

FIDC

Finance Industry Development Council

(A body incorporated as a Self Regulatory Organisation for Registered NBFCs – AFCs)
101/103, Sunflower, 1st Floor, Rajawadi Road No.2, Ghatkopar (East), Mumbai – 400 077 (India)

Tel: 022 21027324/9820035553 • E-mail: maheshthakkar45@yahoo.in website: www.fidcindia.org

April 20, 2016

Shri Arun Jaitleyji

Minister of Finance
Government of India
North Block
New Delhi - 110 001.

Hon'ble Finance Minister Sir,

SUB: Extension of Provisions under Section 43D of the Income-Tax Act to NBFCs

Finance Industry Development Council (FIDC) is a Self-Regulatory Organization (SRO) cum Representative Body of all the Non-Banking Finance Companies (NBFCs) registered with Reserve Bank of India and engaged in Asset & Loan Financing.

We would like to express our sincere thanks to Ministry of Finance for inviting us to present our views/issues during the Pre-Budget Discussion every year.

Sir, we take this opportunity to convey our appreciation of the Financial Sector Reforms being undertaken by Ministry of Finance which shall go a long way in positioning India as the fastest growing economy and the most preferred destination for foreign investment.

However, we would like to draw your kind attention to one anomaly which needs to be addressed to immediately.

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Sec 43D of the Income Tax Act 1961 (Special provision in case of income of public financial institutions, public companies etc.) specifies that income by way of Interest in relation to such categories of bad or doubtful debts of Public Financial Institution, Scheduled Bank, State Financial Institution and State Industrial Investment Corporation as prescribed, having regard to guidelines issued by RBI in relation to such debts and in case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts, as prescribed having regard to guidelines issued by NHB, shall be chargeable to tax in the previous year in which the income is credited to Profit & Loss account, or in the year in which the income is actually received, whichever is earlier.

However as per RBI circular on NBFC (Deposit Accepting or Holding) Prudential Norms (RBI) Directions, 2007-Master Circular-01072015, income with respect to Non-performing assets has to be accounted on receipt basis. Unrealized interest recognized as income in the previous period is reversed in the month in which the loan is classified as Non-performing.

For the purposes of this section,—

- (a) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);
- (b) "scheduled bank" shall have the meaning assigned to it in clause (ii) of the Explanation to clause (vii) of subsection (1) of section 36;
- (c) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);
- (d) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and approved by the Central Government under clause (viii) of sub-section (1) of section 36'.

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We would like to draw your attention that, the benefit of this section is not available to Non Banking Financial Companies (NBFCs). Hence, we suggest that NBFCs should be extended the benefit of Section 43D, whereby interest income on Non-performing assets should be taxed only on receipt basis. We would also like to state that in the Finance Bill 2016, NBFCs have been included in the definition of Section 37(1)(vii) relating to the allowance of provision for bad and doubtful debts. Similarly, NBFCs need to be included for the provisions of section 43D.

We shall be glad to supplement this representation with any additional information / clarification that may be required. We thank you in anticipation of a positive response and assure you of our full co-operation always.

Yours Faithfully,

For **FINANCE INDUSTRY DEVELOPMENT COUNCIL**

MAHESH THAKKAR
Director General