the tax credit certificate was granted in the earlier financial year the same proportion as the amount of the remaining capital as on the 31st day of March of the subsequent financial year bears to the total amount of the capital with reference to which the tax credit certificate was granted in the earlier financial year.

(5) If any individual by himself or on behalf of any other individual or on behalf of any Hindu undivided family has acquired any shares forming part of an eligible issue of capital from the underwriter, he shall not be entitled to a tax credit certificate under this section, unless his name is entered as a shareholder in respect of such shares in the register of shareholders of the company.

(6) The amount shown on a tax credit certificate granted to an individual or Hindu undivided family shall, on the certificate being produced before the Income tax Officer, be adjusted against any existing liability of such individual or Hindu undivided family under the Indian Income tax Act, 1922 (11 of 1922), or this Act, or any such liability arising within the period of twelve months from the date on which the certificate was produced before the Income tax Officer, and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the date of the expiry of the said period of twelve months, to be refund due to such individual or Hindu undivided family, as the case may be, under that Chapter and the provisions of this Act shall apply accordingly.

(7) The Central Government may specify in a scheme any issue of ordinary shares by a public company as eligible issue of capital.

(8) In specifying any issue of ordinary shares as eligible issue of capital, the Central Government shall have regard to the following factors, namely :

- (a) the total amount of the capital issued;
- (b) the terms and conditions subject to which the capital is issued;
- (c) the trade or business in which the company concerned is engaged;
- (d) the purposes for which the issue is being made;
- (e) any other relevant factor.

280ZA. Tax credit certificates for shifting of industrial undertaking from urban area. (1) If any public company owning an industrial undertaking situate in an urban area shifts, with the prior approval of the Board, such undertaking to any area (not being the area in which such undertaking is situate), it shall be granted a tax credit certificate.

(2) The tax credit certificate to be granted under sub section (1) shall be for an amount computed in the following manner with reference to the amount of the tax payable by the company on its income chargeable under the head "Capital gains" arising from the transfer of capital assets being buildings or lands or any rights in buildings or lands used for the purposes of the business of the said undertaking in the urban area, effected in the course of or in consequence of the shifting of such industrial undertaking, namely :

- (a) the amount of expenditure incurred by the company in
 - (i) acquiring lands or constructing buildings for the purposes of the business of the company in the area to which the undertaking is shifted, and
 - (ii) shifting its machinery or plant other effects and transferring its establishment to such area,

within a period of three years, from the date of the approval referred to in sub section (1), or such further period as the Board may allow, shall first be ascertained;

(b) the amount of the tax credit certificate shall bear to the amount of tax payable by the company on its income chargeable under head "Capital gains" as aforesaid, the same proportion as the amount of expenditure ascertained under clause (a) bears to the amount of the said income :

Provided that the amount of the tax credit certificate shall in no case exceed the amount of the tax aforesaid.

(3) The amount shown on a tax credit certificate granted to a public company under sub section (1) shall, on the certificate being produced before the Income tax Officer, be adjusted against any existing liability of the

company under the Indian Income tax Act, 1922 (11 of 1922), or this Act, or any such liability arising within the period of twelve months from the date on which the certificate was produced before the Income tax Officer, and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the date of the expiry of the said period of twelve months, to be refund due to such company under that Chapter and the provisions of this Act shall apply accordingly.

(4) Where a capital asset, being building or land, or any right in building or land, acquired or, as the case may be, constructed in the area to which the undertaking of the company is shifted, is transferred by the company within a period of five years from the date of acquisition or, as the case may be, the date of completion of construction to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), an amount equal to one half of the amount for which a tax credit certificate has been granted to the company under sub section (1) shall be deemed to be tax due from the company on the thirtieth day following the date of transfer under a notice of demand issued under section 156, and all the provisions of this Act shall apply accordingly.

Explanation : Any land or building used for the residence of persons employed in the business of the company or for the use of such persons as a hospital, creche, school, canteen, library, recreational centre, shelter, rest room or lunch room shall, for the purposes of this section, be deemed to be land or building used for the purposes of the business of the company.

280ZB. Tax credit certificate to certain manufacturing companies in certain cases. (1) Where any company engaged in the manufacture or production of any of the articles mentioned in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951), is, in respect of its profits and gains attributable to such manufacture or production,

(i) liable to pay any tax for the assessment year commencing on the 1st day of April, 1965 (hereinafter referred to as the base year), and for the any one or more of the five assessment years next following that year; or

(ii) not liable to pay any tax for the base year but becomes so liable for any succeeding year (hereinafter referred to as the succeeding base year) and also for any one or more of the assessment years following that year, not being an assessment year commencing on the 1st day of April, 1971, or any subsequent assessment year

and the tax for any such succeeding year exceeds

(a) in the case referred to in clause (i), the tax payable for the base year;

(b) in the case referred to in clause (ii), the tax payable for the succeeding base year,

then the company shall be granted a tax credit certificate for an amount equal to twenty per cent. of such excess :

Provided that the amount of the tax credit certificate shall not for any assessment year exceed ten per cent. of such tax payable by the company for that year.

(2) The amount shown on a tax credit certificate granted to any company under the provisions of sub section (1) shall, on the certificate being produced before the Income tax Officer, be adjusted against any existing liability of such company under the Indian Income tax Act, 1922 (11 of 1922), or this Act, or any such liability arising within a period of twelve months from the date on which the certificate was produced before the Income tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the date of the expiry of the said period of twelve months, to be refund due to such company under that Chapter and the provisions of this Act shall apply accordingly :

Provided that the adjustment or refund, as the case may be, under this sub section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme

(i) for repayment of loans taken by the company from any of the financial institution notified in this behalf by the Central Government, or

(ii) for redemption of its debentures, or

(iii) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of the business of the company.

Explanation 1 : In this section, "tax" means income tax payable under this Act and surtax, if any, payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964).

Explanation 2 : The amount of income tax in respect of the profits or gains attributable to the manufacture or production of the articles referred to in sub section (1) shall be an amount bearing to the total amount of income tax payable on the total income (such income tax being computed in the manner specified hereunder) the same proportion as the amount of such profits or gains bears to the total income. The amount of income tax payable by the company for any assessment year shall be computed after making allowance for any relief, rebate or deduction in respect of income tax to which the company is entitled under the provisions of this Act or the annual Finance Act and after deducting from such amount of income tax the amount of additional income tax, if any, payable by the company under the provisions of section 104 and also the amount, if any, by which the rebate of income tax admissible to the company under the provisions of the annual Finance Act is, under the provisions of the said Act, reduced with reference to the face value of any bonus shares or the amount of any bonus issued by the company to its shareholders during the previous year or any previous year prior to that year or with reference to any amount of dividends declared or distributed by it during the previous year or any previous year prior to that year.

Explanation 3 : The amount of surtax in respect of the chargeable profits attributable to the manufacture or production of the articles referred to in sub section (1) shall be an amount bearing to the total amount of surtax payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964), the same proportion as the amount of such chargeable profits bears to the whole of the chargeable profits.

280ZC. Tax credit certificate in relation to exports. (1) Subject to the provisions of this section, a person who exports any goods or merchandise out of India after the 28th day of February, 1965, and receives the sale proceeds thereof in India in accordance with the Foreign Exchange Regulation Act, 1947 (7 of 1947), and the rules made thereunder, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding fifteen per cent. on the amount of such sale proceeds.

(2) The goods or merchandise in respect of which a tax credit certificate shall be granted under sub section (1) (including the destination of their export) and the rate at which the amount of such certificate shall be calculated shall be such as may be specified in the scheme :

Provided that different rates may be specified in respect of different goods or merchandise.

(3) In specifying the goods or merchandise (including the destination of their export) and the rates, the Central Government shall have regard to the following factors, namely :

- (a) the cost of manufacture or production of such goods or merchandise and prices of similar goods in the foreign markets;
- (b) the need to develop foreign markets for such goods or merchandise;
- (c) the need to earn foreign exchange;
- (d) any other relevant factor.

(4) The amount shown on a tax credit certificate granted to any person under this section shall, on the certificate being produced before the Income tax Officer, be adjusted against any existing liability of that person under the Indian Income tax Act, 1922 (11 of 1922), or this Act, or any such liability arising within the period of twelve months from the date on which the certificate was produced before the Income tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the date of the expiry of the said period, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly.

280ZD. Tax credit certificates in relation to increased production of certain goods. (1) Subject to the provisions of this section, a person, who during any financial year commencing on the 1st day of April, 1965, or any subsequent financial year (not being a year commencing on the 1st day of April, 1970, or any financial year thereafter) manufactures or produces any goods, shall be granted a tax credit certificate for an amount calculated at a rate not exceeding twenty five per cent. of the amount of the duty of excise payable by him on that quantum of the goods cleared by him during the relevant financial year which exceeds the quantum of the goods cleared by him during the base year, whether the clearance in either case is for home consumption or export.

(2) The goods in respect of which a tax credit certificate shall be granted under sub section (1) and the rate at which the amount of such certificate shall be calculated shall be such as may be specified in the scheme :

Provided that different rates may be specified in respect of different goods.

(3) In specifying the goods and the rates under sub section (1), the Central Government shall have regard to the following factors, namely :

- (a) the need for stimulating industrial output;
- (b) the need for financial assistance to industrial undertakings engaged in the manufacture or production of such goods;
- (c) any other relevant factor.

(4) Where any undertaking begins, after the 1st day of April in the base year, to manufacture or produce any goods in respect of which a tax credit certificate may be granted under sub section (1), the quantum of goods cleared in that year shall, for the purposes of that sub section, be determined in such manner as may be provided in the scheme.

(5) The amount shown on a tax credit certificate granted to any person under the provisions of sub section (1) shall, on the certificate being produced before the Income tax Officer, be adjusted against any existing liability of such person under the Indian Income tax Act, 1922 (11 of 1922), or this Act, or any such liability arising within a period of twelve months from the date on which the certificate was produced before the Income tax Officer and where the amount of such certificate exceeds such liability, or where there is no such liability, the excess or the whole of such amount, as the case may be, shall, notwithstanding anything contained in Chapter XIX, be deemed, on the date of the expiry of the said period of twelve months, to be refund due to such person under that Chapter and the provisions of this Act shall apply accordingly :

Provided that the adjustment or refund, as the case may be, under this sub section shall be only for such amount, not exceeding the amount of the certificate, as is used within such period as may be specified in the scheme

- (i) for repayment of loans taken by the person from any of the financial institutions notified in this behalf by the Central Government, or
- (ii) for the acquisition of any capital asset in India, including the construction of any building, for the purposes of his business, or
- (iii) where the person is a company, also for redemption of its debentures.

(6) In this section

- (a) "base year", in relation to an existing undertaking which manufactures or produces the goods referred to in sub section (1), means the financial year commencing on the 1st day of April, 1964, and in relation to any other undertaking, the financial year in which such undertaking begins to manufacture or produce such goods;
- (b) "duty of excise" means the duty of excise leviable under the Central Excises and Salt Act, 1944 (1 of 1944).

280ZE. Tax credit certificate scheme. (1) The Central Government shall, by notification in the Official Gazette, frame one or more scheme or schemes to be called tax credit certificate scheme or schemes in relation to tax credit certificates to be granted under this Chapter.

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

- (a) the form and manner in which, and the authority to which, applications for the grant of tax credit certificates shall be made;
- (b) the form in which, and the intervals at which, and the authority by which, such certificates shall be issued;
- (c) the verification of any information or particulars furnished, or contained in any applicant made, by or on behalf of any person entitled to tax credit certificates;
- (d) the determination of the rights and obligations of a person to whom such certificate has been granted and the circumstances in which any right in or title to the said certificate may be transferred to or devolve on any other person by succession or otherwise;
- (e) the determination of the rights and obligations of persons who jointly subscribe to an eligible issue of capital;
- (f) the determination of the rights and obligations of persons who subscribe to an eligible issue of capital, on behalf, or for the benefit, of any other person;

(g) the appointment of any officer of Government or of the Reserve Bank of India to exercise any rights or perform any duties in connection with the grant of the said certificates;

(h) the goods or merchandise and the rate or rates for the purposes of section 280ZC and section 280ZD and the destination of the export of such goods or merchandise for the purposes of section 280ZC;

(i) any other matter which may be necessary or proper for the effective implementation of the provisions of this Chapter or the scheme.

(3) The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme made under this section.

(4) Any scheme made under this section 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in any provision of the scheme or both Houses agree that any provision in the scheme should not be made, that provision of the 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 provision..
