# INDIAN RAILWAYS TECHNICAL SUPERVISORS ASSOCIATION

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**No. IRTSA/ Memo/ MoF / 20-10** **Dated 25.06. 2010**

**Shri Pranab Mukherjee,**
**Hon'ble Minister of Finance,**
**Government of India,**
**North Block, New Delhi**

**(CC: For kind attention of Shri Sunil Mitra, Revenue Secretary, GOI, MoF)**

**Dear Sir,**

**Subject: DIRECT TAXES CODE (DTC) –**
**i) Appeal to Exempt Pension & Compensatory Allowances – DA, HRA & TA from Income Tax -**
**- Pension & Allowances Net of Tax under provisions similar to Sec.195A of Income Tax Act**
**ii) Linking Exemption limits for Income Tax with Inflation or Price Index**
**iii) Reduction of Age Limit for Tax Exemption for Senior Citizens from 65 to 60 years**

**Reference: REVISED DISCUSSION PAPER ON THE DIRECT TAXES CODE JUNE 2010.**

**We thank the government for agreeing to maintain the existing provisions so as not tax the withdrawal from the Provident Funds and other Retirement Benefits in the Direct Taxes Code (as is mentioned in Para 3.1 of Chapter III of the Revised Discussion Paper on DTC).**

**However, we make an earnest appeal to the Government to consider the following points while finalizing the proposed Direct Taxes Bill:**

**1. a) Exempting Compensatory Allowances from Income Tax: Allowances like Dearness Allowance, House Rent Allowance, City Compensatory Allowance and the Transport Allowance (last two of which have now been merged as TA) are all of compensatory nature paid to check erosion of real income on account of inflation and continuous rise in cost of living index.**

**Taxing all these Allowances is most unjustified as it defeats the very purpose for which these Allowances are granted.**

**b) Exempting Pension from Income Tax: Honorable Supreme Court of India in its historical Judgement in *D. S. Nakras' case Vs Union of India*, (*Petition No.5939-41/1980)* had held as under:**

> ***"Pension is not a bounty nor a matter of grace depending upon the sweet will of the employer. It is not an Ex-Gratia payment, but a payment for past services rendered. It is a Social Welfare measure, rendering Socio-Economic Justice to those who in the hey days of their life, ceaselessly toiled for their employers on an assurance that, in their old age they would not be left in the lurch***

**(c) Fifth Pay Commission had recommended as under:-**

***Para 167.7: "If such Allowances are taxed, then either the Basic Salary gets eroded in its real value from Year to Year or the partial Reimbursement of Expenditure incurred on certain items becomes less and less with the passage of time. In both the cases, the objective of giving Allowances is partially nullified".***

***Para 167.8: "We have observed that Ministry of External Affairs pays 'Net of Tax' Salaries to its Employees on Foreign Posting. Provision for paying Net of Tax Salary already exists under Sec.195A of the Income Tax Act. Under the Section Employees do not have to pay Income Tax on the Salaries received by them and it is the liability of the Employer to Pay the same to the Income Tax Department".***

***PARA 167.9: "The solution to the problem of Central Government Employees in General lies in the application of this legal provision".***

***"Para 95 of Summary of Recommendations:- The Commission has felt that the Salaries and Pensions Recommended by it are not really adequate if they are to be fully taxed. Accordingly, it has recommended that all Allowances and Pensions should be paid Net of Taxes".***

**d) Unfortunately, the Government had not accepted this recommendation and as such, Government Employees continue to suffer serious erosion of their real income.**

**e) It is, therefore, requested that the Pension and all Compensatory Allowances including DA/ DR (Dearness Allowance / Dearness Relief), HRA (House Rent Allowance), CCA (City Compensatory Allowance and TA (Transport Allowance) may be Exempted from the Income Tax to avoid erosion of Real Wages. The Tax thereon may please be paid by the respective Departments to the Income Tax Department – with appropriate amendments in Section 195A of the Income Tax Act.**

**2. <u>Linking Exemption limits for Income Tax with Inflation or Price Index</u>: Decision of Exemption Limits for Income Tax has been the most arbitrary element of our system – totally devoid of any logic or methodology. This arbitrariness coupled with Taxation of Compensatory Allowances results in instability and erosion of real income of the working Class – causing much hardship and at times indebtedness – especially in case of middle class salary earners.**

**It is therefore requested that the Exemption limits for Income Tax may please be linked with Inflation or Price Index; and it may please be raised every year in proportion thereof.**

**3. <u>Reduction of Age Limit for Tax Exemption for Senior Citizens from 65 to 60 years</u>: The Retirement Age (or the Age of Superannuation) for the Government Employees is 60 years. There is a substantial loss of income immediately on retirement – due to differential in Pay & Pension as well as stopping of all allowances forthwith – (except DA). Due to rising trend of late marriages and need for higher education of the children, most of the liabilities of are still pending by the time one retires. Age also impairs health thus calling for dependency on medicines. Taxation further erodes the reduced income after retirement – with much depleted income.**

**It is therefore requested that the age Limit for Tax Exemption for Senior Citizens may please be reduced from 65 to 60 years.**

**4. <u>TAX TREATMENT OF SAVINGS UNDER E.E.E.</u>: Penultimate lines of Para 3.1 of Chapter II the Revised Discussion Paper on DTC), read as under:**

*Investments made, before the date of commencement of the DTC, in instruments which enjoy EEE method of taxation under the current law, would continue to be eligible for EEE method of tax treatment for the full duration of the financial instrument.*

**This leaves out the future Investments in long term savings (made after the date of commencement of DTC). Taxing the future investments will also not be fair or justified as the very purpose of promoting long term savings would fail if these are not exempt from the Tax – under EEE (Exemption, Exemption, Exemption) mode.**

**As such it is requested to apply the EEE mode both for existing as well as the future Investments in Long Term Savings (like Provident Funds, approved Superannuation Funds, Life Insurance and New Pension System etc).**

**<u>5. TAXATION OF INCOME FROM HOUSE PROPERTY.</u>**

**<u>Deduction of the gross rent towards repairs and maintenance & Tax levied by Local authority</u>**

Para, 1.(e). (ii) of Chapter IV states that … Twenty per cent of the gross rent towards repairs and maintenance as against thirty per cent at present….

**In all parts of country tax levied by local authority and maintenance cost on House property is increasing steeply. It will be misappropriate to decrease the deduction admissible against the gross rent from 30% as at present to 20%.**

**It is requested that the existing deduction of 30% on gross rent towards repair & maintenance and tax paid on house property may please be continued.**

**With kind regards,**

**Yours faithfully,**

**Harchandan Singh,**
**General Secretary, IRTSA**