



# Government of India Act 1935

## 1935 CHAPTER 2

### PART VII

#### FINANCE, PROPERTY, CONTRACTS AND SUITS.

### CHAPTER I

#### FINANCE.

#### *Distribution of Revenues between the Federation and the Federal Units.*

#### **136 Meaning of " revenues of Federation " and " revenues of Province " .**

Subject to the following provisions of this chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties to Provinces and Federated States, and subject to the provisions of this Act with respect to the Federal Railway Authority, the expression "revenues of the Federation " includes all revenues and public moneys raised or received by the Federation, and the expression " revenues of the Province " includes all revenues and public moneys raised or received by a Province.

#### **137 Certain succession duties, stamp duties, terminal taxes and taxes on fares and freights.**

Duties in respect of succession to property other than agricultural land, such stamp duties as are mentioned in the Federal Legislative List, terminal taxes on goods or passengers carried by railway, or air, and taxes on railway fares and freights, shall be levied and collected by the Federation, but the net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces, shall not form part of the revenues of the Federation, but shall be assigned to the Provinces and to the Federated States, if any, within which that duty or tax is leviable in that year, and shall be distributed among the Provinces and

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those States in accordance with such principles of distribution as may be formulated by Act of the Federal Legislature:

Provided that the Federal Legislature may at any time increase any of the said duties or taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation.

### **138 Taxes on income.**

- (1) Taxes on income other than agricultural income shall be levied and collected by the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments, shall not form part of the revenues of the Federation, but shall be assigned to the Provinces and to the Federated States, if any, within which that tax is leviable in that year, and shall be distributed among the Provinces and those States in such manner as may be prescribed:

Provided that—

- (a) the percentage originally prescribed under this subsection shall not be increased by any subsequent Order in Council;
  - (b) the Federal Legislature may at any time increase the said taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation.
- (2) Notwithstanding anything in the preceding subsection, the Federation may retain out of the moneys assigned by that subsection to Provinces and States—
- (a) in each year of a prescribed period such sum as may be prescribed; and
  - (b) in each year of a further prescribed period a sum less than that retained in the preceding year by an amount, being the same amount in each year, so calculated that the sum to be retained in the last year of the period will be equal to the amount of each such annual reduction :

Provided that—

- (i) neither of the periods originally prescribed shall be reduced by any subsequent Order in Council;
  - (ii) the Governor-General in his discretion may in any year of the second prescribed period direct that the sum to be retained by the Federation in that year shall be the sum retained in the preceding year, and that the second prescribed period shall be correspondingly extended, but he shall not give any such direction except after consultation with such representatives of Federal, Provincial and State interests as he may think desirable, nor shall he give any such direction unless he is satisfied that the maintenance of the financial stability of the Federal Government requires him so to do.
- (3) Where an Act of the Federal Legislature imposes a surcharge for Federal purposes under this section, the Act shall provide for the payment by each Federated State in which taxes on income are not leviable by the Federation of a contribution to the revenues of the Federation assessed on such basis as may be prescribed with a view to securing that the contribution shall be the equivalent, as near as may be, of the net proceeds which it is estimated would result from the surcharge if it were leviable in that State, and the State shall become liable to pay that contribution accordingly.

- (4) In this section—

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" taxes on income " does not include a corporation tax;  
" prescribed " means prescribed by His Majesty in Council; and  
" Federal emoluments " includes all emoluments and pensions payable out of the revenues of the Federation or of the Federal Railway Authority in respect of which income tax is chargeable.

### **139 Corporation tax.**

- (1) Corporation tax shall not be levied by the Federation in any Federated State until ten years have elapsed from the establishment of the Federation.
- (2) Any Federal law providing for the levying of corporation tax shall contain provisions enabling the Ruler of any Federated State in which the tax would otherwise be leviable to elect that the tax shall not be levied in the State, but that in lieu thereof there shall be paid by the State to the revenues of the Federation a contribution as near as may be equivalent to the net proceeds which it is estimated would result from the tax if it were levied in the State.
- (3) Where the Ruler of a State so elects as aforesaid, the officers of the Federation shall not call for any information or returns from any corporation in the State, but it shall be the duty of the Ruler thereof to cause to be supplied to the Auditor-General of India such information as the Auditor-General may reasonably require to enable the amount of any such contribution to be determined.

If the Ruler of a State is dissatisfied with the determination as to the amount of the contribution payable by his State in any financial year, he may appeal to the Federal Court, and if he establishes to the satisfaction of that Court that the amount determined is excessive, the Court shall reduce the amount accordingly and no appeal shall lie from the decision of the Court on the appeal.

### **140 Salt duties, excise duties and export duties.**

- (1) Duties on salt, Federal duties of excise and export duties shall be levied and collected by the Federation, but, if an Act of the Federal Legislature so provides, there shall be paid out of the revenues of the Federation to the Provinces and to the Federated States, if any, to which the Act imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among the Provinces and those States in accordance with such principles of distribution as may be formulated by the Act.
- (2) Notwithstanding anything in the preceding subsection, one half, or such greater proportion as His Majesty in Council may determine, of the net proceeds in each year of any export duty on jute or jute products shall not form part of the revenues of the Federation, but shall be assigned to the Provinces or Federated States in which jute is grown in proportion to the respective amounts of jute grown therein.

### **141 Prior sanction of Governor-General required to Bills affecting taxation in which Provinces are interested.**

- (1) No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, or which varies the meaning of the expression " agricultural income " as defined for the purposes of the enactments relating to Indian income tax, or which affects the principles on which under any of the foregoing provisions of this chapter

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moneys are or may be distributable to Provinces or States, or which imposes any such Federal surcharge as is mentioned in the foregoing provisions of this chapter, shall be introduced or moved in either Chamber of the Federal Legislature except with the previous sanction of the Governor-General in his discretion.

- (2) The Governor-General shall not give his sanction to the introduction of any Bill or the moving of any amendment imposing in any year any such Federal surcharge as aforesaid unless he is satisfied that all practicable economies and all practicable measures for otherwise increasing the proceeds of Federal taxation or the portion thereof retainable by the Federation would not result in the balancing of Federal receipts and expenditure on revenue account in that year.
- (3) In this section the expression " tax or duty in which Provinces are interested " means—
  - (a) a tax or duty the whole or part of the net proceeds whereof are assigned to any Province; or
  - (b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the revenues of the Federation to any Provinces.

#### **142 Grants from Federation to certain Provinces.**

Such sums as may be prescribed by His Majesty in Council shall be charged on the revenues of the Federation in each year as grants in aid of the revenues of such Provinces as His Majesty may determine to be in need of assistance, and different sums may be prescribed for different Provinces:

Provided that, except in the case of the North West Frontier Province, no grant fixed under this section shall be increased by a subsequent Order, unless an address has been presented to the Governor-General by both Chambers of the Federal Legislature for submission to His Majesty praying that the increase may be made.

#### **143 Savings.**

- (1) Nothing in the foregoing provisions of this chapter affects any duties or taxes levied in any Federated State otherwise than by virtue of an Act of the Federal Legislature applying in the State.
- (2) Any taxes, duties, cesses or fees which, immediately before the commencement of Part III of this Act, were being lawfully levied by any Provincial Government, municipality or other local authority or body for the purposes of the Province, municipality, district or other local area under a law in force on the first day of January, nineteen hundred and thirty-five, may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Federal Legislative List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by the Federal Legislature.

#### **144 Calculation of " net proceeds " &c.**

- (1) In the foregoing provisions of this chapter " net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificates shall be final.
- (2) Subject as aforesaid, and to any other express provision of this chapter, an Act of the Federal Legislature may, in any case where under this Part of this Act the proceeds

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of any duty or tax are, or may be, assigned to any Province or State, or a contribution is, or may be, made to the revenues of the Federation by any State, provide for the manner in which the proceeds of any duty or tax and the amount of any contribution are to be calculated, for the times in each year and the manner at and in which any payments are to be made, for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters.