

Copy of the Govt. Order F.No.173(1)/32/2009-ITA-1

**Government of India,
Ministry of Finance, Department of Revenue
Central Board of Direct Taxes
New Delhi**

Dated : 8th May 2009

To,
All Chief Commissioners of Income Tax
All Directors General of Income Tax
Director General (Legal & Research)

Subject : Taxability of ex-gratia amount received by Reserve Bank of India's employees under 'Optional Early Retirement Scheme (OERS) during Assessment Year 2004-05 reg.

Sir / Madam

Central Board of Direct taxes vide its letter F.No.225/74/2005-ITA-II dated 20-10-2005 relying on a letter from Reserve Bank of India (RBI), had advised all field formations that the Optional Early Retirement Scheme (OERS) of RBI does not conform with the provisions of Rule 2BA of Income tax Rules, 1962. Accordingly the amount received by the employees of RBI opting for OERS did not qualify for exemption under section 10 (10C) of Income Tax Act, 1961.

It has now been brought to the notice of Board that the Hon'ble High Court of Bombay vide its order dated 4th July 2008 in the case of Commissioner of Income Tax Vs. Koodathil Kallyatan Ambujakshan (2008) 219 CTR (Bom) 80 has held that Optional Early Retirement Scheme of RBI satisfies all the conditions of Rule 2BA and amounts received by retiring employees thereunder were for exemption u/s 10 (10C). That judgement has become final.

The matter has therefore been reviewed in the Board in view of the aforesaid order or Hon'ble High Court of Bombay and it has been decided that the employees of RBI who accepted OERS would be entitled for the benefit of Section 10 (10C) of Income tax Act, 1961. In view of this, I am directed to request you to bring this to the notice of all officers working under your charge for taking necessary action.

Yours faithfully,

Sd/-

(PADAM SINGH)

Under Secretary (ITA-1),

Tel : 23095479