

FRINGE BENEFIT TAX

Provisions of Fringe Benefit Tax have been inserted in Income Tax Act, applicable from Asst. Year 2006-2007 [Financial Year ending 31.3.2006] and is contained in Sections 115W to 115WL

FBT is leviable on employer in respect of fringe benefits provided/deemed to be provided by the employer to his employees during any financial year.

To have an easy understanding of the important provisions, the same are given in a tabular form underneath:

S.N.	Particulars	Remarks	% considered as FB [effective tax rate]	
1	Definitions [115W]	a) Employer means a company, firm, AOP & BOI but not a trust regd.u/s 12AA	Therefore FBT provisions are not applicable to Individual and HUF.	
2	Charge of FBT [115WA]	a) Rate of tax is 30% on value of FB plus S.C and E.Cess b) FBT is payable even if there is loss in the ordinary course in a year.	a) It may be noted that FBT is in addition to income tax payable. b) It may also be noted that such FBT is not a deductible expenditure.	
3	Fringe Benefits Section 115WB			
	Sub section 115WB[1]	Deals with fringe benefits in consideration Clause b) of free or concessional tickets provided by the employer for private journeys of employees or their family members and Clause c) any contribution by employer to an approved superannuation fund for employees	a) It may be noted that in clause a) of this sub-section, fringe benefits also covers any privilege, service, facility or amenity, but as no value of FB to be considered has been provided this clause for practical purposes should be ignored. b) i) clause b indicates - ticket should be provided. <i>As such providing money to purchase ticket is not FB.</i> ii) value under this clause is based on cost at which the benefit is provided by the employer to the public. While the language is not clear, it could be argued that it does contemplate an employer who provides tickets to the public. In other words, unless the employer is engaged in public transportation, he cannot be regarded as having provided free or concessional ticket. c) Since 100% of the value of contribution is chargeable to FBT, it is not advisable for the company to make such contribution, rather the amount should be given in some other form, and the employee could then make the contribution himself. d) For the purpose of this sub-section, privilege, facility or amenity does not include perquisite in respect of which tax is paid or payable by the employee.	100% [33.66%]
	Sub section 115WB[2]	Deals with Deemed Fringe Benefits as follows under Clauses [A] to [P]:	It may be noted that the entire expenditure under 16 heads in this sub-section has to be taken into account. It is not permissible to apportion expenditure as pertaining to employees and non-employees. For Deemed FB is presumptive in nature. It may also be noted that capital expenditure	

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		looking to the nature vis a vis the wording of the clause, is also covered.	
	A) Entertainment	a) Means food, drink, recreation, travel to facilitate entertainment, business lunches, drinks, staff social functions etc.-but now most of such expenses if covered under specific heads to follow shall be taken in those heads. b) To illustrate – purchase of TV for relaxation of employees or non-employees, will amount to entertainment expenditure.	20% [6.73%]
	B) Hospitality	a) Does not include food provided in office or factory and also does not include expenditure on paid vouchers not transferable and usable only at eating joints or outlets	20% [6.73%]
	C) Conference Expenses	a) Does not include fees for participation by the employees in any conference – this signifies that participation fees in respect of conference organized by an outside entity is excluded from the purview of FBT [external conference expenses]. As such conference organized by employer internally will attract FBT. b) However conveyance, tour and travel [including foreign travel] in connection with any conference shall be included under this clause for FBT.	20% [6.73%]
	D) Sales Promotion including Publicity	a) Does not include expenditure on advertisement i) of any form in any print including journals, catalogues or price lists or electronic media or transport system; ii) on holding or participation in any press conference or business convention, fair or exhibition; iii) on sponsorship of any sports or any other event organized by Govt. agency, trade assn or body; iv) on publication in any print or electronic media of any notice required to be published by any law or order; v) by way of signs, art work, painting, banners, drawings, direct mail, electric spectaculars, kiosks, hoardings, bill boards or by way of such other medium; and vi) by way of payment to any advertising agency for purposes of clauses i) to v) above – shall not be considered as expenditure on sales promotion including publicity; b) Can also be inferred that discounted prices and commissions to dealers cannot be subjected to FBT.	20% [6.73%]
	E) Employees Welfare Expenses	Does not include expenditure on statutory obligations or mitigate occupational hazards or provide first aid facilities in hospital or dispensary run by the employer	20% [6.73%]
	F) Conveyance, Tour and Travel [including foreign travel]		20% [6.73%]
	G) Use of Hotel, Boarding and Lodging Facilities		20% [6.73%]
	H) Repair, running [including fuel] maintenance of motor	a) Motor vehicles are not included; b) Road tax will not be covered under this clause and hence should be debited to Rates	20% [6.73%]

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		cars and depreciation thereon	and Taxes a/c; c) Motor cars include jeeps but excludes delivery vans. d) Running expenses will include insurance premium	
		I) Repairs on aircrafts [similar to clause [H]		20% [6.73%]
		J) Use of telephone [including mobile phone]	Does not include expenditure on leased telephone lines	20% [6.73%]
		K) Maintenance of accommodation in the nature of Guest House	Does not include expenditure on use for training purposes	20% [6.73%]
		L) Festival Celebrations	All expenditure such as lighting, decorating, feast etc. should be included.	50% [16.83%]
		M) Use of health club and similar facilities	a) Use of sports facilities has been excluded [for in the Bill word sports was there but dropped in the Act] b) Other facilities could be fitness centres, health saloons, gymnasium, aerobics centre	50% [16.83%]
		N) Use of any other club facilities	Appears to be not covering the initial expenditure on corporate membership on a club.	50% [16.83%]
		O) Gifts		50% [16.83%]
		P) Scholarship		50% [16.83%]
4	Value of Fringe Benefits [Section 115WC]	Sub-section [1]	actual amount referred to in 115WB[1][c]; c) 20% of expenses incurred in clauses [A] to [K] of 115WB [2]; d) 50% of expenses incurred in clauses [L] to [P] of 115WB[2]	
		Sub-section [2]	notwithstanding anything contained in sub-section [1] – a) in case of hotels FB in 115WB[2][B] shall be 5% instead of 20%; b) in case of construction business FB in.....[F]5%20%; c) in case of manufacture or production of pharmaceuticals FB in[F] and [G]5%20%; d) in case of business of computer software FB in-----[F] and [G]5%.....20%; e) in case of business of carriage of passengers or goods by motor car FB in.....[H]5%20% and f) in case of business of carriage of passengers or goods by air craft FB in ...[I].....NIL20%.	
5)	Return of FB [115WD]	1) By 31 st October for companies and for persons where audit is reqd. under any law; 2) By 31 st July in other cases		
6)	Advance Payment of Tax [115WJ]	30% of Value of Fringe Benefits in each quarter plus surcharge and education cess	1) By 15 th July for June, Quarter; 2) By 15 th October for Sept Quarter; 3) By 15 th January for Dec Quarter; 4) By 15 th March for March, Quarter [For short payments 1% p.m. interest is leviable]	
7	Interest for	1% per month		

S.N.		Particulars	Remarks	% considered as FB [effective tax rate]
	default in furnishing Return of FB [115WK]			
8	Application of other provisions of the Act if not provided specifically in this Chapter [115WL]			