

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 1st October, 1929, and is hereby promulgated for general information :—

ACT No. XII OF 1929.

An Act further to amend the Indian Income-tax Act, 1922, for certain purposes.

XI of 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Income-tax (Provident Funds Relief) Act, 1929.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

XI of 1922.

2. To sub-section (3) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following clause shall be added, namely :—

“(ix) Any income received by trustees on behalf of a recognised provident fund as defined in clause (a) of section 58A.”

3. In sub-section (3) of section 15 of the said Act, after the word and figure “section 7” the words “and any sums exempted under sub-section (1) of section 58F” shall be inserted.

4. In section 58 of the said Act,—

(a) in the proviso to sub-section (1), after the word and figures “section 57” the words, figures and letter “and under section 58H” shall be added; and

(b) in sub-section (2), after the word and figures “section 57” the words, figures and letter “and section 58H” shall be inserted.

5. After Chapter IX of the said Act the following Chapter shall be inserted, namely :—

“CHAPTER IXA.

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES OF PROVIDENT FUNDS.

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

(a) a “recognised provident fund” means a provident fund which has been and continues to be recognised by the Commissioner, in accordance with the provisions of this Chapter;

(b) an “employer” means—

(i) a Hindu undivided family, company, firm or other association of individuals or persons, or

(ii) an individual engaged in a business, profession or vocation whereof the profits and gains are assessable to income-tax under section 10 or section 11, maintaining a provident fund for the benefit of his or its employees;

(c) an “employee” means an employee participating in a provident fund, but does not include a personal or domestic servant;

(d) a “contribution” means any sum credited by or on behalf of any employee out of his salary, or by an employer out of his own monies, to the individual account of an employee, but does not include any sum credited as interest;

(e) the “balance to the credit” of an employee means the total amount to the credit of his individual account in a provident fund at any time;

(f) the “annual accretion” to the balance to the credit of an employee means the increase to such balance in any year, arising from contributions and interest;

(g) the “accumulated balance due” to an employee means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the fund; and

(h) the “regulations of a fund” means the special body of regulations governing the constitution and administration of a particular provident fund.

58B. (1) The Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in section 58C and the rules made thereunder, and may, at any time, withdraw such recognition if, in his opinion, the provident fund contravenes any of those conditions.

(2) The Governor General in Council may, at his discretion, direct the Commissioner of Income-tax to refuse to accord recognition to any provident fund, or may, at any time, withdraw recognition from any recognised provident fund.

(3) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with any rules the Central Board of Revenue may make in this behalf, such date not being later than the last day of the financial year in which the order is made.

(4) An order withdrawing recognition shall take effect from the day on which it is made.

(5) An employer objecting to an order of the Commissioner refusing to recognise a provident

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fund may appeal, within sixty days of such order, to the Central Board of Revenue.

The appeal shall be in the form and shall be verified in the manner prescribed by the Central Board of Revenue.

58C. (1) In order that a provident fund may receive and retain recognition, it shall satisfy the conditions set out below and any other conditions which the Governor General in Council may, by rule, prescribe—

Conditions to be satisfied by a recognised provident fund.

- (a) All employees shall be employed in India, or shall be employed by an employer whose principal place of business is in British India.
- (b) The contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund.
- (c) Subject to the provisions of section 58D, the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year.
- (d) The fund shall consist of contributions as above specified, of accumulations thereof, and of interest (simple and compound), credited in respect of such contributions and accumulations, and of securities purchased therewith, and of no other sums.
- (e) The fund shall be vested in two or more trustees, under a trust which shall not be revocable save with the consent of all the beneficiaries.
- (f) The employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the expiration of the term of service specified in this behalf in the regulations of the fund.

In such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest (simple and compound) credited in respect of such contributions and accumulations thereof, in accordance with the regulations of the fund.

- (g) The accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund.

- (h) Save as provided in clause (g), or in accordance with such conditions and restrictions as the Governor General in Council may, by rules, prescribe, no portion of the balance to the credit of an employee shall be payable to him.

(2) Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Chapter or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect.

The Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

58D. Subject to any rules which the Governor General in Council may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of condition (c) of sub-section (1) of section 58C—

- (a) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salary does not exceed five hundred rupees per mensem; and
- (b) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund.

58E. The annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund shall be deemed to have been received by him in that year and shall be included in his total income for that year, and, subject to the exemptions specified in section 58F, shall be liable to income-tax and super-tax:

Provided that, for the purpose of sub-section (3) of section 15, out of such annual accretion only the employee's own contributions shall be included in his total income.

58F. (1) An employee shall not be liable to pay Exemption of annual income-tax on contribution to his individual account in a recognised provident fund, in so far as the aggregate of such contributions in any year does not exceed one-sixth of his salary in that year.

(2) In the accounts of a recognised provident fund, the contributions exempted from income-tax under sub-section (1) and accumulations thereof shall be shown separately, and interest thereon shall be calculated and shown separately. Such interest shall be exempt from payment of income-tax, in so far as it is allowed at a rate not exceeding such rate as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf.