

FINANCE BILL, 1997

[BILL NO. 25 OF 1997]

[As introduced in Lok Sabha on 28th February, 1997.]

A Bill to give effect to the financial proposals of the Central Government for the financial year 1997-98.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. Short title and commencement.—(1) This Act may be called the **Finance Act, 1997.**

(2) Save as otherwise provided in this Act, sections 2 to 59 shall be deemed to have come into force on the 1st day of April, 1997.

CHAPTER II

RATES OF INCOME-TAX

2. Income-tax. — (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1997, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased in the cases to which Paragraph E of that Part applies, by a surcharge, calculated in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds forty thousand rupees, then, —

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand

rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income ; and

(b) the income-tax chargeable shall be calculated as follows :—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income ;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income ;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act), apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be :

Provided that the amount of income-tax computed in accordance with the provisions of sections 112 and 113 of the Income-tax Act shall be increased in the case of a domestic company by a surcharge as provided in Paragraph E of Part I of the First Schedule :

Provided further that in respect of any income chargeable to tax under section 115B, or in the case of a domestic company having a total income exceeding seventy-five thousand rupees under section 115BB of the Income-tax Act, the income-tax computed shall be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O of the Income-tax Act, the tax shall be charged and paid at the rate specified in that section.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates

in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) In cases in which tax has to be deducted under sections 194C, 194G, 194-I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rate specified in Part II of the First Schedule, as the case may be.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule :

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(9) In the cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds forty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force, —

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand

rupees of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income ; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows :—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income ;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A as if the net agricultural income as so increased were the total income ;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be,

"advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(10) For the purposes of this section and the First Schedule, —

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1997, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income ;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) ;

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule ;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the

Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. Amendment of section 10. — In section 10 of the Income-tax Act, with effect from the 1st day of April, 1998, —

(a) in clause (15), in sub-clause (iv), after item (i), in the *Explanation*, after clause (b), the following clause shall be inserted, namely :—

“(ba) the business of providing telecommunication services ; or” ;

(b) clause (15A) shall be omitted ;

(c) in clause (17), in sub-clause (iii), for the words “six hundred rupees per month”, the words “two thousand rupees per month” shall be substituted ;

(d) in clause (23F), in the *Explanation*, in clause (c), for the words “engaged in the”, the words “engaged in the business of generation or generation and distribution of electricity or any other form of power or business of providing telecommunication services or in the” shall be substituted ;

(e) in clause (23G), in the *Explanation*, for clause (c), the following clause shall be substituted, namely :—

‘(c) “infrastructure facility” means—

(i) a road, highway, bridge, airport, port, rail system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette ;

(ii) a water supply project, irrigation project, sanitation and sewerage system ;

(iii) a project for generation or generation and distribution of electricity or any other form of power ;

(iv) a project for providing telecommunication services’ ;

(f) clauses (26AA) and (28) shall be omitted.

(g) after clause (32), the following clause shall be inserted, namely :—

“(33) any income by way of dividends referred to in section

4. Amendment of section 16.— In section 16 of the Income-tax Act, for clauses (i) and (ia), the following clause shall be substituted with effect from the 1st day of April, 1998, namely :—

“(i) a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty thousand rupees, whichever is less.

Explanation.— For the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause ;”.

5. Amendment of section 35.— In section 35 of the Income-tax Act, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely :—

“(2AB) (1) Where a company engaged in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board incurs any expenditure on scientific research and such expenditure is of capital nature (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to one and one-fourth times of the expenditure so incurred.

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under sub-section (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of the accounts maintained for that facility.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the Director-General in such form and within such time as may be prescribed.”.

6. Insertion of new section 35ABB.— After section 35AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely :—

‘35ABB. *Expenditure for obtaining licence to operate telecommunication services.*— (1) in respect of any expenditure, being in the nature

of capital expenditure, incurred for acquiring any right to operate telecommunication services and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation. — For the purposes of this section, —

(i) “relevant previous years” means the previous years beginning with the previous year in which the licence fee is actually paid and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force ;

(ii) “appropriate fraction” means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years ;

(iii) “payment has actually been made” means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(3) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation. — Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this subsection shall apply as if the business is in existence in that previous year.

(4) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1)

in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(5) Where a part of the licence is transferred in a previous year and sub-section (3) does not apply, the deduction to be allowed under sub-section (1) for expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed ; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company), —

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the amalgamating company ; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the licence.’

7. Amendment of section 36. — In section 36 of the Income-tax Act,—

(a) in sub-section (1),—

(i) in clause (vii), in the proviso, for the words “a bank”, the words “an assessee” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992 ;

(ii) in clause (viii), with effect from the 1st day of April, 1998,—

(A) for the words “special reserve created”, the words “special reserve created and maintained” shall be substituted ;

(B) in the *Explanation*, for clause (d), the following clause shall be substituted, namely :—

‘(d) “infrastructure facility” shall have the meaning assigned to it in clause (23G) of section 10.’ ;

(b) in sub-section (2), for clause (v), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1992, namely :—

“(v) where such debt or part of debt relates to advances made by an assessee to which clause (viiia) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.”.

8. Amendment of section 37.— In section 37 of the Income-tax Act, sub-sections (2), (3), (4) and (5) shall be omitted with effect from the 1st day of April, 1998.

9. Amendment of section 41.— In section 41 of the Income-tax Act, with effect from the 1st day of April, 1998, —

(a) after sub-section (4), the following sub-section shall be inserted, namely :—

“(4A) where a deduction has been allowed in respect of any special reserve created and maintained under clause (viii) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.” ;

(b) in sub-section (5), for the words, brackets and figure “or sub-section (4)”, the words, brackets, figures and letter “, sub-section (4) or sub-section (4A)” shall be substituted.

10. Amendment of section 44AA.— In section 44AA of the Income-tax Act, in sub-section (2), in clause (ii), for the words “during such previous year,”, the following shall be substituted with effect from the 1st day of April, 1998, namely :—

“during such previous year ; or

(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or section 44AE or section 44AF, as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year,”.

11. Amendment of section 44AB. — In section 44AB of the Income-tax Act, in clause (b), for the words “previous year,”, the following shall be substituted with effect from the 1st day of April, 1998, namely :—

“previous year, or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD or section 44AE or section 44AF, as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year,”.

12. Amendment of section 44AD. — In section 44AD of the Income-tax Act, in sub-section (2), after the words and figures “sections 30 to 38”, the words, brackets, letter and figures “and clause (b) of section 40” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994.

13. Amendment of section 44AE. — In section 44AE of the Income-tax Act, in sub-section (3), after the words and figures “sections 30 to 38”, the words, brackets, letter and figures “and clause (b) of section 40” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994.

14. Insertion of new section 44AF. — After section 44AE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1998, namely :—

‘44AF. Special provisions for computing profits and gains of retail business. — (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent. of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession” :

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of forty lakh rupees in the previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 and clause (b) of section 40 shall, for the purposes of sub-section (1),

be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

(3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.

(5) Nothing contained in the foregoing provisions of this section shall apply where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-section (1) and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.'.

15. Amendment of section 44B.— In section 44B of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :—

“Explanation.—For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature.”

16. Amendment of section 47.— In section 47 of the Income-tax Act, after clause (x), the following clauses shall be inserted with effect from the 1st day of April, 1998, namely :—

‘(xi) any transfer made on or before the 31st day of December, 1997, by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.— For the purposes of this clause, the expression “membership of a recognised stock exchange” means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;

(xii) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), where such sick industrial company is being managed by its workers' co-operative :

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, “net worth” shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986).’.

17. Amendment of section 47A.— Section 47A of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely :—

‘(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (xi) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (xi) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head “Capital gains” of the previous year in which such shares are transferred.’.

18. Amendment of section 48.— In section 48 of the Income-tax Act, after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 1998, namely :—

“ Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture.”.

19. Amendment of section 55.— In section 55 of the Income-tax Act, with effect from the 1st day of April, 1998, —

(a) in sub-section (1), in clause (b), in sub-clause (1), after the words “goodwill of a business”, the words “or a right to manufacture, produce or process any article or thing” shall be inserted ;

(b) in sub-section (2), in clause (a), after the words "being goodwill of a business", the words "or a right to manufacture, produce or process any article or thing," shall be inserted.

20. Amendment of section 57. — In section 57 of the Income-tax Act, in clause (iia), for the words "twelve thousand rupees", the words "fifteen thousand rupees" shall be substituted with effect from the 1st day of April, 1998.

21. Omission of section 80AA. — Section 80AA of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

22. Amendment of section 80AB. — In section 80AB of the Income-tax Act, the brackets, words, figures and letter "(except section 80M)" shall be omitted with effect from the 1st day of April, 1998.

23. Amendment of section 80G. — In section 80G of the Income-tax Act with effect from the 1st day of April, 1998,—

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiihe)", the words, brackets, figures and letters "or sub-clause (iiihf)" shall be inserted ;

(b) in sub-section (2), in clause (a), after sub-clause (iiihe), the following sub-clause shall be inserted, namely :—

"(iiihf) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory, as the case may be :

Provided that such Fund is —

(a) the only Fund of its kind established in the State or the Union territory, as the case may be ;

(b) under the overall control of the Chief Secretary or the Department of Finance of the State or the Union territory, as the case may be ;

(c) administered in such manner as may be specified by the State Government or the Lieutenant Governor, as the case may be ; or".

24. Omission of section 80GG. — Section 80GG of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

25. Amendment of section 80-IA. — In section 80-IA of the Income-tax Act,—

(a) in sub-section (1), after the words "scientific and industrial research and development",—

(i) the words “or providing telecommunication services whether basic or cellular” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996 ;

(ii) after the words “or providing telecommunication services whether basic or cellular” as so inserted the words “or operating an industrial park” shall be inserted with effect from the 1st day of April, 1998 ;

(b) in sub-section (4), with effect from the 1st day of April, 1999, —

(i) for the portion beginning with the words “This section applies—” and ending with the words, brackets and figures “either of the conditions (iii) or (iv) are fulfilled, namely :—”, the following shall be substituted, namely :—

“This section applies to the business of any hotel —

(a) where conditions (i), (ii) and (v) ; and

(b) either of the conditions (iii) or (iv) ; or

(c) either of the conditions (iia) or (iva),

are fulfilled, namely :—” ;

(ii) after clause (iii), the following clause shall be inserted, namely :—

“(iia) the business of the hotel, located in a hilly area or a rural area or a place of pilgrimage or such other place as the Central Government may, having regard to the need for development of infrastructure for tourism in any place and other relevant considerations, specify for the purpose of this clause, starts functioning at any time during the period beginning on the 1st day of April, 1998, and ending on the 31st day of March, 2002 :

Provided that nothing contained in this clause shall apply to any hotel located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai ;” ;

(iii) after clause (iv), the following clause shall be inserted, namely :—

“(iva) the business of the hotel, located in a place other than a place referred to in clause (iia) of this sub-section and not being located at a place within the municipal jurisdiction (whether known as a municipality, municipal corporation, notified area committee, town area

committee or a cantonment board or by any other name) of Calcutta, Chennai, Delhi and Mumbai, starts functioning at any time during the period beginning on the 1st day of April, 1998, and ending on the 31st day of March, 2002 ;” ;

(c) after sub-section (4B), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :—

“(4C) This section applies to any undertaking which starts providing telecommunication services whether basic or cellular at any time on or after the 1st day of April, 1995, but before the 31st day of March, 2000.” ;

(d) after sub-section (4C) as so inserted, the following sub-section shall be inserted with effect from the 1st day of April, 1998, namely :—

(4D) This section applies to any undertaking which begins to operate an industrial park notified by the Central Government in accordance with the scheme framed and notified by that Government for the period beginning on the 1st day of April, 1997, and ending on the 31st day of March, 2002.” ;

(e) in sub-section (5), —

(i) after clause (ib), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :—

“(ic) in the case of an undertaking referred to in sub-section (4C) or sub-section (4D), hundred per cent. of the profits and gains derived from such business for the initial five assessment years and thereafter, twenty-five per cent. of the profits and gains derived from such business :

Provided that, where the assessee is a company, the provisions of this clause shall have effect as if for the words “twenty-five per cent.”, the words “thirty per cent.” had been substituted ;” ;

(ii) after clause (ii), the following clause shall be inserted with effect from the 1st day of April, 1998, namely :—

“(iia) in the case of a hotel referred to in clause (iia) of sub-section (4), fifty per cent. of the profits and gains derived from the business of such hotel :

Provided that the said hotel is approved by the prescribed authority for the purposes of this clause in accordance with the rules made under this Act ;” ;

(iii) in clause (iii), after the word, brackets and figures "clause (iv)", the words, brackets, figures and letter "or clause (iva)" shall be inserted ;

(f) in sub-section (6),—

(i) after clause (v), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1996, namely :—

"(vi) ten in the case of an assessee, being an undertaking referred to in sub-section (4C), deriving profits and gains from telecommunication services whether basic or cellular ;";

(ii) after clause (vi) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 1998, namely :—

"(vii) ten in the case of an assessee, being an undertaking referred to in sub-section (4D), deriving profits and gains from operating an industrial park."

26. Omission of section 80JJ.—Section 80JJ of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

27. Amendment of section 80L.—In section 80L of the Income-tax Act, in sub-section (1) with effect from the 1st day of April, 1998,—

(a) clause (iv) shall be omitted ;

(b) in clause (x), the words " , or dividend received from," shall be omitted ;

(c) in the proviso, for the word, brackets and figures "clause (iv)", the word, brackets and figure "clause (i)" shall be substituted.

28. Omission of section 80M.—Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

29. Amendment of section 80-O.—In section 80-O of the Income-tax Act, for the portion beginning with the words "any income by way of royalty" and ending with the words "outside India to such Government or enterprise by the assessee," the words "any income received by the assessee from the Government of a foreign State or foreign enterprise in consideration for the use outside India of any patent, invention, design or registered trade mark" shall be substituted with effect from the 1st day of April, 1998.

30. Amendment of section 88.—In section 88 of the Income-tax Act, in sub-section (2), in clause (xvi), in the *Explanation*, in clause (i), after the word "power", the words "or for providing telecommunication services whether basic or cellular" shall be inserted with effect from the 1st day of April, 1998.

31. Substitution of new section for section 88B.— For section 88B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely :—

“88B. Rebate of income-tax in case of individuals of sixty-five years or above.— An assessee, being an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income, with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax or an amount of ten thousand rupees, whichever is less.”.

32. Amendment of section 115A.— In section 115A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1998,—

(a) in clause (a), for the word “dividends”, wherever it occurs, the words “dividends other than dividends referred to in section 115-O” shall be substituted ;

(b) in clause (b), for sub-clauses (A) and (B), the following sub-clauses shall be substituted, namely :—

“(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent. if such royalty is received in pursuance of an agreement made on or before the 31st day of May, 1997, and twenty per cent. where such royalty is received in pursuance of an agreement made after the 31st day of May, 1997 ;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent. if such fees for technical services are received in pursuance of an agreement made on or before the 31st day of May, 1997, and twenty per cent. where such fees for technical services are received in pursuance of an agreement made after the 31st day of May, 1997 ; and”.

33. Amendment of section 115AC.— In section 115AC of the Income-tax Act, for the word “dividends”, wherever it occurs, the words “dividends other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 1998.

34. Amendment of section 115AD.— In section 115AD of the Income-tax Act, in sub-section (1), in clause (a), for the word “income”, the words “income other than income by way of dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 1998.

35. Amendment of section 115C.— In section 115C of the Income-tax Act, in clause (c), for the words “income derived”, the words “income derived other than dividends referred to in section 115-O” shall be substituted with effect from the 1st day of April, 1998.

36. Substitution of new section for section 115E.— For section 115E of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1998, namely :—

“115E. Tax on investment income and long-term capital gains.— Where the total income of an assessee, being a non-resident Indian, includes—

(a) any income from investment or income from long-term capital gains of an asset other than a specified asset ;

(b) income by way of long-term capital gains,
the tax payable by him shall be the aggregate of—

(i) the amount of income-tax calculated on the income in respect of investment income referred to in clause (a), if any, included in the total income, at the rate of twenty per cent. ;

(ii) the amount of income-tax calculated on the income by way of long-term capital gains referred to in clause (b), if any, included in the total income, at the rate of ten per cent. ; and

(iii) the amount of income-tax with which he would have been chargeable had his total income been reduced by the amount of income referred to in clauses (a) and (b).”.

37. Amendment of section 115JA.— In section 115JA of the Income-tax Act, in sub-section (2),—

(a) in clause (vii), in the *Explanation*, the word “or” shall be inserted at the end ;

(b) after clause (vii) as so amended, the following clause shall be inserted with effect from the 1st day of April, 1998, namely :—

“(viii) the amount of profits, derived from the export of goods or merchandise to which section 80HHC applies, computed in the manner provided in that section.”.

38. Insertion of new section 115JAA.—After section 115JA of the Income-tax Act, the following section shall be inserted, namely :—

“115JAA. Tax credit in respect of tax paid on deemed income relating to certain companies.— (1) Where any amount of tax is paid under sub-section (1) of section 115JA by an assessee being a company for any

assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.

(2) The tax credit to be allowed under sub-section (1) shall be the difference of the tax paid for any assessment year under sub-section (1) of section 115JA and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act :

Provided that no interest shall be payable on the tax credit allowed under sub-section (1).

(3) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-section (4) and sub-section (5) but such carry forward shall not be allowed beyond the fifth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1).

(4) Tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than section 115JA.

(5) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (1) of section 115JA for that assessment year.

(6) Where as a result of an order under sub-section (1) of section 143, section 147, section 154, section 155, sub-section (4) of section 245D, section 250, section 254, section 260, section 262, section 263 or section 264, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly.”

39. Omission of Chapter XII-C. — Chapter XII-C of the Income-tax Act shall be omitted with effect from the 1st day of April, 1998.

40. Insertion of new Chapter XII-D. — After section 115N of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of June, 1997, namely :—

‘CHAPTER XII-D

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES

115-O. Tax on distributed profits of domestic companies. — (1) Notwithstanding anything contained in any other provision of this Act and

subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of June, 1997, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of ten per cent.

(2) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of declaration of dividends.

(3) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(4) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (1).

115P. Interest payable for non-payment of tax by domestic companies.—Where the principal officer of a domestic company and the company fails to pay the whole or any part of the tax on distributed profits referred to in sub-section (1) of section 115-O, within the time allowed under sub-section (2) of that section, he or it shall be liable to pay simple interest at the rate of two per cent. for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115Q. When company is deemed to be in default.—If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of section 115-O, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

Explanation.—For the purposes of this Chapter, the expression “distributed profits” shall have the same meaning as is given to “dividend” in clause (22) of section 2 but shall not include sub-clause (e) thereof.’

41. Amendment of section 132.—In section 132 of the Income-tax Act,—

(a) in sub-section (8), for the words "Chief Commissioner or Commissioner", at both the places where they occur, the words "Chief Commissioner, Commissioner, Director-General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996 ;

(b) in sub-section (10), for the words "Chief Commissioner or Commissioner", the words "Chief Commissioner, Commissioner, Director-General or Director" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

42. Amendment of section 139.— In section 139 of the Income-tax Act, in sub-section (1),—

(i) the following proviso shall be inserted, namely :—

"Provided that a person, not furnishing return under this sub-section and residing in such area as may be specified by the Board in this behalf by a notification in the Official Gazette, and who at any time during the previous year fulfils any two of the following conditions, namely :—

(i) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf ; or

(ii) is the owner or the lessee of a motor vehicle ; or

(iii) is a subscriber to a telephone ; or

(iv) has incurred expenditure for himself or any other person on travel to any foreign country,

shall furnish a return, of his income during the previous year, on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed." ;

(ii) after *Explanation 2*, the following *Explanation* shall be inserted, namely :—

'*Explanation 3.*—For the purpose of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).'

43. Amendment of section 143.— In section 143 of the Income-tax Act, in sub-section (1), in clause (a), for the second proviso, the following proviso shall be substituted with effect from the 1st day of April, 1998, namely :—

"Provided further that an intimation shall be sent to the assessee whether or not any adjustment has been made under the first proviso and notwithstanding that no tax or interest is due from him."

44. Amendment of section 172.— In section 172 of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :—

"(8) For the purposes of this section, the amount referred to in sub-section (2) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature."

45. Amendment of section 193.— In section 193 of the Income-tax Act, in the proviso, with effect from the 1st day of June, 1997,—

(a) clause (iiia) shall be omitted ;

(b) for clause (iv), the following clause shall be substituted, namely :—

"(iv) any interest payable on any security of the Central Government or a State Government."

46. Amendment of section 194.— In section 194 of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :—

" Provided further that no such deduction shall be made in respect of any dividends declared, distributed or paid, as the case may be, on or after the 1st day of June, 1997."

47. Amendment of section 194B.— In section 194B of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :—

"Provided further that in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings."

48. Amendment of section 195.— In section 195 of the Income-tax Act, in sub-section (1), after the first proviso, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :—

"Provided further that no such deduction shall be made in respect of any dividends declared, distributed or paid, as the case may be, on or after the 1st day of June, 1997."

49. Amendment of section 196C. — In section 196C of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :—

“Provided that no such deduction shall be made in respect of any dividends declared, distributed or paid, as the case may be, on or after the 1st day of June, 1997.”.

50. Amendment of section 196D. — In section 196D of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of June, 1997, namely :—

“Provided that no such deduction shall be made in respect of any dividends declared, distributed or paid, as the case may be, on or after the 1st day of June, 1997.”.

51. Amendment of section 206. — Section 206 of the Income-tax Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely :—

“(2) Notwithstanding anything contained in any other law for the time being in force, a return filed on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media as may be specified by the Board (hereinafter referred to as the computer media) shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(3) A return filed under sub-section (2) shall fulfil the following conditions, namely :—

(a) while receiving returns on computer media, necessary checks by scanning the documents filed on computer media will be carried out and the media will be duly authenticated by the Assessing Officer ; and

(b) the Assessing Officer shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.”.

52. Amendment of section 271C.—In section 271C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 1997, namely :—

“(1) If any person fails to—

(a) deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B ; or

(b) pay the whole or any part of the tax as required by or under,—

(i) sub-section (2) of section 115-O ; or

(ii) second proviso to section 194B,

then, such person shall be liable to pay, by way of penalty, a sum equal to the amount of tax which such person failed to deduct or pay as aforesaid.”.

53. Insertion of new section 271F.— After section 271E of the Income-tax Act, the following section shall be inserted, namely :—

“271F. Penalty for failure to furnish return of income.— If a person who is required to furnish a return of his income as required by the proviso to sub-section (1) of section 139 fails to furnish such return on or before the due date, he shall be liable to pay by way of penalty, a sum of five hundred rupees.”.

54. Amendment of section 273B.— In section 273B of the Income-tax Act, after the word, figures and letter “section 271E”, the word, figures and letter “section 271F” shall be inserted.

55. Substitution of new section for section 276B.— For section 276B of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 1997, namely :—

“276B. Failure to pay tax to the credit of the Central Government under Chapter XXII-B or XVII-B.— If a person fails to pay to the credit of the Central Government, —

(a) the tax deducted at source by him as required by or under the provisions of Chapter XVII-B ; or

(b) the tax payable by him, as required by or under, —

(i) sub-section (2) of section 115-O ; or

(ii) second proviso to section 194B,

he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.”.

56. Amendment of section 281B.— In section 281B of the Income-tax Act, in sub-sections (1) and (2), for the words “Chief Commissioner or Commissioner”, the words “Chief Commissioner, Commissioner, Director-General or Director” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 1996.

Interest-tax

57. Amendment of section 4.— In section 4 of the Interest-tax Act, 1974 (45 of 1974) (hereinafter referred to as the Interest-tax Act), in sub-section (2), the following proviso shall be inserted with effect from the 1st day of April, 1998, namely :—

“Provided that the rate at which interest-tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 1997, shall be two per cent. of such chargeable interest.”.

58. Amendment of section 21.— In section 21 of the Interest-tax Act, after the figures and brackets “2(44)”, the figures “, 119” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1991.

Expenditure-tax

59. Amendment of section 4.— In section 4 of the Expenditure-tax Act, 1987 (35 of 1987), in clause (a), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 1999, namely :—

“Provided further that nothing in this clause shall apply in the case of a hotel referred to in clause (iia) of sub-section (5) of section 80-IA of the Income-tax Act, 1961 (43 of 1961), during the period beginning on the 1st day of April, 1999, and ending on the 31st day of March, 2009.”.

CHAPTER IV

THE VOLUNTARY DISCLOSURE OF INCOME AND WEALTH SCHEME, 1997

60. Short title and commencement.— (1) This Scheme may be called the Voluntary Disclosure of Income and Wealth Scheme, 1997.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

61. Definitions.— In this Scheme, unless the context otherwise requires,—

(a) “declarant” means a person making the declaration under sub-section (1) of section 62 or sub-section (1) of section 63 ;

(b) “Income-tax Act” means the Income-tax Act, 1961 (43 of 1961) ;

(c) “Wealth-tax Act” means the Wealth-tax Act, 1957 (27 of 1957) ;

(d) all other words and expressions used in this Scheme but not defined and defined in the Income-tax Act or the Wealth-tax Act shall have the meanings respectively assigned to them in those Acts.

62. Charge of tax on voluntarily disclosed income. — (1) Subject to the provisions of this Scheme, where any person makes, on or after the date of commencement of this Scheme but on or before the 31st day of December, 1997, a declaration in accordance with the provisions of section 64 in respect of any income chargeable to tax under the Income-tax Act for any assessment year—

(a) for which he has failed to furnish a return under section 139 of the Income-tax Act ;

(b) which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme ;

(c) which has escaped assessment by reason of the omission or failure on the part of such person to make a return under the Income-tax Act or to disclose fully and truly all material facts necessary for his assessment or otherwise,

then, notwithstanding anything contained in the Income-tax Act or in any Finance Act, income-tax shall be charged in respect of the income so declared (such income being hereinafter referred to as the voluntarily disclosed income) at the rates specified hereunder, namely :—

(i) in the case of a declarant, being a company or a firm, at the rate of 35 per cent. of the voluntarily disclosed income ;

(ii) in the case of a declarant, being a person other than a company or a firm, at the rate of 30 per cent. of the voluntarily disclosed income.

(2) Nothing contained in sub-section (1) shall apply in relation to—

(i) the income assessable for any assessment year for which a notice under section 142 or section 148 of the Income-tax Act has been served upon such person and the return has not been furnished before the commencement of this Scheme ;

(ii) the income in respect of the previous year in which a search under section 132 of the Income-tax Act or under section 37A of the Wealth-tax Act was initiated or requisition under section 132A of the Income-tax Act or under section 37B of the Wealth-tax Act was made, or in respect of any earlier previous year.

63. Voluntary disclosure of wealth. — (1) Subject to the provisions of this section, where any person makes, on or after the date of commencement of this Scheme but on or before the 31st day of December, 1997, a declaration in respect of—

(a) the net wealth chargeable to wealth-tax for any assessment year for which he has failed to furnish a return under section 14 of the Wealth-tax Act ; or

(b) the value of the assets which has not been disclosed, or the value of the assets which has been understated, in any return of net wealth for any assessment year,

then, notwithstanding anything contained in that Act, the net wealth, or, as the case may be, the value so declared shall not be taken into account for the purposes of any proceedings relating to imposition of penalty on the declarant or for the purposes of the prosecution of the declarant under that Act :

Provided that—

(i) nothing contained in clause (a) shall apply in relation to the net wealth assessable for any assessment year for which a notice under clause (i) of sub-section (4) of section 16 or section 17 of that Act has been served upon the declarant before the commencement of this Scheme ;

(ii) nothing contained in clause (b) shall apply in relation to so much of the value of such assets as has been assessed in any assessment for the relevant assessment year made by the Assessing Officer before the date on which the declaration under this sub-section is made.

(2) A copy of the declaration made by the declarant under sub-section (1) shall be forwarded by the Commissioner to the Assessing Officer and the information contained therein may be taken into account for the purposes of the proceedings relating to assessment or reassessment of the net wealth of the declarant under the provisions of the Wealth-tax Act.

(3) The immunity provided under sub-section (1) shall not be available to the declarant unless the wealth-tax chargeable in respect of the net wealth for the assessment year or years for which the declaration has been made is paid by the declarant in accordance with the provisions of section 65 and section 66.

Explanation.—For the purposes of this sub-section, wealth-tax chargeable in respect of the net wealth for any assessment year for which the declaration is made shall be—

(a) in a case falling under clause (a) of sub-section (1), the wealth-tax payable in respect of the net wealth declared under that clause for that year ;

(b) in a case falling under clause (b) of sub-section (1),—

(i) where no assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth returned and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the basis of the net wealth returned ;

(ii) where an assessment has been made in pursuance of the return of net wealth furnished by the declarant, the wealth-tax payable on the aggregate of the net wealth as assessed and the value declared under that clause for that year as if such aggregate were the net wealth, as reduced by the wealth-tax payable on the net wealth as assessed.

(4) The sum referred to in sub-section (3) shall be, —

(a) where the declaration has been made in respect of one assessment year, a sum equal to one per cent. of the amount of net wealth declared under clause (a) of sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section ;

(b) where the declaration has been made in respect of more than one assessment year, a sum equal to one per cent. of the net wealth declared under clause (a) of sub-section (1), or, as the case may be, the value declared under clause (b) of that sub-section, in respect of the last of such assessment years.

(5) Where any wealth-tax is paid by the declarant for any assessment year in accordance with the provisions of sections 65 and 66, read with sub-section (3) of this section, credit therefor shall be given to the declarant in the assessment made under the Wealth-tax Act for that year.

64. Particulars to be furnished in declaration.—(1) A declaration under sub-section (1) of section 62 or under sub-section (1) of section 63 shall be made to the Commissioner and shall be in such form and shall be verified in such manner as may be prescribed.

(2) The declaration shall be signed,—

(a) where the declarant is an individual, by the individual himself ; where such individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf ; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf ;

(b) where the declarant is a Hindu undivided family, by the karta, and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family ;

(c) where the declarant is a company, by the managing director thereof, or where for any unavoidable reason such managing director is not able to sign the declaration or where there is no managing director, by any director thereof ;

(d) where the declarant is a firm, by the managing partner thereof, or where for any unavoidable reason such managing partner is not able to sign the declaration, or where there is no managing partner as such, by any partner thereof, not being a minor ;

(e) where the declarant is any other association, by any member of the association or the principal officer thereof ; and

(f) where the declarant is any other person, by that person or by some other person competent to act on his behalf.

(3) Any person, who has made a declaration under sub-section (1) of section 62 or under sub-section (1) of section 63 in respect of his income or wealth, or as a representative assessee in respect of the income or wealth of any other person, shall not be entitled to make any other declaration under that sub-section in respect of his income or wealth or, as the case may be, the income or wealth of such other person, and any such other declaration, if made, shall be deemed to be void.

65. Time for payment of tax. — The tax payable under this Scheme in respect of the voluntarily disclosed income or wealth shall be paid by the declarant and the declaration shall be accompanied by proof of payment of such tax.

66. Interest payable by declarant. — (1) Notwithstanding anything contained in section 65, the declarant may file a declaration without paying the tax under that section and the declarant may file the declaration and the declarant may pay the tax within three months from the date of filing of the declaration with simple interest at the rate of two per cent. for every month or part of a month comprised in the period beginning from the date of filing the declaration and ending on the date of payment of such tax and file the proof of such payment within the said period of three months.

(2) If the declarant fails to pay the tax in respect of the voluntarily disclosed income or wealth before the expiry of three months from the date of filing of the declaration, the declaration filed by him shall be deemed never to have been made under this Scheme.

67. Voluntarily disclosed income not to be included in the total income. — (1) The amount of the voluntarily disclosed income shall not be

included in the total income of the declarant for any assessment year under the Income-tax Act, if the following conditions are fulfilled, namely :—

(i) the declarant credits such amount in the books of account, if any, maintained by him for any source of income or in any other record, and intimates the credit so made to the Assessing Officer ; and

(ii) the income-tax in respect of the voluntarily disclosed income is paid by the declarant within the time specified in section 65 or section 66.

(2) The Commissioner shall, on an application made by the declarant, grant a certificate to him setting forth the particulars of the voluntarily disclosed income and the amount of income-tax paid in respect of the same.

68. Voluntarily disclosed income not to affect finality of completed assessments, etc. — The declarant shall not be entitled, in respect of the voluntarily disclosed income or any amount of tax paid thereon, to reopen any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

69. Tax in respect of voluntarily disclosed income or wealth not refundable. — Any amount of tax paid in pursuance of a declaration made under sub-section (1) of section 62 or under sub-section (1) of section 63 shall not be refundable under any circumstances.

70. Declaration not admissible in evidence against declarant. — Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 62 or sub-section (1) of section 63 shall be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act or the Foreign Exchange Regulation Act, 1973 (46 of 1973), or the Companies Act, 1956 (1 of 1956).

71. Secrecy of declaration. — (1) All particulars contained in a declaration made under sub-section (1) of section 62 or under sub-section (1) of section 63 shall be treated as confidential and, notwithstanding anything contained in any law for the time being in force, no court or any other authority shall be entitled to require any public servant or the declarant to produce before it any such declaration or any part thereof or to give any evidence before it in respect thereof.

(2) No public servant shall disclose any particulars contained in any such declaration except to any officer employed in the execution of the Income-tax Act or the Wealth-tax Act, or to any officer appointed by the Comptroller and Auditor-General of India or the Board to audit income-tax receipts or refunds.

72. Exemption from wealth-tax in respect of assets specified in declaration.—(1) Where the voluntarily disclosed income is represented by cash (including bank deposits), bullion, investment in shares, debts due from other persons, commodities or any other assets specified in the declaration made under sub-section (1) of section 62 —

(a) in respect of which the declarant has failed to furnish a return under section 14 of the Wealth-tax Act for the assessment year commencing on the 1st day of April, 1997, or any earlier assessment year or years, or

(b) which have not been shown in the return of net wealth furnished by him for the said assessment year or years, or

(c) which have been understated in value in the return of net wealth furnished by him for the said assessment year or years,

then, notwithstanding anything contained in the Wealth-tax Act or any rules made thereunder,—

(i) wealth-tax shall not be payable by the declarant in respect of the assets referred to in clause (a) or clause (b) and such assets shall not be included in his net wealth for the said assessment year or years ;

(ii) the amount by which the value of the assets referred to in clause (c) has been understated in the return of net wealth for the said assessment year or years, to the extent such amount does not exceed the voluntarily disclosed income utilised for acquiring such assets, shall not be taken into account in computing the net wealth of the declarant for the said assessment year or years.

Explanation.—Where a declaration under sub-section (1) of section 62 is made by a firm, the assets referred to in clause (i) or, as the case may be, the amount referred to in clause (ii) shall not be taken into account in computing the net wealth of any partner of the firm or, as the case may be, in determining the value of the interest of any partner in the firm.

(2) The provisions of sub-section (1) shall not apply unless the conditions specified in sub-section (1) of section 67 are fulfilled by the declarant.

73. Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act. — The provisions of Chapter XV of the Income-tax Act relating to liability in special cases and of section 189 of that Act or of Chapter V of the Wealth-tax Act relating to liability to assessment in special cases shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceeding under the Income-tax Act or, as the case may be, the Wealth-tax Act.

74. Removal of doubts. — For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in the *Explanation* to sub-section (1) of section 72, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.

75. Power to remove difficulties. — (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

76. Power to make rules. — (1) The Board may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the form in which a declaration may be made under sub-section (1) of section 62 or sub-section (1) of section 63 and the manner in which these may be verified.

(3) The Central Government shall cause every rule made under this Scheme to be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

77. Scheme not to apply to certain persons. — The provisions of this Scheme shall not apply—

(a) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) :

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board ; or

(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act ; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act ; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction ;

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code (45 of 1860), the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), the Terrorists and Disruptive Activities (Prevention) Act, 1987 (28 of 1987), the Prevention of Corruption Act, 1988 (49 of 1988) or for the purpose of enforcement of any civil liability.

It is hereby declared that it is expedient in the public interest that the provisions of clause 79, clause 82 and clause 83 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- (1) where the total income does Nil ;
not exceed Rs. 40,000
- (2) where the total income 15 per cent. of the amount by which
exceeds Rs. 40,000 but does not the total income exceeds Rs. 40,000 ;
exceed Rs. 60,000
- (3) where the total income Rs. 3,000 *plus* 30 per cent. of the
exceeds Rs. 60,000 but does not amount by which the total income
exceed Rs. 1,20,000 exceeds Rs. 60,000 ;
- (4) where the total income Rs. 21,000 *plus* 40 per cent. of the
exceeds Rs. 1,20,000 amount by which the total income
exceeds Rs. 1,20,000.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- (1) where the total income does 10 per cent. of the total income ;
not exceed Rs. 10,000
- (2) where the total income Rs. 1,000 *plus* 20 per cent. of the
exceeds Rs. 10,000 but does not amount by which the total income
exceed Rs. 20,000 exceeds Rs. 10,000 ;
- (3) where the total income ex- Rs. 3,000 *plus* 35 per cent. of the
ceeds Rs. 20,000 amount by which the total income
exceeds Rs. 20,000.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 40 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

40 per cent. of the total income ;

II. In the case of a company other than a domestic company,—

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961, but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964, but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent. ;

(ii) on the balance, if any, of the total income

55 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the provisions of this Paragraph or sections 112 and 113 of the Income-tax Act, shall, in the case of every domestic company having a total income exceeding seventy-five thousand rupees, be increased by a surcharge calculated at the rate of seven-and-a-half per cent. of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates :—

	Rate of income-tax
1. In the case of a person other than a company —	
(a) where the person is resident in India —	
(i) on income by way of interest other than "Interest on securities"	10 per cent. ;
(ii) on income by way of winnings from lotteries and crossword puzzles	40 per cent. ;
(iii) on income by way of winnings from horse races	40 per cent. ;
(iv) on income by way of insurance commission	10 per cent. ;
(v) on income by way of interest payable on—	10 per cent. ;
(A) any debentures or securities other than a security of the Central or a State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act ;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956, and any rules made thereunder,	
(vi) on any other income	20 per cent. ;

(b) where the person is not resident in India—

(i) in the case of a non-resident Indian—

(A) on any investment income 20 per cent. ;

(B) on income by way of long-term capital gains referred to in section 115E 10 per cent. ;

(C) on other income by way of long-term capital gains 20 per cent. ;

(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent. ;

(E) on income by way of winnings from lotteries and crossword puzzles 40 per cent. ;

(F) on income by way of winnings from horse races 40 per cent. ;

(G) on the whole of other income income-tax at 30 per cent. of the amount of income
or

income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income,

whichever is higher ;

(ii) in the case of any other person—

(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent. ;

	Rate of income-tax
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent. ;
(C) on income by way of winnings from horse races	40 per cent. ;
(D) on income by way of long-term capital gains	20 per cent. ;
(E) on the whole of the other income	income-tax at 30 per cent. of the amount of income or income-tax in respect of the income at the rates prescribed in Paragraph A of Part III of this Schedule, if such income had been the total income, whichever is higher.

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than “Interest on securities” 20 per cent. ;

(ii) on income by way of winnings from lotteries and crossword puzzles 40 per cent. ;

(iii) on income by way of winnings from horse races 40 per cent. ;

(iv) on any other income 20 per cent. ;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries and crossword puzzles 40 per cent. ;

(ii) on income by way of winnings from horse races 40 per cent. ;

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent. ;

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997 30 per cent. ;

(B) where the agreement is made on or after the 1st day of June, 1997 20 per cent. ;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961, but before the 1st day of April, 1976 50 per cent. ;

(B) where the agreement is made after the 31st day of March, 1976, but before the 1st day of June, 1997 30 per cent. ;

(C) where the agreement is made on or after the 1st day of June, 1997 20 per cent. ;

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964, but before the 1st day of April, 1976 50 per cent. ;

(B) where the agreement is made after the 31st day of March, 1976, but before the 1st day of June, 1997 30 per cent. ;

(C) where the agreement is made on or after the 1st day of June, 1997 20 per cent. ;

(vii) on income by way of long-term capital gains 20 per cent. ;

(viii) on any other income 48 per cent. ;

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance-tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section], shall be calculated, charged, deducted or computed at the following rate or rates :—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 40,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 40,000 ; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 60,000 ; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 20,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- (1) where the total income does not exceed Rs. 10,000 10 per cent. of the total income ;
- (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000 ;
- (3) where the total income exceeds Rs. 20,000 Rs. 3,000 *plus* 35 per cent. of the amount by which the total income exceeds Rs. 20,000

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

- I. In the case of a domestic company 35 per cent. of the total income ;
- II. In the case of a company other than a domestic company,—
- (i) on so much of the total income as consists of—
- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the

Indian concern after the 31st day of March, 1961, but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964, but before the 1st day of April, 1976,

and where such agreement has, in 50 per cent.
either case, been approved by the Central Government

(ii) on the balance, if any, of 48 per cent.
the total income

PART IV

[See section 2(10)(c)]

Rules for computation of net agricultural income

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly :

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income :

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1997, any

agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1989, or the 1st day of April, 1990, or the 1st day of April, 1991, or the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1989, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, or the 1st day of April, 1991, or the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, or the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, or the 1st day of April, 1996,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1997.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990, or the 1st day of April, 1991, or the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, or the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for

the previous year relevant to the assessment year commencing on the 1st day of April, 1992, or the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, or the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, or the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, or the 1st day of April, 1996, or the 1st day of April, 1997,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, or the 1st day of April, 1997,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1989 (13 of 1989), or of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give effect to the financial proposals of the Central Government for the financial year 1997-98. The notes on clauses explain the various provisions contained in the Bill.

New Delhi,

P. CHIDAMBARAM

The 27th February, 1997.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND
274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 3(2)-B(D)/97, dated the 27th February, 1997, from Shri P. Chidambaram, Minister of Finance, to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clause (1) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Finance Bill, 1997, to the Lok Sabha.

2. The Bill will be introduced in the Lok Sabha immediately after the presentation of the Budget on the 28th February, 1997.
