



Tax Exemption on Worker Profit Participation Fund (WPPF) should be reinstalled

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Industrialization is the only way to utilize our human resources (unemployed HR count is about 4.75 crore) and other National opportunities. Our Governments, entrepreneurs, academics, NGOs and households are working to strengthen the industrialization process in the country. Industry is contributing around 32.48% of GDP in Fiscal Year 2016-17. It was about 12.3% in 1970s and 17.7% in 1980s.

Sharing of the bottom line (net profit from operations) among the employees is considered a strong management tools for healthy development of every sector (industry, trade, commerce or agriculture). It has been in practice in Bangladesh (East Pakistan) since 1968 through a provision of "The Companies Profits (worker participation) Act 1968(Act No Xii of 1968). This act is repealed by Chapter 15, Section 232-252 of The Bangladesh Labour Act 2006 (Act No. XLII of 2006) (here in after shall be said "The Parent Law of the Funds").

Any income of the funds and any income of the worker from the funds is tax exempted according to U/S 245 (Exemption of income of the Funds from income tax) and U/S 246 (Exemption of income of the workers from income tax) of The Bangladesh Labour Act 2006 (Act No. XLII of 2006) respectively. It is also aligned with para 4(2) of 6th schedule part-A, ITO 1984. But It has been revoked by U/S

52DD, ITO 1984 (The section is inserted by the finance Act 2016). It is just opposite position of the two key business laws. For well understanding on this issue (tax on WPPF) let we go through the provisions of;

1. The Bangladesh Labour Act 2006 (Act No. XLII of 2006).
2. The Income Tax Ordinance 1984.
3. Paripatra-1 (Income Tax)/2016-17 issued by Income Tax Policy Wings, NBR.
4. The Minimum Wages schedule for different Sector.

Provisions of Tax exemption in The Bangladesh Labour Act 2006:

Under Section 242 (1) The Bangladesh Labour Act 2006 (Act No. XLII of 2006) Utilization of Participation Fund reads "Two-thirds of the total amount deposited in the Participation Fund in every year shall be distributed in equal proportion to all beneficiaries in cash, and the remaining one-third shall be invested in accordance with the provisions of section 240 (11), whose profit shall also be distributed in equal proportion to all beneficiaries."

Under Section 243 The Bangladesh Labour Act 2006 (Act No. XLII of 2006) Utilization of Welfare Fund reads "Subject to the compliance of the provisions of this Chapter, the amount deposited in the Welfare Fund may be utilized for such purposes and in such manner as the Board of

Trustee may decide, and the Board shall inform the Government relating thereto.”

Under Section 244 The Bangladesh Labour Act 2006 (Act No. XLII of 2006) Fiscal concessions to the companies “In the cases of all companies to which this Chapter applies any sum allotted to the said Funds by such companies shall not be counted in calculating their taxable income.”

Under Section 245 The Bangladesh Labour Act 2006 (Act No. XLII of 2006) Exemption of income of the Funds from income tax “The income of the Funds including their capital gains shall be exempted from income tax.”

Under Section 246 The Bangladesh Labour Act 2006 (Act No. XLII of 2006) Exemption of income of the worker from income tax “The sums paid out of the Funds to the workers shall be exempted from income tax.”

Minimum wages circulations by the wages board for different sectors: Some of the Minimum wages of difference sector are given below for ready reference;

Name of the industries	Declaration years of Minimum Wage	Unskilled workers last minimum wage (Taka)
Construction and wood	2012	9,882 /Month
Oil mills and vegetable products	2010	7,420/Month
Road & transport	2010	6,300/Month
Rabar Industries	1983	521/Week
Garments Industries	2013	5,300/Month
Tea garden	1987	402/Week
Waste processing sector	2012	5,850/Month

Provisions of Tax U/S 52D and 52DD, ITO 1984 (These sections are inserted by the Finance Act 2016):

“52D. Deduction at source from interest on saving instruments.-

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on interest of savings instrument purchased by an approved superannuation fund or pension fund or gratuity fund or a recognized provident fund or a workers’ profit participation fund, any person responsible for making any payment by way of interest on any savings instruments shall, at the time of such payment, deduct income tax at the rate of five percent (5%) on such interest:

Provided that no tax shall be deducted under this section where the cumulative investment at the end of the income year in the pensioners’ savings certificate does not exceed five lakh taka:

Provided further that no tax shall be deducted from interest or profit arising from Wage earners development bond, US dollar premium bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond or Pound sterling premium bond.

52DD. Deduction at source from payment to a beneficiary of workers’ participation fund.-

Notwithstanding anything contained in any other provision of this Ordinance or any other law being in force in respect of exemption from tax on payments from workers’ participation fund, any person responsible for making any payment from such fund to a beneficiary shall, at the time of such payment, deduct income tax at the rate of five percent (5%) on such payment.”

In explanation of these sections of Finance Act 2016 following details quoted from Paritara - I (income Tax)/2016-17 issued by Income Tax Policy wings, National Board of Revenue.

১৮। সঞ্চয়পত্রের সুদ হতে উৎসে আয়কর কর্তন সংক্রান্ত আয়কর অধ্যাদেশের ধারা ৫২উ এর প্রতিস্থাপন

(ক) অর্থ আইন, ২০১৬ এর মাধ্যমে আয়কর অধ্যাদেশ, ১৯৮৪ এর ধারা 52D প্রতিস্থাপন করা হয়েছে। ধারা 52D এর নতুন বিধান অনুযায়ী, এ অধ্যাদেশের অপর কোন বিধানে অথবা বর্তমানে বলবৎ অন্য কোন আইনে approved superannuation fund বা pension fund বা gratuity fund বা recognized provident fund বা workers’ participation fund এর কর অব্যাহতির বিষয়ে যা-ই বলা থাকুক না কেন, কোন সেভিংস ইন্সট্রুমেন্টসের সুদ প্রদান কালে উক্ত সুদ প্রদানের দায়িত্বপ্রাপ্ত ব্যক্তি সুদের উপর ৫% হারে উৎসে কর কর্তন করবেন। এর ফলে ব্যক্তি শ্রেণির পাশাপাশি বর্ণিত ফান্ডসমূহের (প্রযোজ্য ক্ষেত্রে) সেভিংস ইন্সট্রুমেন্টসে বিনিয়োগে প্রাপ্ত সুদের উপরও উৎস কর প্রযোজ্য হবে।

নতুন বিধানটি ১ জুলাই, ২০১৬ তারিখ বা তদপরবর্তী সময়ে সেভিংস ইন্সট্রুমেন্টসের সুদ পরিশোধের ক্ষেত্রে কার্যকর হবে।

(খ) উল্লেখ্য কোন আয় বছরে কোন করদাতার পেনশনার সঞ্চয়পত্রে পঞ্জীকৃত বিনিয়োগের পরিমাণ ৫(পাঁচ) লক্ষ টাকা অতিক্রম না করলে উক্ত বিনিয়োগের উপর অর্জিত সুদ/মুনাফা পরিশোধকালে ৫% হারে উৎসে কর কর্তন প্রযোজ্য না হওয়ার বিধানটি বলবৎ আছে।

(গ) এছাড়া ধারা 52D এর দ্বিতীয় প্রোভাইসোর বিধানটি পূর্বের ন্যায় বলবৎ রয়েছে। এ প্রোভাইসোর বিধান অনুসারে Wage earners development bond, US dollar promotion bond, US dollar investment bond, Euro premium bond, Euro investment bond, Pound sterling investment bond

Ges Pound sterling premium bond এর অর্জিত সুদ বা মুনাফা পরিশোধকালে উৎসে কর কর্তন প্রযোজ্য হবে না। অর্থাৎ ১ জুলাই ২০১৫ তারিখ হতে উপরোল্লিখিত সকল প্রকার বন্ড এর সুদ বা মুনাফা পরিশোধকালে উৎসে কর কর্তন না করার বিধান অদ্যাবধি চালু আছে।

১৯। শ্রমিক অংশগ্রহন তহবিল (WPPF) হতে সুবিধাভোগীকে অর্থ পরিশোধের বেলায় উৎসে কর কর্তন সংক্রান্ত আয়কর অধ্যাদেশের নতুন ধারা 52DD সংযোজন

অর্থ আইন, ২০১৬ এর মাধ্যমে আয়কর অধ্যাদেশ, ১৯৮৪ তে একটি নতুন ধারা 52DD সংযোজন করা হয়েছে। নতুন সংযোজিত এ ধারার বিধান মোতাবেক এই অধ্যাদেশের অপর কোন বিধানে বা বর্তমানে বলবৎ অন্য কোন আইনে যা-ই থাকুক না কেন workers' participation fund থেকে কোন সুবিধাভোগী (beneficiary) কে অর্থ পরিশোধের সময় পরিশোধের জন্য দায়িত্বপ্রাপ্ত ব্যক্তি (the person responsible for making payment) উক্ত অর্থের উপর ৫% হারে উৎসে কর কর্তন করবেন।

নতুন বিধানটি ১ জুলাই ২০১৬ তারিখ বা তদপরবর্তী সময়ে অর্থ পরিশোধের ক্ষেত্রে প্রযোজ্য হবে।

প্রশ্ন ১৯-১: workers' participation fund থেকে একজন সুবিধাভোগীকে ৫০,০০০/- টাকা পরিশোধ করা হবে। এ ক্ষেত্রে উৎসে কর্তনের পরিমাণ কত হবে?

উত্তর ১৯-১: এ ক্ষেত্রে ধারা ৫২উউ অনুযায়ী ৫% হারে ২,৫০০/- টাকা উৎসে কর কর্তন করতে হবে।

If we go into detailed analysis of the above sections of the Income Tax Ordinance, **Paritara -1 (income Tax)/2016-17** and the Bangladesh Labour Act, 2006, we may find the following questions regarding taxes on Worker profit participation fund:

1. Clear opposite direction of key business laws between The Bangladesh Labour Act, 2006 and the Income Tax Ordinance, 1984 on tax exemption of WWPF. According to section 242(1), 245, 246 of the Bangladesh Labour Act 2006 (Amended up to date 2015) the profit participation is tax exempted at investment interest income and at the beneficiary stage. But Section 52D, 52DD of ITO 1984 revoked and put forth tax at 5%.

2. Tax exemption benefits of WPPF of last 48 years are revoked without any tax benefits to the workers who are receiving below taxable income level. It is just opposite of the spirits of ITO, 1984. There is no question of taxable income limit of beneficiary of workers' participation fund. It is Flat rate @ 5% upfront at the time of disbursement to the beneficiary.

3. Assessee status of worker profit participation fund; given that the worker profit participation fund is formed and tax exempted by the labour law (u/S 232-252) of the Bangladesh Labour Act 2006. It needs no

recognition from NBR under ITO 1984. So the fund is not assessee as per definition of ITO 1984. But after introduction of section 52D, 52DD of ITO 1984 the worker profit participation fund has become an assessee. This is because it is paying tax (Advance Tax u/s 52D, ITO 1984) and Collecting Tax (in form of Advance Tax from beneficiary u/s 52DD, ITO 1984).

- 4. 5% TDS from interest of investment in saving instrument of WPPF, Provident Fund, Pension Fund;** In modern days Private sector is considered as economic growth engine but **we've no pension fund or Provident Fund, or superannuation fund scheme sponsored by the Government.** But it did not put any restriction to form it in private sector initiatives. It can be formed and managed by the Law of The Bangladesh Labour Act 2006 and The Income Tax Ordinance 1984. These funds are mostly invested in saving instruments and subject to tax u/S 52D, ITO 1984. But Government Pension fund and Provident funds are not subject to tax according to Government PF Act 1925. It creates difference between Private sector employee and Government employee having the same citizenship status.
- 5. The private sector funds' interest income from the said saving instrument is very much money market driven but the interest income of the Government Pension fund and Provident funds are fixed by the Finance Ministry, which is substantially higher than the rate of interest of money market.**
- 6. There is no exemption limit for beneficiary of workers' profit participation fund.** Most of the recipients are worker and receiving minimum wages and well below the zero tax slab.

So considering the legal provisions of the Bangladesh Labour Act 2006 and The Income Tax Ordinance 1984 and further discussion on it, we (private sector employees, civil society, academia, NGO, business forums and other stakeholders) may approach to the regulator (The National Board of Revenue, The Ministry of Finance, The Ministry of Labour, The Ministry of Social Welfare, The Ministry of Industry, The Ministry of Commerce) to implement the exemption of taxes on the income from all worker and employee related fund formed according to provision of The Bangladesh Labour Act 2006.

Disclaimer: The paper is the personal opinion of the writer. It is not the view of his office or the institute. 