# CHAPTER - 4

## ADDITIONAL TAXES
## FOR
## THE INDIAN CORPORATE SECTOR :
## SYSTEMS & APPLICATIONS
## IN TAX PLANNING

## 4.1. INTRODUCTION:

The word "additional" put as an adjective before the word "taxes" connotes that such type of taxes are imposed on bases which are in addition to the normal base "income". In India additional bases have been set up as (a) amount of dividend distributed (b) fringe benefits given to employees (c) cash withdrawals from banks in excess of Rs. One lakh etc. Taxes imposed on these bases at different rates and systems have given birth to taxes like Dividend Distribution Tax, Fringe Benefit Tax, Banking Cash Transaction Tax etc. Cumulatively these taxes are called additional taxes.

## 4.2. TYPES OF ADDTIONAL TAXES FOR CORPORATE SECTOR IN INDIA:

Various additional taxes have been introduced from time to time and then restructured, rescheduled and reformed. With the passage of time these additional taxes were modified, rescheduled and restructured in India keeping in mind various recommendations and reports of different committees and commissions viz. Chelliah Committee, Kelkar Committee so as to boost up the tax / GDP ratio of the country.

In India two types of additional taxes were introduced.

- **Single Point tax:**

  Single Point Tax refers to the taxation pattern at one point i.e on one source. Example: Dividend Distribution Tax (DDT) and Banking Cash Transaction Tax (BCTT).

- **Multiple Point Tax:**

  Multiple Point Tax refers to the system of taxation at different point or multiple sources. Example: Fringe Benefit Tax (FBT).

The basic features of these taxes and how they are used for monitoring taxes are discussed in the latter sections.

## 4.3. ADDITIONAL TAXES IN CORPORATE SECTOR IN INDIA-- SYSTEMS, INTERNATIONAL COMPARISONS AND TAX PLANNING TECHNIQUES:

The Income Tax provisions in India consist of a plethora of sections which deal with various additional taxes to analyze how they are used by tax planners in the corporate sector. Due to constraints of time and space, the discussion will be restricted to selected sections only and exhaustiveness will have to be traded off for brevity. For the purpose of the study, the following additional taxes are analyzed in detail.

(i) Dividend Distribution Tax

(ii) Fringe Benefit Tax

### 4.3.1. The System of Dividend Distribution Tax in India:

In India DDT has been applied as an additional tax at the corporate level from 1997-98 with a break of one financial year in 2002-03 under section 115-O. Before that DDT was taxable in the hands of shareholders as income from other sources. Under section 115-O only domestic companies are liable to pay tax on

the amount declared, distributed or paid as dividend either in cash or in kind to the extent of accumulated profits of the company (final dividend or interim dividend as the case may be) on or after 1st June, 1997 but before 1st April, 2002 or after 31st March, 2003.

If such dividend distribution (i) entailing the release of company's assets (ii) in form of debenture, debenture-stock, deposit certificates and bonus shares to preference shareholders (iii) on liquidation of company (iv) on reduction of capital, the same will attract Dividend Distribution Tax in the hands of payer company.

Dividend declared, distributed or paid after 31st March, 2005 and before 31st May, 2011 by the developer or enterprise out of current income from a SEZ has not been subject to DDT. However such tax has been imposed from the Assessment Year 2013-14. The amount of dividend paid to any person for or on behalf of the new pension system trust on or after 1st April, 2009 is also not subject to DDT.

Rates of DDT in India and its changes along with their chargeability have been shown in the following table:

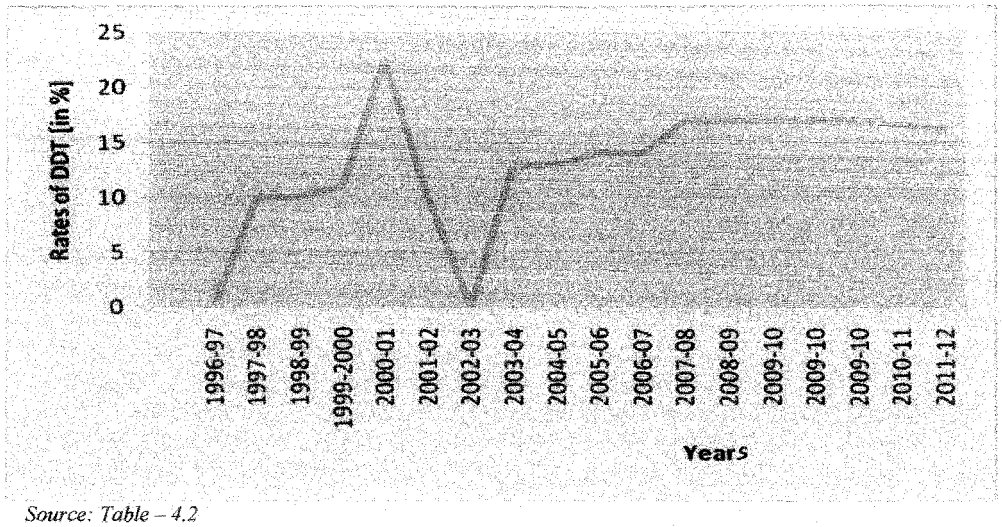
**Table 4.1**
**System of Dividend Distribution Tax in India**

| Financial Year | Rate of DDT(as a % of dividend) | Surcharge (as a % of dividend) | Edn. Cess (as a % of dividend) | Secondary and Higher Edn.Cess (as a % of dividend) | Rate of DDT (incl. surcharge and Edn. + Secondary and Higher Edn.Cess) [as a % dividend] | Tax burden borne by: |
|---|---|---|---|---|---|---|
| Upto 1996-97 | 0 | 0 | 0 | 0 | 0 | Shareholders |
| 1997-98 | 10 | 0 | 0 | 0 | 10 | Company |
| 1998-99 | 10 | 0 | 0 | 0 | 10 | Company |
| 1999-2000 | 10 | 1 | 0 | 0 | 11 | Company |
| 2000-01 | 20 | 0.4 | 0 | 0 | 22.6 | Company |
| 2001-02 | 20 [up to 31st May] | 0.4[up to 31st May] | 0 | 0 | 20.4 | Company |
| | 10[from 1st June] | 0.2 [from 1st June] | 0 | 0 | 10.2 | |
| 2002-03 | 0 | 0 | 0 | 0 | 0 | Shareholders |
| 2003-04 | 12.5 | 0.3125 | 0 | 0 | 12.8125 | Company |
| 2004-05 | 12.5 | 0.3125 | 0.25625 | 0 | 13.06875 | Company |
| 2005-06 | 12.5 | 1.25 | 0.275 | 0 | 14.025 | Company |
| 2006-07 | 12.5 | 1.25 | 0.275 | 0 | 14.025 | Company |
| 2007-08 | 15 | 1.5 | 0.33 | 0.165 | 16.995 | Company |
| 2008-09 | 15 | 1.5 | 0.33 | 0.165 | 16.995 | Company |
| 2009-10 | 15 | 1.5 | 0.33 | 0.165 | 16.995 | Company |
| 2010-11 | 15 | 1.125 | 0.3225 | 0.16125 | 16.60875 | Company |
| 2011-12 | 15 | 0.75 | 0.315 | 0.1575 | 16.2225 | Company |

*Source: Budget documents of different years*

A graphical representation of the rates of dividend taxation shows that rates have been volatile and subject to changes in nearly every assessment year.

**Figure 4.1**
**Rates of DDT in Different Years in India**




*Source: Table – 4.2*

### 4.3.1.1. <u>The Rationale of DDT and The International Scenario</u> :

Distribution of dividends to corporate shareholders vis a way of sharing after-tax profits between the company and shareholders. The pay-out ratio, i.e. the ratio between dividends distributed and after tax profit is a subject of intricate financial analysis. However taxation issues have had an implication on dividend distribution because till assessment year 1996-97 dividends were taxable in the hands of the shareholders as income from other sources. This resulted in a phenomenon of double taxation, i.e. taxed profits of the company being taxed again when shifted to the owners of the company.

Double taxation due to dividend tax crops up in the classical system of taxation as in the same, the profits of a company are taxed devoid of any differentiation between distributed profits and retained earnings and distributed profits are again taxed in the hands of shareholders whether corporate or individual when dividend is distributed and paid to them from the after taxed

profits. The consequences of double taxation can be curtailed to a degree or entirely either at corporate level or at shareholder level or at both by integrating diverse relief schemes [Mintz, 2003]. At corporate level double taxation can be avoided either by dividend deduction approach where the amount of dividend paid is treated as tax deductible expenses or by credit approach where a tax credit can be obtained from the corporate tax payable for the withholding of tax on dividend payments or by split rate method under which lesser tax rate is applicable for the distributed income and higher tax rate is applicable for the retained earnings or by dividend exemption system according to which relatively higher rate in form of additional corporate tax is applicable to distributed profits and retained earnings are taxed at relatively lower rate and dividend is treated as the tax free income in the hands of shareholders. At shareholder level the effect of double taxation can be discarded either by applying dividend credit system under which shareholders receive either complete imputation as a credit for the dividend tax or a partial imputation for the same or by introducing dividend relief system where dividend received is either fully or partially exempted [Roy Rohatgi, 2005].

Across the world the shareholder relief system is more broadly used than the corporate relief system to pass up double taxation due to payment of tax on dividend distribution under classical approach. But Indian tax system opts for additional corporate tax for dividend pay out and such dividend is tax free in the hand of shareholders. The rationale behind such a system is based on the concept of ability to pay and administrative convenience. Since companies have greater abilities to pay and are much fewer in number as compared to individual assessees, it is comparatively easier to trace them as assessees and tax them. The

following table exhibits different systems followed by different countries around the globe.

**Table 4.2**
**Dividend Taxation Pattern in Foreign Countries**

| Dividend Taxation System | Features of Dividend Taxation System | Name of countries |
|---|---|---|
| Dividend Relief under Shareholder Relief System | Under the classical system tax is levied on the taxable profits irrespective of the distinction between distributed or undistributed and a reduced final withholding tax is levied on dividend paid. | Albania, Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, France, Iceland, Italy, Korea, Lithuania, Netherlands, Poland, Portugal, Romania, Russia, Slovenia, Turkey, Ukraine |
| Dividend Relief under Shareholder Relief System | Dividend tax is a single point tax and Under the classical system tax is levied on the taxable profits irrespective of the distinction between distributed or undistributed and there is no liability on shareholders for dividend received. | Argentina, Colombia, Croatia, Greece, Hungary, Latvia, Singapore, Slovak Republic |
| Dividend Relief under Shareholder Relief System | Dividend is fully exempt from tax in the hands of shareholders when paid out of taxed profits under the exemption or exclusion approach. | Germany [from 2001 onwards], Ireland [from 2003 onwards], United States [ from 2003 onwards] |
| Dividend Relief under Shareholder Relief System | Under substantial holding privilege dividend is fully exempt from tax. | Switzerland |
| Dividend Credit / Tax Credit [Imputation system ] under Shareholder Relief System | Under full imputation system shareholders bear imputed credit if the dividend is paid out of fully taxed profits. For payment of tax company keep up "franking account" where taxes paid is credited and dividend distribution is debited and if the later is in excess of the prior "franking deficit tax' is paid by the company at the end of the year. | Australia |
| Dividend Credit / Tax Credit [Imputation system ] under Shareholder Relief System | Under full imputation system shareholders bear imputed credit if the dividend is paid out of fully taxed profits and excess credit is non refundable to them. | Chile, Germany [up to the year 2001], Ireland [up to the year 2003], Malaysia, Mexico, New-Zealand, Taiwan, United States [upto the year 2003] |
| Dividend Credit / Tax Credit [Imputation system ] under Shareholder Relief System | Under partial imputation system shareholders bear imputed credit if the dividend is paid out of fully taxed profits and excess credit is non refundable to them [for United Kingdom 1/9th of the imputed credit is non refundable]. | Canada, Spain, United States |
| Dividend Credit approach under Corporate relief System | The company can enjoy credit for the tax withheld on the dividend payments against the corporate tax payable. | Guernsey |
| Dividend Exemption under Corporate Relief System | The distinction between the distributed profits and retained earnings are taken into consideration and the company pays a higher tax on distributed profits caused by an additional tax on distribution and payment of dividends than on retained earnings. | India, South Africa |

*Source: http://en.wikipedia.org/wiki/Dividend_imputation, http://www.dlapiper.com/files/Publication/, en.wikipedia.org/wiki/Dividend_tax, www.danskebank.com/en-uk, www.asiabizservices.com/tax, Roy Rohatgi (2005)*

It has been depicted from the above table that in spite of following classical system of taxation most of the countries have avoided the issue of double taxation by incorporating shareholders relief system. Of this shareholder relief system dividend exemption or dividend exclusion method has been preferred enormously by most of the countries. A small number has followed the imputation or tax credit system. After ECJ decision on 7th September 2004 many countries has switched over to dividend exemption or dividend exclusion system from the imputation or tax credit system. But where India deviates from other countries is that it is among a few who has favored corporate relief system to pass up double taxation effect. In India the companies pays an additional tax in form of dividend distribution tax but this additional tax has not been imposed on retained earnings. So, a distinction has been made among the retained profits and distributed profits. Thus profits in the form of distributed income are taxed twice at different rates. Only the other country who follows the same system is South Africa.

#### 4.3.1.2. Reduction of Dividend Distribution Tax through Tax Planning :

For minimizing the burden of DDT as well as to keep intact the dividend distribution at the same time, a corporate house in India can opt for the following techniques.

***a) Reduction of Dividend Distribution Tax by issuing bonus shares to equity shareholders:*** The amount of Dividend Distribution Tax can be reduced by clever and appropriate interpretation and application of provisions of the Income Tax Act. Though section 2(22) provides an exhaustive list as to what constitutes dividend, reading between the lines can bring out the techniques as to how

shareholders can be rewarded without attracting tax. Using this particular section, it can be interpreted that issuing bonus shares to equity shareholders do not constitute distribution of dividends. Therefore a financial strategy which chooses issuance of bonus shares to equity shareholders instead of giving them cash dividend can be rewarding in terms of less Dividend Distribution Tax liability.

The following example will clarify the above mentioned technique.

The liability side of a Balance Sheet of X Co. Ltd. as on 12.12.2011 is as follows:

| | |
|---|---|
| 9% Preference share capital: | Rs. 800000 |
| Equity share capital: | Rs.2000000 |
| [Including bonus shares of Rs. 800000 in December, 1996] | |
| General Reserve: | Rs. 600000 |
| P & L Account: | Rs. 200000 |

(i) Regarding dividend distribution the company can take the following policies:

if X Ltd. co. distributes cash dividend of Rs.300000 to equity shareholders.

Alternatively,

if X Ltd. co. issues equity bonus shares to equity shareholders Rs. 300000 instead of cash dividend.

(ii) Cash dividend paid to preference shareholders

Alternatively,

issue of bonus shares to preference share holders for the same amount instead of cash dividend.

Total Accumulated Profit:

| | |
|---|---|
| Capitalization of Profits by issue of bonus shares | = Rs. 800000 |
| General Reserve | = Rs. 600000 |
| P & L Account | = Rs. 200000 |
| Total accumulated profits | = Rs. 1600000 |

(i) Cash dividend of Rs. 300000 attracts Dividend Distribution Tax @ 16.225%

But,

dividend in the form of equity bonus shares of Rs. 300000 to equity shareholders is not subject to any Dividend Distribution Tax.

(ii) Cash dividend of Rs. 144000 [9% of total accumulated profits] attracts Dividend Distribution Tax @ 16.225%

And,

bonus shares of Rs. 144000 to preference share holders attract Dividend Distribution Tax @ 16.225%.

***b) Reduction of Dividend Distribution Tax by paying advance or loan to another company with common shareholders with beneficial interest in both companies:*** If dividend is paid by one private limited company by way of loan or advance to another private limited company and if there is a common shareholder having sufficient holding or beneficial interest in both the companies, then those advances or loans are not deemed as dividend under section 2(22)(e). So to get

more tax benefit, it will be beneficial for the company to grant advance or loan to another company with common shareholders having sufficient beneficial interests.

*c)* ***Reduction of Dividend Distribution Tax if a company receives dividend from its subsidiary***: If a company holds more than half of the nominal value of equity shares of a subsidiary company and the subsidiary company has paid Dividend Distribution Tax under section 115-O on the amount of dividend distributed by such subsidiary company, then the assessee company will be exempted from paying Dividend Distribution Tax on the amount of such dividend provided the assessee company is not a subsidiary of any other company.

Therefore,

| | | |
|---|---|---|
| Tax Liability for Dividend Distribution Tax | = | ( Dividend Paid – Dividends received from Subsidiary Company) * Rate of DDT |

The following example will clarify the above mentioned technique.

X Ltd. Company has subsidiary companies namely A Ltd., B Ltd. and C Ltd. X Ltd. is not a subsidiary of any other company. Again Y Ltd. is a subsidiary company of P Ltd. and has a subsidiary company S Ltd. The under mentioned table clarify the tax consequences.

## Tax consequences for a company having subsidiary company

| Name of the company | Whether the company is subsidiary of any company or not | Date of declaration of dividend | Amount of dividend declared and paid [Rs.] | Dividend received from its subsidiary company [Rs.] | Whether DDT is paid by the subsidiary company u/s 115-O | Date of receipt of dividend | Whether relief is provided for calculating DDT or not | Final tax base for DDT [Rs.] |
|---|---|---|---|---|---|---|---|---|
| X Ltd. | No | 15th April, 2012 | 1500000 | 500000 from A Ltd. | Yes | 30th Sept. 2012 | Yes | 1000000 |
| | | | | 400000 from B Ltd. | No | 20th April, 2012 | No * | 1500000 |
| | | | | 300000 from C Ltd. | Yes | 15th April 2013 | No # | 1500000 |
| Y Ltd. | Yes | 15th April 2012 | 1000000 | 200000 | Yes | 20th April, 2012 | No $ | 1000000 |

*Notes:*

** Deduction is not available by the assessee company as the subsidiary company did not pay DDT u/s 115-O.*

*# Deduction is not available by the assessee company as the subsidiary company did not pay DDT u/s 115-O in the respective financial year i.e in 2012.*

*$ Deduction is not available by the assessee company as the assessee company is a subsidiary company itself.*

***d) By not providing interest free loan to borrowers for purchasing shares of a particular company:*** If according to the terms of agreement, the assessee has advanced an interest free loan to a borrower on his request on condition that the loan amount should be utilized for purchasing shares of a particular company, and 50% of dividend income should be paid to the assessee as and when received by the borrower, then the dividend income so received by the assessee cannot be treated as dividend and not taxable under section 115-O since the assessee is not the shareholder of that particular company. The receipt should be assessed as business income.

The discussions made above show that changing policies from giving cash dividend to equity shareholders to issuing bonus shares or having the dividend tax

base reduced by subtracting dividend received from a subsidiary company can help reduction of taxes. These policies therefore affect the dividend pay-out ratio. It can also be examined whereas the dividend pay-out ratios are affected by the Dividend Distribution Tax rates so as to infer whether higher rates act as disincentive for having larger pay-outs. This is dealt in the next section.

#### 4.3.1.3. Dividend Distribution Tax and Dividend Pay-Out Decision – The Relationship :

Dividend pay-out decision of a company is based on mainly two views relating to taxation policy. As per the first view, the tax factor has no influence on the dividend decision of the company. The second view entails that tax policy influence the dividend policy of a company. According to the Modigliani – Miller Hypothesis (1961) dividend pay-out is irrelevant of taxation policy. After introduction of personal taxes and capital gains tax Friend and Puckett (1964) found that dividend pay-out is irrelevant of taxation policy. According to the study of Black and Scholes (1974) the before-tax returns on common stocks are unrelated to corporate dividend payout policy. Considering another view, the study of Short, Keasey and Duxbury (2002) found that the taxation policy had become the key determinant of dividend payout in the developed countries and therefore the dividend decision has been considered as a relevant decision. The study of Auerbach (1983), Miller and Rock (1985), Blume and Friend (1987) supports the relation between dividend pay-out and corporate tax.

In the Indian context Narasimhan and Asha (1997) found a correlation between dividend tax and pay-out policy. Narasimhan and Krishnamurty (2004) found no clear correlation between corporate dividend tax and pay-outs.

The present study has also made an effort to find out the relation between corporate dividend tax and dividend pay-outs. For that purpose of the study, a regression analysis taking Dividend Pay-Out ratio as the dependent variable and Dividend Distribution Tax as the independent variable has been made. Before presenting the results of the analysis, it would be worthwhile to describe the Dividend Pay-Out ratio of the sample companies in different years together with the Dividend Distribution Tax rates. This is given in the following table.

**Table 4.3**
**Change in D/P Ratio along with the Change in DDTR**

| Financial Year | Dividend Pay-out ratio (%) | Rate of DDT (%) | Change in D/P Ratio (%) | Change in DDTR (%) |
|---|---|---|---|---|
| 1997-98 | 22.9 | 10.000 | | |
| 1998-99 | 26.1 | 10.000 | 3.20 | 0.00 |
| 1999-2000 | 27.8 | 11.000 | 1.70 | 1.00 |
| 2000-01 | 27.9 | 22.600 | 0.10 | 11.60 |
| 2001-02 | 27.8 | 10.200 | -0.10 | -12.40 |
| 2002-03 | 31.5 | 0.000 | 3.7 | -10.20 |
| 2003-04 | 28.4 | 12.812 | -3.1 | 12.81 |
| 2004-05 | 27.6 | 13.069 | -0.80 | 0.26 |
| 20005-06 | 29.8 | 14.025 | 2.20 | 0.96 |
| 2006-07 | 25.3 | 14.025 | -4.50 | 0.00 |
| 2007-08 | 26.9 | 16.995 | 1.6 | 2.970 |
| 2008-09 | 24.7 | 16.995 | -2.2 | 0 |
| 2009-10 | 24.2 | 16.995 | -0.5 | 0 |
| 2010-11 | 24.5 | 16.995 | 0.3 | 0 |
| 2011-12 | 23.9 | 16.995 | -0.6 | 0 |

*Source: Budget documents of different years, capitaline database*
*Note: Dividend Payout ratio =Dividend paid/ Profit after tax *100*
*The figures are average for all the industries as a whole for relevant years*

The following hypothesis has been constructed to find out the relationship between corporate dividend tax and dividend pay-outs.

***$H_0$: Dividend Pay-Out does not depend on Dividend Distribution Tax***
***$H_1$: Dividend Pay-Out depends on Dividend Distribution Tax***

Regression coefficient between dividend pay-out ratio and dividend taxation rate are shown below:

**Table 4.4**

**Regression Coefficient between Dividend Pay-out Ratio and Dividend Taxation Rate**

| R | R Square | Adjusted R Square | F - value | Sig. |
|---|---|---|---|---|
| 0.455 | 0.207 | 0.146 | 3.385 | 0.089 |

*Source: Table 4.3*

The result of regression analysis taking Dividend Pay-Out ratio as the dependent variable and Dividend Distribution Tax as the independent variable has revealed the value of regression co-efficient R = 0.455 with F = 3.385, $p > 0.05$. So, the null hypothesis has been rejected which entails us that Dividend Distribution Tax influence the dividend pay-out of a company.

### 4.3.2. Fringe Benefit Tax as an Additional Tax:

The finance act of 2005 brought in chapter XII-H to deal with income tax on fringe benefits. The prologue of Fringe Benefit tax in the Union budget 2005-06 was primarily inspired by the system of FBT prevailed in Australia and New Zealand. Fringe Benefit Tax (FBT) refers to the charging of tax on fringe benefit

provided or deemed to be provided by the employer to his employee in the hands of employer in addition to the fringe benefits being taxed under the head "salary" at the hands of the individual employee. The presumption behind this additional tax was that, fringe benefits those were jointly provided to employees by the employer and couldn't be attributed to specific employee should be taxed as an additional tax in the hands of the employer.

**4.3.2.1. <u>The Rationale</u>:**

The rationale behind such Fringe Benefit Tax was that it wanted to replace the system of taxation of total fringe benefits whether employee-wise attributable or not in the hands of employees with an intention to generate more tax revenue by reducing the proportion of tax evasion. The change in the system was brought with a presumption that the earlier system of taxing fringe benefits in the hands of employees in lieu of salaries accelerated the escaping tendency of employees from the tax net. To have a check on this escaping tendency perks, rights, privileges, services or facilities that were provided to employees but were of collective or pooled nature and not attributed to any specific employees were taxed as FBT in the hands of employer. Therefore, the main intention of the Government behind the implementation of this ad-hoc tax was to increase the revenue yield in the short-run.

However, the lacks of intention to separate out the personal element from the work-related element create a lot of chaos. According to Jhavery [2007] 'the bone of contention is to segregate "legitimate" expenses incurred for the business and others that confer benefits, by design or accident, on employees.' Also according to him "The FBT is an alternative to disallowance of expenditures or a

tax on imputed income." The constant anxiety and alarm of the business chambers and companies across India has become capable to compel the Government to seize back this additional tax ultimately in 2010.

### 4.3.2.2. A Comparative Study of Fringe Benefit Tax in India and Abroad:

The Fringe Benefit Tax in India was imposed similarly as countries like Australia and New Zealand. Australia and New Zealand has the most developed Fringe Benefit Taxation systems. Therefore, a comparative study of provisions and approach of India to characterize and taxing fringe benefits with that of these two countries is carried out here as follows.

**Table 4.5**

**Comparison between Systems of FBT in Australia, New Zealand and India**

| Australia | New Zealand | India |
|---|---|---|
| Fringe Benefits are explicitly recognized as perks or payments given by the employer to their employees differently from salary and wages. They are taxed in the hands of employer only. The system requires that Fringe Benefits have been allocated to the relevant employees. If employees share a benefit the respective share of each employee must be allocated and the value of the total benefits provided to an employee are the total individual fringe benefits amount. | Fringe Benefits are explicitly recognized as perks or payments given by the employer to their employees differently from salary and wages. They are taxed in the hands of employer only. According to the tax provision there has been a list of attributed fringe benefits amount and the threshold levels beyond these benefits have to be attributed. Fringe Benefits of shared or pooled nature are taxed at a flat rate. | Fringe Benefits that have been provided to employees in lieu of salary by the employer and attributed to specific employees were taxed in the hands of employee. Fringe Benefits provided to employees by the employer and could not be attributed to specific employee that is fringe benefits of pooled or collective nature have been taxed in the hands of employer. |

| | | |
|---|---|---|
| Australia has a list 13 categories of fringe benefits. Examples are- FB in terms of car facilities, debt waivers, loans, expenses, housing facilities, airline transport, boarding and meal entertainment, car parking etc. | New Zealand has mainly 5 categories of fringe benefits. Examples are- FB in terms of motor vehicle benefits, low interest loans, free- subsidized or discounted goods and services, employer's contribution to pension and other funds and others including gifts, telecommunication and entertainment expenses incurred by the employees for personal purpose. | In India under section 115WB(1) of the Finance Act 2005 defines fringe benefits as any service, privilege, facility or reimbursement directly or indirectly made by the employer to his employees. Examples are- concessional or free ticket provided to employees and his families by the employer, contribution to approved superannuation funds etc. Section 115WB(2) categorises 17 types of fringe benefits termed as "deemed". Examples are- entertainment and festival expenses, gifts, maintenance and accommodation in guest house, conference expenses, sales promotion including publicity, conveyance, tour and travel, repair, running and maintenance of motor cars, aircraft fare etc. FBs under subsection 1 are fully taxable but for subsection 2 the whole amount is not taxable. A proportion of the fringe benefits as specified in the provision are taxable. |
| The costs of providing fringe benefits along with fringe benefit tax that are paid are considered as deductible business expenses. | The costs of providing fringe benefits along with fringe benefit tax that are paid are considered as deductible business expenses. | No deduction is being allowed for the amount of taxes paid as fringe benefit tax. |

*Source: different web sites*

### 4.3.2.3. Tax Planning Technique Regarding Fringe Benefit Tax:

For minimizing the burden of FBT a corporate house in India can opt for the following techniques. As the FBT has become a sunset clause now days the techniques are not discussed in details. Only a few points are mentioned here for the purpose of the study.

*a)* ***Opt for appropriate benefits***: Indian corporate houses could have the option to provide those perks that are mainly attributable to specific employee to escape from the tax net. Again the business house could provide those benefits to employees that has been termed as "deemed" under section 115WB (2) and has attracted lower rate of FBT instead of providing FB under section 115WB (1) which have been fully taxable.

*b)* ***Opt for cash benefit:*** To escape from the tax net of FBT the corporate house could opt for the fringe benefits that might be cashed out.

The chapter do not go details regarding Fringe Benefit Tax as now days this provision turned to be a sunset clause and there is no applicability of this particular provision.

But as a whole it can be said that though the primary objective of those taxes are to enrich the national exchequer and avoiding double taxation but at the same time those tax clauses create computational complexities and increase the compliance burden.

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