

# BILL/FINANCE BILL, 2004

Finance Bill, 2004[S1]

[2 OF 2004]

***A Bill to continue for the financial year 2004-05 the existing rates of income-tax and the levy of the National Calamity Contingent Duty and the National Calamity Contingent Duty of Customs on certain items.***

BE it enacted by Parliament in the Fifty-fifth year of the Republic of India as follows :—

Chapter I

PRELIMINARY

## **Short title and commencement.**

1. (1) This Act may be called the Finance Act, 2004.

(2) Section 2 shall come into force on the 1st day of April, 2004 and section 3 shall come into force at once.

Chapter II

RATES OF INCOME-TAX

## **Income-tax.**

2. The provisions of section 2 of, and the First Schedule to, the Finance Act, 2003 (32 of 2003), shall apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2004, as they apply in relation to income-tax for the assessment year or, as the case may be, the financial year commencing on the 1st day of April, 2003, with the following modifications, namely :—

(a) in section 2,—

(i) in sub-section (1), for the figures “2003”, the figures “2004” shall be substituted;

(ii) in sub-section (3),—

(A) the second proviso shall be omitted;

(B) for the third proviso, the following proviso shall be substituted, namely :—

“Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent of such income-tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such income-tax.”;

(iii) in sub-section (6), in clause (a), for the words “exceeds rupees”, the word “exceeds” shall be substituted;

(iv) in sub-section (8), in clause (a), for the words “exceeds rupees”, the word “exceeds” shall be substituted;

(v) in sub-section (11), in clause (a), for the figures “2003”, the figures “2004” shall be substituted;

(b) in the First Schedule,—

(i) for Part I, the following Part shall be substituted, namely:—

**“PART I**  
**INCOME-TAX**  
*Paragraph A*

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

(1)where the total income does not exceed Rs. 50,000	<i>Nil;</i>
(2)where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent of the amount by which the total income exceeds Rs. 50,000;
(3)where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 60,000;
(4)where the total income exceeds Rs. 1,50,000	Rs. 19,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 1,50,000.

**Surcharge on income-tax**

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall,—

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax;
- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax :

**Provided** that in case of persons mentioned in item (i) above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

(1)where the total income does not exceed Rs. 10,000	10 per cent of the total income;
(2)where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 10,000;

(3)where the total income exceeds Rs. 20,000 Rs. 3,000 plus 30 per cent of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 35 per cent

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 35 per cent of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a)royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b)fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been

approved by the Central Government

50 per cent;

(ii) on the balance, if any, of the total income

40 per cent.

#### Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.”;

(ii) in Part IV, in Rule 8,—

(A) for sub-rules (1) and (2), the following sub-rules shall be substituted, namely:—

“(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2004.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2005, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other

period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2005.”;

(B) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Notwithstanding anything contained in this Rule, no loss which has not been determined by the Assessing Officer under the provisions of these Rules or the Rules contained in Part IV of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).”.

### **Amendment of section 169 of Act 32 of 2003.**

3. In section 169 of the Finance Act, 2003, for the words, figures and letters "the 1st day of March, 2004", the words, figures and letters "the 1st day of April, 2005" shall be substituted.

### **STATEMENT OF OBJECTS AND REASONS**

The object of this short Bill is to continue for the financial year 2004-05, the existing rates of income-tax and levy of the National Calamity Contingent Duty and the National Calamity Contingent Duty of Customs.

2. Clause 2 of the Bill deals with the rates of income-tax. The rates of income-tax and surcharge, which were specified in Part III of the First Schedule to the Finance Act, 2003, for the purpose of deduction of tax at source from salaries during the financial year 2003-04, for computing the "advance tax" payable during that financial year in relation to current incomes and for certain special purposes, are proposed to be continued for the purpose of assessments for the assessment year 2004-05. Further, the same rates are proposed to be continued also for the purpose of deduction of tax at source from salaries during the financial year 2004-05, for computing the "advance tax" payable during that financial year on current incomes, and also for the said special purposes.

3. The rates for deduction of tax at source during the financial year 2003-04 from incomes other than salaries, specified in Part II of the First Schedule to the Finance Act, 2003, are also proposed to be continued for deduction of tax at source from such incomes during the financial year 2004-05.

4. Clause 2 of the Bill, accordingly, proposes to apply to the financial year 2004-05 the provisions of section 2 of, and the First Schedule to, the Finance Act, 2003, with consequential and other necessary modifications.

5. The National Calamity Contingent Duty and the National Calamity Contingent Duty of Customs were levied on crude petroleum oil, polyester filament yarns, motor vehicles and two-wheelers, specified in the Thirteenth Schedule of the Finance Act, 2003. These duties are leviable upto the 29th day of February, 2004. Clause 3 of the Bill proposes to continue these levies upto the 31st day of March, 2005.

#### **PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA**

[Copy of letter No. 2(1)-B(D)/2004, dated the 3rd February, 2004  
from Shri Jaswant Singh, Minister of Finance, to the  
Secretary-General, Lok Sabha.]

The President, having been informed of the subject-matter of the proposed Bill, recommends under clause (1) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Finance Bill, 2004, to the Lok Sabha.

2. The Bill will be introduced in the Lok Sabha immediately after the presentation of the Budget on the 3rd February, 2004.

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[S1]\*As introduced in Lok Sabha on 3-2-2004.