

Office of the
Commissioner of Profession Tax,
Maharashtra State, Mumbai,
Vikrikar Bhavan, 8th floor,
Mazgaon, Mumbai-400 010.

TRADE CIRCULAR

No.A.C.(P.T.)/2005/Adm-7/10/B- 239
Circular No. 26 T of 2005

Mumbai,dt. 15.10.2005

Subject:- Levy of Profession Tax on Compensation/ex-gratia
received under any kind of retirement scheme.

Sir/Madam,

The Maharashtra State Tax on Professions, Trades, Callings and Employment Act, 1975 provides for levy of tax, interalia, on salary and wages earned at the rate mentioned in the Schedule appended to the Act. The issue of levy of Profession Tax on compensation/ex-gratia received under optional early retirement scheme implemented by the Reserve Bank of India was before the Nagpur Bench of the Hon. High Court of Bombay.

2) While deciding the petition, the High Court has held that a compensation/ex-gratia received by any employee from his employer or former employer in connection with the termination of his employment would fall within the expression "Salary", and the amount is taxable in the hands of employer under the provisions of the Profession Tax Act. The relationship of employer and employee comes to an end as there is no longer contract of employment as the contract stand severed on the payment of compensation.

3) In view of the above, the following guidelines are issued in respect of levy of Profession Tax on compensation/ex-gratia received under any kind of retirement scheme.

- (i) (i) When the compensation/ex-gratia is paid in lump sum, then such amount shall be the salary or wages of such specific year in which such amount is paid.
- (ii) When the compensation/ex-gratia is paid in installments, if such installments are spread over more than one financial year, then the amount actually paid in any financial year shall be the salary or wages of such specific year.

- 4) While assessing any employer or deciding any appeal, the departmental authorities shall follow the guidelines as explained in para (3)(i) and (3)(ii) for levy of tax on compensation /ex-gratia .
- 5) This circular can not be made use of for legal interpretation of provisions of law as it is clarificatory in nature. If any member of the Trade has any doubt, he may refer the matter to this office for further clarification.
- 6) You are requested to bring the contents of this circular to the notice of all the members of association

Yours faithfully,

(B.C. KHATUA)
Commissioner of Profession Tax,
Maharashtra State, Mumbai.