

# Finance Bill, 2005

*Finance Bill, 2005\**

[35 of 2005]

*A Bill to give effect to the financial proposals of the Central Government for the financial year 2005-06.*

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

## CHAPTER I

### PRELIMINARY

#### **Short title and commencement.**

1. (1) This Act may be called the Finance Act, 2005.

(2) Save as otherwise provided in this Act, sections 2 to 64 shall be deemed to have come into force on the 1st day of April, 2005.

## CHAPTER II

### RATES OF INCOME-TAX

#### **Income-tax.**

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2005, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case 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 five thousand rupees, in addition to total income, and the total income exceeds fifty 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 fifty 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 fifty 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:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph 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 section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of 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 section 111A or section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

**Provided further** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent, of such income-tax where the total income exceeds eight hundred and fifty thousand rupees;

(b) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent, of such income-tax;

(c) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent, of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of ten per cent, of such tax.

(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 deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent, of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent, of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent, of such tax.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent, of such tax where the amount or the aggregate of such amounts collected, and subject to the collection, exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent, of such tax;

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent, of such tax.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act 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 charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union, calculated in each case in the manner provided therein:

**Provided** that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB 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:

**Provided further** that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

**Provided also** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E, 115JB and 115WA of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent, of "advance tax" where the total income exceeds ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, and domestic company, at the rate of ten per cent, of such "advance tax";

(c) in the case of every company, other than domestic company, at the rate of two and one-half per cent, of such "advance tax".

(10) In 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 five thousand rupees, in addition to total income and the total income exceeds one lakh rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A 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 one lakh rupees of the total income but without being liable to tax], only for the purpose of 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 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 one lakh 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 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:

Provided that the amount of income-tax or “advance tax” so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the “Education Cess on income-tax”, so as to fulfil the commitment of the Government to provide and finance universalised quality basic education, calculated at the rate of two per cent, of such income-tax and surcharge.

(12) 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, 2005, 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 and 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*

#### **Amendment of section 2.**

**3.** In section 2 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in clause (7), in sub-clause (a), for the words “assessment of his income”, the words “assessment of his income or assessment of fringe benefits” shall be substituted;

(b) after clause (23A), the following clause shall be inserted, namely:—

‘(23B) “fringe benefits” means any fringe benefits referred to in section 115WB;’;

(c) in clause (42A), in the proviso, after the words, brackets, figures and letter “clause (23D) of section 10”, the words “or a zero coupon bond” shall be inserted;

(d) in clause (43), after the words “the aforesaid date”, the words, figures and letters “and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under section 115WA” shall be inserted;

(e) in clause (47), after sub-clause (iv), the following sub-clause shall be inserted, namely:—

“(iva) the maturity or redemption of a zero coupon bond; or”;

(f) after clause (47) and the *Explanation* relating thereto, the following shall be inserted, namely:—

‘(48) “zero coupon bond” means a bond—

- (a) issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after the 1st day of June, 2005;
- (b) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company; and
- (c) which the Central Government may, by notification in the Official Gazette, specify in this behalf.

*Explanation.*— For the purposes of this clause, the expressions “infrastructure capital company” and “infrastructure capital fund” shall have the same meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10.’.

#### **Amendment of section 10.**

4. In section 10 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in clause (4), in sub-clause (ii), the second proviso shall be omitted;

(b) in clause (6BB), for the words, figures and letters “entered into after the 31st day of March, 2005”, the words, figures and letters “entered into after the 30th day of September, 2005” shall be substituted;

(c) in clause (10D), in sub-clause (c), in the second proviso, for the words, brackets, figures and letter “*Explanation* to sub-section (2A) of section 88”, the words, brackets, figures and letters “*Explanation* to sub-section (3) of section 80C or the *Explanation* to sub-section (2A) of section 88, as the case may be” shall be substituted;

(d) in clause (15), in sub-clause (iv), in item (fa), the words, figures and letters “before the 1st day of April, 2005” shall be omitted;

(e) in clause (15A), in the proviso, for the words, figures and letters “the 1st day of April, 2005”, the words, figures and letters “the 1st day of October, 2005” shall be substituted.

#### **Amendment of section 10A.**

5. In section 10A of the Income-tax Act, in sub-section (1A), after clause (ii), the following proviso shall be inserted with effect from the 1st day of April, 2006, namely:—

“Provided that no deduction under this section shall be allowed to any undertaking, which begins to manufacture or produce articles or things or computer software after the 31st day of March, 2009, in any Special Economic Zone.”.

**Amendment of section 16.**

6. In section 16 of the Income-tax Act, clause (i) shall be omitted with effect from the 1st day of April, 2006.

**Amendment of section 17.**

7. In section 17 of the Income-tax Act, in clause (2), for sub-clause (vi), the following sub-clause shall be substituted, with effect from the 1st day of April, 2006, namely:—

“(vi) the value of any other fringe benefit or amenity (excluding the fringe benefits chargeable to tax under Chapter XII-H) as may be prescribed:”.

**Amendment of section 32.**

8. In section 32 of the Income-tax Act, in sub-section (1),—

(a) for clause (iia), the following clause shall be substituted with effect from the 1st day of April, 2006, namely:—

“(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to twenty per cent, of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii):

**Provided** that no deduction shall be allowed in respect of—

- (A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or
- (B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or
- (C) any office appliances or road transport vehicles; or
- (D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any one previous year;’;

(b) in clause (iii), in the *Explanation*, in clause (2), for the words “an Indian company”, the words, brackets, letter and figures “an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (1) of section 45 of that Act, of any asset by the banking company to the banking institution” shall be substituted.

**Amendment of section 33AC.**

9. In section 33AC of the Income-tax Act, in sub-section (4), for the words “such sale proceeds”, the words, brackets, letter and figure “so much of such sale proceeds which represent the amount credited to the reserve account and utilised for the purposes mentioned in clause (c) of sub-section (3)” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

**Amendment of section 35.**

10. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (5), for the figures, letters and words “31st

day of March, 2005”, the figures, letters and words “31st day of March, 2007” shall be substituted with effect from the 1st day of April, 2006.

**Amendment of section 35DDA.**

11. In section 35DDA of the Income-tax Act, in sub-section (1), for the words “at the time of his voluntary retirement”, the words “in connection with his voluntary retirement” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

**Amendment of section 36.**

12. In section 36 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006,—

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

‘(iii) the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

*Explanation.*—For the purposes of this clause, the expressions—

- (i) “discount” means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond and the amount payable by such company or fund or public sector company on maturity or redemption of such bond;
- (ii) “period of life of the bond” means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;
- (iii) “infrastructure capital company” and “infrastructure capital fund” shall have the same meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10;’;

(b) after clause (xii), the following shall be inserted, namely:—

‘(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

*Explanation.*—For the purposes of this clause, the expressions “banking cash transaction tax” and “taxable banking transaction” shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005.’.

**Amendment of section 40.**

13. In section 40 of the Income-tax Act, in clause (a), after sub-clause (ib), the following sub-clause shall be inserted with effect from the 1st day of April, 2006, namely:—

“(ic) any sum paid on account of fringe benefit tax under Chapter XII-H;”.

**Amendment of section 43.**

14. In section 43 of the Income-tax Act, in clause (5), with effect from the 1st day of April, 2006,—

(A) in the proviso,—

(i) in clause (c), the word “or” shall be inserted at the end;

(ii) after clause (c), as so amended, the following clause shall be inserted, namely:—

“(d) an eligible transaction in respect of trading in derivatives referred to in clause (aa) of section 2 of the securities contracts (regulation) act, 1956 (42 of 1956) carried out in a

recognised stock exchange;”;

(B) after the proviso, the following *Explanation* shall be inserted, namely:- ‘*Explanation.*— For the purposes of this clause, the expressions—

(i) “eligible transaction” means any transaction,—

(A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 (22 of 1966) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (A) and permanent account number allotted under this Act;

(ii) “recognised stock exchange” means a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.’.

#### **Amendment of section 47.**

15. In section 47 of the Income-tax Act, after clause (via), the following clause shall be inserted, namely:—

‘(viaa) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution.

*Explanation.*- For the purposes of this clause,—

(i) “banking company” shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(ii) “banking institution” shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);’.

#### **Amendment of section 49.**

16. In section 49 of the Income-tax Act, in sub-section (1), in clause (iii), in sub-clause (e), after the words, brackets, figures and letter “or clause (via)”, the words, brackets, figures and letters “or clause (viaa)” shall be inserted.

#### **Amendment of section 54EC.**

17. In section 54EC of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1)—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;



(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”.

**Amendment of section 54ED.**

18. In section 54ED of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”.

**Insertion of new section 72AA.**

19. After section 72A of the Income-tax Act, the following section shall be inserted, namely:—

‘72AA. *Provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in Scheme of amalgamation of banking company in certain cases.* - Notwithstanding anything contained in sub-clauses (i) to (iii) of clause (1B) of section 2 or section 72A, where there has been an amalgamation of a banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

*Explanation.*—For the purposes of this section,—

(i) “accumulated loss” means so much of the loss of the amalgamating banking company under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such amalgamating banking company, would have been entitled to carry forward and set-off under the provisions of section 72 if the amalgamation had not taken place;

(ii) “banking company” shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(iii) “banking institution” shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);

(iv) “unabsorbed depreciation” means so much of the allowance for depreciation of the amalgamating banking company which remains to be allowed and which would have been allowed to such banking company if amalgamation had not taken place.’.

**Amendment of section 73.**

20. In section 73 of the Income-tax Act, in sub-section (4), for the words “eight assessment years”, the words “four assessment years” shall be substituted with effect from the 1st day of April, 2006.

**Insertion of new section 80C.**

21. After section 80B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of

April, 2006, namely:—

“80C. *Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.*— (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the whole of the amount paid or deposited in the previous year out of his income chargeable to tax, being the aggregate of the sums referred to in sub-section (2), as does not exceed one lakh rupees.

(2) The sums referred to in sub-section (1) shall be any sums paid or deposited in the previous year by the assessee—

(i) to effect or to keep in force an insurance on the life of persons specified in sub-section (4);

(ii) to effect or to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (xii), on the life of persons specified in sub-section (4):

**Provided** that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;

(iii) by way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does not exceed one-fifth of the salary;

(iv) as a contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(v) as a contribution to any provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of any person specified in sub-section (4);

(vi) as a contribution by an employee to a recognised provident fund;

(vii) as a contribution by an employee to an approved superannuation fund;

(viii) as subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf;

(ix) as subscription to any such savings certificate as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(x) as a contribution, in the name of any person specified in sub-section (4), for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(xi) as a contribution in the name of any person specified in sub-section (4) for participation in any such unit-linked insurance plan of the LIC Mutual Fund notified under clause (23D) of section 10, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xii) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification in the Official Gazette, specify;

(xiii) as subscription to any units of any Mutual Fund notified under clause (23D) of section 10 or from the Administrator or the specified company under any plan formulated in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xiv) as a contribution by an individual to any pension fund set up by any Mutual Fund notified under clause (23D) of section 10 or by the Administrator or the specified company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xv) as subscription to any such deposit scheme of, or as a contribution to any such pension fund set up by, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987(53 of 1987) (hereafter in this section referred to as the National Housing Bank), as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xvi) as subscription to any such deposit scheme of—

(a) a public sector company which is engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(b) any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(xvii) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(a) to any university, college, school or other educational institution situated within India;

(b) for the purpose of full-time education of any of the persons specified in sub-section (4);

(xviii) for the purposes of purchase or construction of a residential house property the income from which is chargeable to tax under the head “Income from house property” (or which would, if it had not been used for the assessee’s own residence, have been chargeable to tax under that head), where such payments are made towards or by way of—

(a) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(b) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(c) repayment of the amount borrowed by the assessee from—

(1) the Central Government or any State Government, or

(2) any bank, including a co-operative bank, or

(3) the Life Insurance Corporation, or

(4) the National Housing Bank, or

(5) any public company formed and registered in India with the main object of

carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (viii) of sub-section (1) of section 36, or

(6) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or

(7) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or

(8) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or

(d) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee,

but shall not include any payment towards or by way of—

(a) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(b) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(c) any expenditure in respect of which deduction is allowable under the provisions of section 24;

(xix) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form.

*explanation.*— for the purposes of this clause,—

(i) “eligible issue of capital” means an issue made by a public company formed and registered in india or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-ia;

(ii) “public company” shall have the meaning assigned to it in section 3 of the companies act, 1956 (1 of 1956);

(iii) “public financial institution” shall have the meaning assigned to it in section 4a of the companies act, 1956 (1 of 1956);

(xx) as subscription to any units of any mutual fund referred to in clause (23D) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form:

Provided that this clause shall apply if the amount of subscription to such units is subscribed only in the

eligible issue of capital of any company.

*Explanation.*— For the purposes of this clause “eligible issue of capital” means an issue referred to in clause (i) of the *Explanation* to clause (xix) of sub-section (2).

(3) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent, of the actual capital sum assured.

*Explanation.*— In calculating any such actual capital sum assured, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

(4) The persons referred to in sub-section (2) shall be the following, namely:—

(a) for the purposes of clauses (i), (v), (x) and (xi) of that sub-section,—

(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a hindu undivided family, any member thereof;

(b) for the purposes of clause (ii) of that sub-section, in the case of an individual, the individual, the wife or husband and any child of such individual;

(c) for the purpose of clause (xvii) of that sub-section, in the case of an individual, any two children of such individual.

(5) Where, in any previous year, an assessee—

(i) terminates his contract of insurance referred to in clause (i) of sub-section (2), by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,—

(a) in case of any single premium policy, within two years after the date of commencement of insurance; or

(b) in any other case, before premiums have been paid for two years; or

(ii) terminates his participation in any unit-linked insurance plan referred to in clause (x) or clause (xi) of sub-section (2), by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years; or

(iii) transfers the house property referred to in clause (xviii) of sub-section (2) before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any sum specified in that clause,

then,—

(a) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, referred to in clauses (i), (x), (xi) and (xviii) of sub-section (2), paid in such previous year; and

(b) the aggregate amount of the deductions of income so allowed in respect of the previous year or years preceding such previous year, shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(6) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

*Explanation.*-A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.

(7) For the purposes of this section,—

(a) the insurance, deferred annuity, provident fund and superannuation fund referred to in clauses (i) to (vii);

(b) unit-linked insurance plan and annuity plan referred to in clauses (xii) to (xiii);

(c) pension fund and subscription to deposit scheme referred to in clauses (xiiic) to (xiv);

(d) amount borrowed for purchase or construction of a residential house referred to in clause (xv),

of sub-section (2) of section 88 shall be eligible for deduction under the corresponding provisions of this section and the deduction shall be allowed in accordance with the provisions of this section.

(8) In this section,—

(i) “Administrator” means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(ii) “contribution” to any fund shall not include any sums in repayment of loan;

(iii) “insurance” shall include—

(a) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(b) a policy of insurance effected by an individual or a member of a hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(iv) “Life Insurance Corporation” means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);

(v) “public company” shall have the same meaning as in section 3 of the Companies Act, 1956 (1 of 1956);

(vi) “security” means a Government security as defined in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1954);

(vii) “specified company” means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(viii) “transfer” shall be deemed to include also the transactions referred to in clause (f) of section 269UA.’.

#### **Amendment of section 80CCC.**

**22.** In section 80CCC of the Income tax Act, for sub-section (3), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(3) Where any amount paid or deposited by the assessee has been taken into account for the purposes of this section,—

(a) a rebate with reference to such amount shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction with reference to such amount shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”.

#### **Amendment of section 80CCD.**

**23.** In section 80CCD of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted with effect from the 1st day of April, 2006, namely:—

“(4) Where any amount paid or deposited by the assessee has been allowed as a deduction under sub-section (1),—

(a) no rebate with reference to such amount shall be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) no deduction with reference to such amount shall be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.”.

#### **Insertion of new section 80CCE.**

**24.** After section 80CCD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely:—

“80CCE. *Limit on deductions under sections 80C, 80CCC and 80CCD.* - The aggregate amount of deductions under section 80C, section 80CCC and section 80CCD shall not, in any case, exceed one lakh rupees.”.

#### **Substitution of new section for section 80E**

**25.** For section 80E of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2006, namely:—

‘80E. *Deduction in respect of interest on loan taken for higher education.* - (1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any approved charitable

institution for the purpose of pursuing his higher education.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the interest referred to in sub-section (1) is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section,—

(a) “approved charitable institution” means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government under clause (23C) of section 10 or an institution referred to in clause (a) of sub-section (2) of section 80G;

(b) “financial institution” means a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) “higher education” means full-time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics;

(d) “initial assessment year” means the assessment year relevant to the previous year, in which the assessee starts paying the interest on the loan.’.

#### **Amendment of section 80-IA.**

26. In section 80-IA of the Income-tax Act, in sub-section (4), in clause (j), in sub-clause (a), after the words “consortium of such companies”, the words “or by an authority or a board or a corporation or any other body established or constituted under any Central or State Act” shall be inserted with effect from the 1st day of April, 2006.

#### **Amendment of section 80-IB.**

27. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (4), in the fourth proviso, for the figures, letters and words “31st day of March, 2005”, the figures, letters and words “31st day of March, 2007” shall be substituted;

(b) in sub-section (8A), in clause (iii), for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2007” shall be substituted.

#### **Omission of section 80L.**

28. Section 80L of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006.

#### **Amendment of section 88.**

29. In section 88 of the Income-tax Act, after sub-section (8), the following sub-section shall be inserted with effect from the 1st day of April, 2006, namely:—

“(9) No deduction from the amount of income-tax shall be allowed under this section to an assessee, being an individual or a Hindu undivided family for the assessment year beginning on the 1st day of April, 2006 and subsequent years.”

#### **Omission of section 88B.**

30. Section 88B of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006.

#### **Omission of section 88C.**



31. Section 88C of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006.

**Omission of section 88D.**

32. Section 88D of the Income-tax Act shall be omitted with effect from the 1st day of April, 2006.

**Amendment of section 112.**

33. In section 112 of the Income-tax Act, in sub-section (1), in the proviso occurring below clause (d), after the words "being listed securities or unit", the words "or zero coupon bond" shall be inserted with effect from the 1st day of April, 2006.

**Amendment of section 115A.**

34. In section 115A of the Income-tax Act, in sub-section (1), in clause (b) with effect from the 1st day of April, 2006,—

(i) in sub-clause (A), for the words, figures and letters "agreement made after the 31st day of May, 1997", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005" shall be substituted;

(ii) after sub-clause (A), the following sub-clause shall be inserted, namely:—

“(AA) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of ten per cent if such royalty is received in pursuance of an agreement made on or after the 1st day of June, 2005;”;

(iii) in sub-clause (B), for the words, figures and letters "agreement made after the 31st day of May, 1997; and", the words, figures and letters "agreement made after the 31st day of May, 1997 but before the 1st day of June, 2005;" shall be substituted;

(iv) after sub-clause (B), the following sub-clause shall be inserted, namely:—

“(BB) 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 ten per cent if such fees for technical services are received in pursuance of an agreement made on or after the 1st day of June, 2005; and”.

**Amendment of section 115JAA.**

35. In section 115JAA of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Where any amount of tax is paid under sub-section (1) of section 115JB by an assessee, being a company for the assessment year commencing on the 1st day of April, 2006 and any subsequent assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.”;

(b) in sub-section (2), for the words, brackets, figures and letters "under sub-section (1) of section 115JA", the words, brackets, figures and letters "under sub-section (1) of section 115JA or under sub-section (1) of section 115JB, as the case may be," shall be substituted.

**Amendment of section 115VD.**

36. In section 115VD of the Income-tax Act, clause (vii) shall be omitted with effect from the 1st day of April, 2006.

**Insertion of new Chapter XII-H.**

37. After Chapter XIIG of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day

of April, 2006, namely: —

‘CHAPTER XII-H

Income-tax on fringe benefits

## A.—Meaning of certain expressions

115W. *Definitions.* - In this Chapter, unless the context otherwise requires,—

(a) “employer” means,—

(i) an individual or a hindu undivided family engaged in a business or profession, the profits and gains whereof are assessable to income-tax under the head “profits and gains of business or profession”;

(ii) a company;

(iii) a firm;

(iv) an association of persons or a body of individuals, whether incorporated or not;

(v) a local authority; and

(vi) every artificial juridical person, not falling within any of the preceding sub-clauses;

(b) “fringe benefit tax” or “tax” means the tax chargeable under section 115WA.

### B.—Basis of charge

115WA. *Charge of fringe benefit tax.* — (1) In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent, on the value of such fringe benefits.

(2) Notwithstanding that no income-tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer.

115WB. *Fringe benefits.*— (1) For the purposes of this Chapter, “fringe benefits” means—

(a) any privilege, service, facility or amenity, directly or indirectly, provided by an employer to his employees (including former employee or employees) by reason of their employment; or

(b) any reimbursement, directly or indirectly, made by the employer to his employees for any purpose;

(c) any free or concessional ticket provided by the employer for private journeys of the employees and their family members; and

(d) any contribution by the employer to an approved superannuation fund.

(2) The fringe benefits shall be deemed to have been provided if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains), incurred any expense on or made any payment for, the following

purposes, namely:—

- (A) entertainment;
- (B) festival celebrations;
- (C) gifts;
- (D) use of club facilities;

(E) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade, but does not include expenditure on or payment for, food or beverages provided by the employer to his employees in office or factory;

- (F) maintenance of any accommodation in the nature of guest house;
- (G) conference;
- (H) employee welfare;
- (I) use of health club, sports and similar facilities;
- (J) sales promotion including publicity;
- (K) conveyance, tour and travel including foreign travel;
- (L) hotel, boarding and lodging;
- (M) repair, running and maintenance of motorcars;
- (N) repair, running and maintenance of aircrafts;
- (O) consumption of fuel other than industrial fuel;
- (P) use of telephone;
- (Q) scholarship to the children of the employees;

(3) For the purposes of sub-section (1), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee under Chapter IV or any benefit or amenity in the nature of free or subsidised transport or any such allowance provided by the employer to its employees for journeys by the employees from their residence to the place of work or such place of work to the place of residence.

115WC. *Value of fringe benefits.*— (1) For the purposes of this Chapter, the value of fringe benefits shall be the aggregate of the following, namely:—

(a) cost at which the benefits referred to in clause (c) of sub-section (1) of section 115WB, is provided by the employer to the public as reduced by the amount, if any, paid or recovered from his employee or employees:

**Provided** that in a case where the expenses of the nature referred to in clause (c) of sub-section (1) of section 115WB are included in any other clause of sub-section (2) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (c) for computing the value of fringe benefits;

(b) actual amount of contribution referred to in clause (d) of sub-section (1) of section 115WB;

(c) fifty per cent of the expenses referred to in clauses (A) to (D) of sub-section (2) of section 115WB;

(d) fifty per cent of the expenses referred to in clause (E) of sub-section (2) of section 115WB:

**Provided** that in the case of an employer engaged in the business of hotel, the provisions of this clause shall have effect as if for the words “fifty per cent”, the words “five per cent” had been substituted;

(e) fifty per cent, of the expenses referred to in clauses (F) to (J) of sub-section (2) of section 115WB;

(i) twenty per cent, of the expenses referred to in clauses (K) and (L) of sub-section (2) of section 115WB;

(g) twenty per cent, of the expenses referred to in clauses (M) and (N) of sub-section (2) of section 115WB:

**Provided** that in the case of an employer engaged in the business of carriage of passengers or goods either by motor car or by aircraft, as the case may be, the provisions of this clause shall have effect as if for the words “twenty per cent.”, the words “five per cent” had been substituted.

*Explanation.*-For the purposes of calculating twenty per cent, of the expenses referred to in clauses (M) and (N) of sub-section (2) of section 115WB, the depreciation on motor cars and aircrafts referred to in the said clauses shall be included, in the fringe benefits;

(h) twenty per cent, of the expenses referred to in clause (O) of sub-section (2) of section 115WB:

**Provided** that in the case of an employer engaged in the business of carriage of passengers or goods, the provisions of this clause shall have effect as if for the words “twenty per cent”, the words “five per cent” had been substituted;

(i) ten per cent, of the expenses referred to in clause (P) of sub-section (2) of section 115WB; and

(j) actual amount incurred in providing scholarship referred to in clause (Q) of sub-section (2) of section 115WB.

*C.—Procedure for filing of return in respect of fringe benefits, assessment and payment of tax in respect thereof*

115WD. *Return of fringe benefits.*—(1) Without prejudice to the provisions contained in section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

*Explanation.*—In this sub-section, “due date” means,—

(a) where the employer is—

(i) a company; or

(ii) a person (other than a company) whose accounts are required to be audited under this act or under any other law for the time being in force,

the 31st day of October of the assessment year;

(b) in the case of any other employer, the 31st day of July of the assessment year.

(2) In the case of any employer who, in the opinion of the Assessing Officer, is responsible for paying fringe benefit tax under this Act and who has not furnished a return under sub-section (1), the Assessing Officer may, after the due date, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice, the return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(3) Any employer responsible for paying fringe benefit tax who has not furnished a return within the time allowed under sub-section (1) or within the time allowed under a notice issued under sub section (2), may furnish the return for any previous year, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(4) If any employer, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

115WE. *Assessment.*— (1) Where a return has been made under section 115WD,—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee and an intimation to this effect shall be sent to the assessee:

**Provided** that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section where either no sum is payable by the assessee or no refund is due to him:

**Provided further** that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

(2) Where a return has been furnished under section 115WD, the Assessing Officer shall, if he considers it necessary or expedient to ensure that the assessee has not understated the value of fringe benefits or has not underpaid the tax in any manner, serve on the assessee a notice requiring him on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of twelve months from the end of the month in which the return is furnished.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the value of the fringe benefits paid or payable by the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(4) Where a regular assessment under sub-section (3) or section 115WF is made,—

(a) any tax or interest paid by the assessee under sub-section (1) shall be deemed to have been paid towards such regular assessment;

(b) if no refund is due on regular assessment or the amount refunded under sub-section (1) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

115WF. *Best judgment assessment.*— (1) If any person, being an employer—

(a) fails to make the return required under sub-section (1) of section 115WD and has not made a return under sub-section (3) or a revised return under sub-section (4) of that section, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) of section 115WD or fails to comply with a direction issued under sub-section (2A) of section 142, or

(c) having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of section 115WE,

the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the fringe benefits to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice as to why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (2) of section 115WD has been issued prior to the making of an assessment under this section.

115WG. *Fringe benefits escaping assessment.*— If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year, he may, subject to the provisions of sections 115WH, 150 and 153, assess or reassess such fringe benefits and also any other fringe benefits chargeable to tax which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section, for the assessment year concerned (hereafter referred to as the relevant assessment year).

*Explanation.*—For the purposes of this section, the following shall also be deemed to be cases where fringe benefits chargeable to tax have escaped assessment, namely:—

(a) where no return of fringe benefits has been furnished by the assessee;

(b) where a return of fringe benefits has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the value of fringe benefits in the return;

(c) where an assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

115WH. *Issue of notice where fringe benefits have escaped assessment.*— (1) Before making the assessment or reassessment under section 115WG, the Assessing Officer shall serve on the assessee a

notice requiring him to furnish within such period as may be specified in the notice, a return of the fringe benefits in respect of which he is assessable under this Chapter during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Chapter shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 115WD.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

(3) No notice under sub-section (1) shall be issued for the relevant assessment year after the expiry of six years from the end of the relevant assessment year.

*Explanation.*-In determining fringe benefits chargeable to tax which have escaped assessment for the purposes of this sub-section, the provisions of the *Explanation* to section 115WG shall apply as they apply for the purposes of that section.

(4) In a case where an assessment under sub-section (3) of section 115WE or section 115WG has been made for the relevant assessment year, no notice shall be issued under sub-section (1) by an Assessing Officer, after the expiry of four years from the end of the relevant assessment year, unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

115W-I. *Payment of fringe benefit tax.*— Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of section 115WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that financial year, such fringe benefits being hereafter in this Chapter referred to as the “current fringe benefits”.

115WJ. *Advance tax in respect of fringe benefits.*— (1) Every assessee who is liable to pay advance tax under section 115W-I, shall on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (2).

(2) The amount of advance tax payable by an assessee in the financial year shall be thirty per cent, of the value of the fringe benefits referred to in section 115WC, paid or payable in each quarter and shall be payable on or before the 15th day of the month following such quarter:

Provided that the advance tax payable for the quarter ending on the 31st day of March of the financial year shall be payable on or before the 15th day of March of the said financial year.

(3) Where an assessee, has failed to pay the advance tax for any quarter or where the advance tax paid by him is less than thirty per cent, of the value of fringe benefits paid or payable in that quarter, he shall be liable to pay simple interest at the rate of one per cent, on the amount by which the advance tax paid falls short of, thirty per cent, of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.

115WK. *Interest for default in furnishing return of fringe benefits.*— (1) Where the return of fringe benefits for any assessment year under sub-section (1) or sub-section (3) of section 115WD or in response to a notice under sub-section (2) of that section, is furnished after the due date, or is not furnished, the employer shall be liable to pay simple interest at the rate of one per cent, for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under section 115WF,

on the amount of the tax on the value of fringe benefits as determined under sub-section (1) of section 115WE or regular assessment as reduced by the advance tax paid under section 115WJ.

*Explanation 1.*—In this section, “due date” means the date specified in the *Explanation* to subsection (1) of section 115WD as applicable in the case of the employer.

*Explanation 2.*—Where, in relation to an assessment year, an assessment is made for the first time under section 115WG, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The provisions contained in sub-section (2) to sub-section (4) of section 234A shall, so far as may be, apply to this section.

115WL. *Application of other provisions of this Act.*— Save as otherwise provided in this Chapter, all other provisions of this Act shall, as far as may be, apply in relation to fringe benefits also.’.”

#### **Amendment of section 119.**

**38.** In section 119 of the Income-tax Act, in sub-section (2), in clause (a), with effect from the 1st day of April, 2006 —

(i) for the word, figures and letters “sections 115P, 115S”, the word, figures and letters “sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK” shall be substituted;

(ii) for the words “any class of incomes”, the words “any class of incomes or fringe benefits” shall be substituted.

#### **Amendment of section 124.**

**39.** In section 124 of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2006 —

(i) in clause (a),—

(A) for the words, brackets and figures “under sub-section (1) of section 139”, the words, brackets, figures and letters “under sub-section (1) of section 115WD or under sub-section (1) of section 139” shall be substituted;

(B) for the words, brackets and figures “sub-section (2) of section 143”, the words, brackets, figures and letters “sub-section (2) of section 115WE or sub-section (2) of section 143” shall be substituted;

(ii) in clause (b), for the words, brackets and figures “sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144”, the words, brackets, figures and letters “sub-section (2) of section 115WD or sub-section (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144” shall be substituted.

#### **Amendment of section 139.**

**40.** In section 139 of the Income-tax Act,—

(a) in sub-section (1), with effect from the 1st day of April, 2006,—



- (i) in clause (a), for the word “company”, the words “company or a firm” shall be substituted;
- (ii) in clause (b), for the words “other than a company”, the words “other than a company or a firm” shall be substituted;
- (iii) in the first proviso,—
  - (A) clause (iii) shall be omitted;
  - (B) in clause (vi), the word “or” shall be inserted at the end;
  - (C) after clause (vi), the following clause shall be inserted, namely:—

“(vii) has incurred an expenditure of fifty thousand rupees or more towards consumption of electricity”;

- (iv) in the third proviso, for the word “company”, the words “company or a firm” shall be substituted;
- (v) after the third proviso, the following proviso shall be inserted, namely:—

“**Provided also** that every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the provisions of section 10A or section 10B or section 10BA or Chapter VI-A exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.”;

- (b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), for the words, figures and letters “before the 1st day of April, 2005”, the words, figures and letters “before the 1st day of April, 2006” shall be substituted.

#### **Amendment of section 139A.**

**41.** In section 139A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006 —

- (a) in clause (iii), for the words, brackets, figures and letter “sub-section (4A) of section 139”, the following shall be substituted, namely:—

“sub-section (4A) of section 139; or

(iv) being an employer, who is required to furnish a return of fringe benefits under section 115WD,”;

- (b) in sub-section (1), the following *Explanation* shall be inserted, namely:—

“*Explanation.*-For the removal of doubts, it is hereby declared that any person, who has been allotted a permanent account number under any clause other than clause (iv) of sub-section (1), shall not be required to obtain another permanent account number and the permanent account number already allotted to him shall be deemed to be the permanent account number in relation to fringe benefit tax.”.

#### **Amendment of section 140.**

**42.** In section 140 of the Income-tax Act, in the opening portion, for the words and figures “under section 139”, the words, figures and letters “under section 115WD or section 139” shall be substituted with effect from the 1st day of April, 2006.

**Amendment of section 140A.**

**43.** In section 140A of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1), for the word and figures “section 139”, the words, figures and letters “section 115WD or section 115WH or section 139” shall be substituted;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:—

“(1A) For the purposes of sub-section (1), interest payable,—

(i) under section 234a shall be computed on the amount of the tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source;

(ii) under section 115wk shall be computed on the amount of tax on the value of the fringe benefits as declared in the return as reduced by the advance tax, paid, if any”;

(c) in sub-section (2), for the word and figures “section 143”, the words and figures “section 115WE or section 115WF or section 143” shall be substituted;”.

**Amendment of section 142.**

**44.** In section 142 of the Income-tax Act, in sub-section (1), for the words, figures and brackets “under section 139 or in whose case the time allowed under sub-section (1) of that section”, the words, figures, letters and brackets “under section 115WD or section 139 or in whose case the time allowed under sub-section (1) of section 139” shall be substituted with effect from the 1st day of April, 2006.

**Amendment of section 153.**

**45.** In section 153 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) No order of assessment shall be made under section 115WE or section 115WF at any time after the expiry of two years from the end of the assessment year in which the fringe benefits were first assessable.

(1B) No order of assessment or reassessment shall be made under section 115WG after the expiry of one year from the end of the financial year in which the notice under section 115WH was served.”;

(b) in sub-section (2A), for the words, brackets and figures “in sub-sections (1) and (2)”, the words, brackets, figures and letters “in sub-sections (1), (1A), (1B) and (2)” shall be substituted;

(c) in sub-section (3), for the words, brackets and figures “in sub-sections (1) and (2)”, the words, brackets, figures and letters “in sub-sections (1), (1A), (1B) and (2)” shall be substituted.

**Amendment of section 153B.**

**46.** In section 153B of the Income-tax Act, in sub-section (1), after clause (b) and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or one year from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction

over such other person, whichever is later.”.

**Amendment of section 153C.**

47. In the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) section 153C shall be numbered as sub-section (1) thereof and in sub-section (1) as so numbered, the following proviso shall be inserted and shall be deemed to have been inserted, namely:—

“**Provided** that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to section 153A shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other; person.”;

(b) after sub-section (1) as so numbered, the following sub-section shall be inserted and shall be deemed to have been inserted, namely:—

“(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

- (a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or
- (b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or
- (c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.”.

**Amendment of section 194A.**

48. In section 194A of the Income-tax Act, in sub-section (3), with effect from 1st day of June, 2005,—

(i) after clause (ix), the following clause shall be inserted, namely:—

“(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such fund or company or public sector company;”;

(ii) for the *Explanation*, the following *Explanations* shall be substituted, namely:—

“*Explanation 1.*— For the purposes of clauses (i), (vii) and (viii), “time deposits” means deposits (excluding recurring deposits) repayable on the expiry of fixed periods.

*Explanation 2.*—For the purposes of clause (x), “infrastructure capital company” and “infrastructure capital fund” shall have the meanings respectively assigned to them in clauses (a) and (b) of *Explanation 1* to clause (23G) of section 10.”

#### **Amendment of section 194C.**

**49.** In section 194C of the Income-tax Act, in sub-section (3), in clause (j), with effect from the 1st day of June, 2005,—

(a) in the proviso, for the words “under this section; or”, the words “under this section:” shall be substituted;

(b) after the proviso, the following provisos shall be inserted, namely:—

“**Provided further** that no deduction shall be made under sub-section (2), from the amount of any sum credited or paid or likely to be credited or paid during the previous year to the account of the sub-contractor during the course of business of plying, hiring or leasing goods carriages, on production of a declaration to the person concerned paying or crediting such sum, in the prescribed form and verified in the prescribed manner and within such time as may be prescribed, if such sub-contractor is an individual who has not owned more than two goods carriages at any time during the previous year:

Provided also that the person responsible for paying any sum as aforesaid to the sub-contractor referred to in the second proviso shall furnish to the prescribed income-tax authority or the person authorised by it such particulars as may be prescribed in such form and within such time as may be prescribed; or”;

(c) after clause (iii), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of clause (i), “goods carriage” shall have the same meaning as in the *Explanation* to sub-section (1) of section 44AE.’.

#### **Amendment of section 199.**

**50.** In section 199 of the Income-tax Act, in sub-section (3), for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2006” shall be substituted.

#### **Amendment of section 203.**

**51.** In section 203 of the Income-tax Act, in sub-section (3), for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2006” shall be substituted.

#### **Insertion of new section 206A.**

**52.** After section 206 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2005, namely:—

“**206A. Furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.**— (1) Any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding five thousand rupees by way of interest (other than interest on securities), shall prepare quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority the quarterly returns as aforesaid, in the prescribed form, verified in such manner and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

(2) The Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII, to prepare and deliver or cause to be delivered quarterly returns in the prescribed form and verified in such manner and within such time as may be prescribed, to the

prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.”.

**Amendment of section 206C.**

**53.** In section 206C of the Income-tax Act,—

(a) in sub-section (4), in the proviso, for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2006” shall be substituted;

(b) in sub-section (5), in the first proviso, for the figures, letters and words “1st day of April, 2005”, the figures, letters and words “1st day of April, 2006” shall be substituted.

**Amendment of section 238.**

**54.** In section 238 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 2006, namely:—

“(1A) Where the value of fringe benefits provided or deemed to have been provided by one employer is included under any provisions of Chapter XII-H in the value of fringe benefits provided or deemed to have been provided by any other employer, the latter alone shall be entitled to a refund under this Chapter in respect of such fringe benefits.”

**Amendment of section 239.**

**55.** In section 239 of the Income-tax Act, in sub-section (2), after clause (c), the following clause shall be inserted with effect from the 1st day of April, 2006, namely:—

“(d) where the claim is in respect of fringe benefits which are assessable for any assessment year commencing on or after the first day of April, 2006, one year from the last day of such assessment year.”

**Amendment of section 244A.**

**56.** In section 244A of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1), in clause (a),—

(i) for the words “out of any tax”, the words, figures and letters “out of any tax paid under section 115WJ or” shall be substituted;

(ii) in the proviso, for the words “under sub-section”, the words, brackets, figures and letters “under sub-section (1) of section 115WE or sub-section” shall be substituted;

(b) in sub-section (3), for the words “result of an order under”, the words, brackets, figures and letters “result of an order under sub-section (3) of section 115WE or section 115WF or section 115WG or” shall be substituted;

(c) in sub-section (4), the following proviso shall be inserted, namely:—

“**Provided** that in respect of assessment of fringe benefits, the provisions of this sub-section shall have effect as if for the figures “1989”, the figures “2006” had been substituted.”

**Amendment of section 246A.**

**57.** In section 246A of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2006—

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) an order of assessment under sub-section (3) of section 115WE or section 115WF, where the assessee, being an employer objects to the value of fringe benefits assessed;

(ab) an order of assessment or reassessment under section 115WG;”;

(ii) in clause (i), in sub-clause (B), for the word, figures and letter “section 271F”, the words, figures and letters “section 271F, section 271FB” shall be substituted.

**Amendment of section 271.**

58. In section 271 of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in sub-section (1),—

(A) in clause (b), for the words, brackets and figures “under sub-section (1) of section 142”, the words, brackets, figures and letters “under sub-section (2) of section 115WD or under sub-section (2) of section 115WE or under sub-section (1) of section 142” shall be substituted;

(B) in clause (c), for the words “such income”, the words “such income, or” shall be substituted;

(C) after clause (c), the following clause shall be inserted, namely:—

“(d) has concealed the particulars of the fringe benefits or furnished inaccurate particulars of such fringe benefits;”;

(D) in sub-clause (iii),—

(i) for the word, brackets and letter “clause (c)”, the words, brackets and letters “clause (c) or clause (d)” shall be substituted;

(ii) for the word “income”, at both the places where it occurs, the words “ income or fringe benefits” shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) Any reference in this section to the income shall be construed as a reference to the income or fringe benefits, as the case may be, and the provisions of this section shall, as far as may be, apply in relation to any assessment in respect of fringe benefits also.”

**Insertion of new section 271FB.**

59. After section 271FA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2006, namely:—

“271FB. *Penalty for failure to furnish return of fringe benefits.*— If an employer, who is required to furnish a return of fringe benefits, as required under sub-section (1) of section 115WD, fails to furnish such return within the time prescribed under that sub-section, the Assessing Officer may direct that such employer shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.”

**Amendment of section 272A.**

60. In section 272A of the Income-tax Act, in sub-section (2), after clause (k), the following clause shall be inserted with effect from the 1st day of June, 2005, namely:—

“(i) to deliver or cause to be delivered the quarterly return within the time specified in sub-section (1) of section 206A;”.

**Amendment of section 273B.**

61. In section 273B of the Income-tax Act, for the word, figures and letters “section 271FA”, the words, figures and letters “section 271FA, section 271FB” shall be substituted with effect from the 1st day of April, 2006.

**Amendment of section 276CC.**

62. In section 276CC of the Income-tax Act, with effect from the 1st day of April, 2006,—

(a) in the opening portion, after the words “in due time”, the words, brackets, figures and letters “the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or” shall be inserted;

(b) in the proviso, for the words, brackets and figures “return of income under sub-section (1) of section 139”, the words, brackets, figures and letters “return of fringe benefits under sub-section (1) of section 115WD or return of income under sub-section (1) of section 139” shall be substituted.

**Amendment of section 278.**

63. In section 278 of the Income-tax Act, for the words “any income chargeable to tax”, the words “any income or any fringe benefits chargeable to tax” shall be substituted with effect from the 1st day of April, 2006.

**Amendment of section 295.**

64. In section 295 of the Income-tax Act, in sub-section (2), clause (e) shall be omitted with effect from the 1st day of April, 2006.

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CHAPTER V

Service tax

**Amendment of Act 32 of 1994.**

88. In the Finance Act, 1994,—

(a) in section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(i) in clause (9), for the words “service or repair”, the words “service, repair, reconditioning or restoration” shall be substituted;

(ii) in clause (15), for the words “collecting the broadcasting charges on behalf of the said agency”, the words “collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electro-magnetic waves through space or through cables, direct to home signals or by any other means to cable operator including multisystem operator or any other person on behalf of the said agency” shall be substituted;

(iii) in clause (16), for the words “collecting the broadcasting charges on behalf of the said agency”, the words “collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency” shall be substituted;

(iv) for clause (17), the following clause shall be substituted, namely:—

‘(17) “beauty treatment” includes hair cutting, hair dyeing, hair dressing, face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up or such other similar services;’;

(v) in clause (19),—

(i) in sub-clause (iv), the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*— For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “inputs” means all goods or services intended for use by the client;’;

(ii) for sub-clause (v), the following sub-clause shall be substituted, namely:—

“(v) production or processing of goods for, or on behalf of, the client;”;

(iii) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this clause,—

(a) “commission agent” means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person—

- (i) deals with goods or services or documents of title to such goods or services; or
- (ii) collects payment of sale price of such goods or services; or
- (iii) guarantees for collection or payment for such goods or services; or
- (iv) (iv) undertakes any activities relating to such sale or purchase of such goods or services;

(b) “information technology service” means any service in relation to designing, developing or maintaining of computer software, or computerised data processing or system networking, or any other service primarily in relation to operation of computer systems;’;

(vi) after clause (24a), the following clause shall be inserted, namely:—

‘(24b) “cleaning activity” means cleaning, including specialised cleaning services such as disinfecting, exterminating or sterilising of objects or premises, of—

(i) commercial or industrial buildings and premises thereof; or

(ii) factory, plant or machinery, tank or reservoir of such commercial or industrial buildings and premises thereof,

but does not include such services in relation to agriculture, horticulture, animal husbandry or dairying;’;

(vii) after clause (25), the following clauses shall be inserted, namely:—

‘(25a) “club or association” means any person or body of persons providing services, facilities or advantages, for a subscription or any other amount, to its members, but does not include—

(i) any body established or constituted by or under any law for the time being in force; or

(ii) any person or body of persons engaged in the activities of trade unions, promotion of agriculture, horticulture or animal husbandry; or



(iii) any person or body of persons engaged in any activity having objectives which are in the nature of public service and are of a charitable, religious or political nature; or

(iv) any person or body of persons associated with press or media;

(25b) “commercial or industrial construction service” means—

(a) construction of a new building or a civil structure or a part thereof; or

(b) construction of pipeline or conduit; or

(c) completion and finishing services such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services, in relation to building or civil structure; or

(d) repair, alteration, renovation or restoration of, or similar services in relation to, building or civil structure, pipeline or conduit, which is—

(i) used, or to be used, primarily for; or

(ii) occupied, or to be occupied, primarily with; or

(iii) engaged, or to be engaged, primarily in,

commerce or industry, or work intended for commerce or industry, but does not include such services provided in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams;’;

(viii) for clause (30a), the following clause shall be substituted, namely:—

‘(30a) “construction of complex” means—

(a) construction of a new residential complex or a part thereof; or

(b) completion and finishing services in relation to residential complex such as glazing, plastering, painting, floor and wall tiling, wall covering and wall papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services; or

(c) repair, alteration, renovation or restoration of, or similar services in relation to, residential complex;’;

(ix) after clause (36), the following clause shall be inserted, namely:—

‘(36a) “dredging” includes removal of material including, silt, sediments, rocks, sand, refuse, debris, plant or animal matter in any excavating, cleaning, deepening, widening or lengthening, either permanently or temporarily, of any river, port, harbour, backwater or estuary;’;

(x) for clause (39a), the following clause shall be substituted, namely:—

‘(39a) “erection, commissioning or installation” means any service provided by a commissioning and installation agency, in relation to,—

(i) erection, commissioning or installation of plant, machinery or equipment; or

(ii) installation of—

- (a) electrical and electronic devices, including wirings or fittings therefor; or
- (b) plumbing, drain laying or other installations for transport of fluids; or
- (c) heating, ventilation or air-conditioning including related pipe work, ductwork and sheet metal work; or
- (d) thermal insulation, sound insulation, fire proofing or water proofing; or
- (e) lift and escalator, fire escape staircases or travelators; or
- (f) such other similar services;’;

(xi) for clause (47), the following clause shall be substituted, namely:—

‘(47) “franchise” means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;’;

(xii) in clause (55b), in sub-clause (a), for the words “, whether permanently or otherwise”, the word “temporarily” shall be substituted;

(xiii) after clause (63), the following clause shall be inserted, namely:—

‘(63a) “mailing list compilation and mailing” means any service in relation to—

(i) compiling and providing list of name, address and any other information from any source; or

(ii) sending document, information, goods or any other material in a packet, by whatever name called, by addressing, stuffing, sealing, metering or mailing,

for, or on behalf of, the client;’;

(xiv) for clause (64), the following clause shall be substituted, namely:—

‘(64) “maintenance or repair” means any service provided by—

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him,

in relation to,—

(a) maintenance or repair including reconditioning or restoration, or servicing of any goods or equipment, excluding motor vehicle; or

(b) maintenance or management of immovable property;’;

(xv) for clause (68), the following clause shall be substituted, namely:—

‘(68) “manpower recruitment or supply agency” means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client;’;

(xvi) in clause (76a), after the words “other than his own”, the words “but including a place provided by

way of tenancy or otherwise by the person receiving such services” shall be inserted;

(xvii) after clause (76a), the following clause shall be inserted, namely:—

‘(76b) “packaging activity” means packaging of goods including pouch filling, bottling, labelling or imprinting of the package, but does not include any packaging activity that amounts to ‘manufacture’ within the meaning of clause (f) of section 2 of the central excise act, 1944 (1 of 1944);’;

(xviii) after clause (91), the following shall be inserted, namely:—

‘(91a) “residential complex” means any complex comprising of—

(i) a building or buildings, having more than twelve residential units;

(ii) a common area; and

(iii) any one or more of facilities or services such as park, lift, parking space, community hall, common water supply or effluent treatment system,

located within a premises and the layout of such premises is approved by an authority under any law for the time being in force, but does not include a complex which is constructed by a person directly engaging any other person for designing or planning of the layout, and the construction of such complex is intended for personal use as residence by such person.

*explanation.*-for the removal of doubts, it is hereby declared that for the purposes of this clause,—

(a) “personal use” includes permitting the complex for use as residence by another person on rent or without consideration;

(b) “residential unit” means a single house or a single apartment intended for use as a place of residence;’;

(xix) after clause (97), the following clause shall be inserted, namely:—

‘(97a) “site formation and clearance, excavation and earth moving and demolition” includes,—

(i) drilling, boring and core extraction services for construction, geophysical, geological or similar purposes; or

(ii) soil stabilization; or

(iii) horizontal drilling for the passage of cables or drain pipes; or

(iv) land reclamation work; or

(v) contaminated top soil stripping work; or

(vi) demolition and wrecking of building, structure or road,

but does not include such services provided in relation to agriculture, irrigation, watershed development and drilling, digging, repairing, renovating or restoring of water sources or water bodies;’;

(xx) for clause (98), the following clause shall be substituted, namely:—

‘(98) “sound recording” means recording of sound on any media or device including magnetic storage device, and includes services relating to recording of sound in any manner such as sound cataloguing, storing of sound and sound mixing or re-mixing or any audio post-production activity;’;

(xxi) after clause (104a), the following clause shall be inserted, namely:—

‘(104b) “survey and map-making” means geological, geophysical or any other prospecting, surface, sub-surface or aerial surveying or map-making of any kind, but does not include survey and exploration of mineral;’;

(xxii) in clause (105),—

(a) for the words “service provided”, the words “service provided or to be provided” shall be substituted;

(b) for sub-clause (k), the following sub-clause shall be substituted, namely:—

“(k) to a client, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner;”;

(c) in sub-clause (m), for the words “provided to the client in relation to such use and also the services, if any, rendered as a caterer”, the words “provided or to be provided to the client in relation to such use and also the services, if any, provided or to be provided as a caterer” shall be substituted;

(d) in sub-clause (zk), for the words “collecting the broadcasting charges on behalf of the said agency”, the words “collecting the broadcasting charges or permitting the rights to receive any form of communication like sign, signal, writing, picture, image and sounds of all kinds by transmission of electromagnetic waves through space or through cables, direct to home signals or by any other means to cable operator, including multisystem operator or any other person on behalf of the said agency” shall be substituted;

(e) in sub-clause (zo), for the words “or repair of motor cars”, the words “, repair, reconditioning or restoration of motor cars, light motor vehicles” shall be substituted;

(f) sub-clause (zzj) shall be omitted;

(g) in sub-clause (zzk), for the words, brackets and letters “sub-clauses (zm) and (zp)”, the words, brackets and letters “sub-clause (zm)” shall be substituted;

(h) in sub-clause (zzq), for the words “construction service”, the words “commercial or industrial construction service” shall be substituted;

(i) in sub-clause (zzw), for the word “rendered”, the words “provided or to be provided” shall be substituted;

(j) after sub-clause (zzy), the following sub-clauses shall be inserted, namely:—

“(zzz) to any person, by any other person, in relation to transport of goods other than water, through pipeline or other conduit;

(zzza) to any person, by any other person, in relation to site formation and clearance, excavation and earthmoving and demolition and such other similar activities;

(zzzb) to any person, by any other person, in relation to dredging;

(zzzc) to any person, by any other person, other than by an agency under the control of, or authorised by, the Government, in relation to survey and map-making;

(zzzd) to any person, by any other person, in relation to cleaning activity;

(zzze) to its members, by any club or association in relation to provision of services, facilities or advantages for a subscription or any other amount;

(zzzf) to any person, by any other person, in relation to packaging activity;

(zzzg) to any person, by any other person, in relation to mailing list compilation and mailing;

(zzzh) to any person, by any other person, in relation to construction of complex;”;

(k) at the end, the following *explanation* shall be inserted, namely:—

“*Explanation.*—for the removal of doubts, it is hereby declared that where any service provided or to be provided by a person, who has established a business or has a fixed establishment from which the service is provided or to be provided, or has his permanent address or usual place of residence, in a country other than india and such service is received or to be received by a person who has his place of business, fixed establishment, permanent address or, as the case may be, usual place of residence, in india such service shall be deemed to be taxable service for the purposes of this clause;”;

(xxiii) for clause (120), the following clause shall be substituted, namely:—

“(120) “video-tape production” means the process of any recording of any programme, event or function on a magnetic tape or on any other media or device and includes services relating thereto such as editing, cutting, colouring, dubbing, title printing, imparting special effects, processing, adding, modifying or deleting sound, transferring from one media or device to another, or undertaking any video post-production activity, in any manner;”;

(b) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(i) for the brackets and letters “(zzj), (zzk)”, the brackets and letters “(zzk)” shall be substituted;

(ii) for the word, brackets and letters “and (zzy)”, the brackets, letters and word “, (zzy), (zzz), (zzza), (zzzb), (zzzc), (zzzd), (zzze), (zzzf), (zzzg) and (zzzh)” shall be substituted;

(c) in section 67,—

(i) for the words “rendered by him”, the words “provided or to be provided by him” shall be substituted;

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

“*Explanation 3.*—for the removal of doubts, it is hereby declared that the gross

amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.”;

(d) section 69 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The Central Government may, by notification in the Official Gazette, specify such other person or class of persons, who shall make an application for registration within such time and in such manner and in such form as may be prescribed.”;

(e) section 70 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The person or class of persons notified under sub-section (2) of section 69, shall furnish to the Superintendent of the Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.”;

(f) in section 73, for the words “Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise”, wherever they occur, the words “Central Excise Officer” shall be substituted;

(g) in section 74, for the words “Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise”, wherever they occur, the words “Central Excise Officer” shall be substituted;

(h) in section 78, in the first proviso, for the words “Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise”, the words “Central Excise Officer” shall be substituted;

(i) in section 83, for the figures and letter “15, 35F,”, the figures and letters “15, 33A, 35F” shall be substituted;

(j) after section 83, the following section shall be inserted, namely:—

“83A. *Power of adjudication.* - Where under this Chapter or the rules made thereunder any person is liable to a penalty, such penalty may be adjudged by the Central Excise Officer conferred with such power as the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, by notification in the Official Gazette, specify.”;

(k) in section 84,—

(i) in sub-section (1), for the words “which has been taken by the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise”, the words “in which an adjudicating authority subordinate to him has passed any decision or order” shall be substituted;

(ii) in sub-section (3), for the words “the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise”, the words “such adjudicating authority” shall be substituted;

(l) in section 85,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) any person aggrieved by any decision or order passed by an adjudicating authority

subordinate to the commissioner of central excise may appeal to the commissioner of central excise (appeals).”;

(b) in sub-section (3), for the words “the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise”, the words “such adjudicating authority” shall be substituted;

(m) in section 86,—

(a) in sub-section (1), for the word and figures “section 84”, the words, letter and figures “section 73 or section 83A or section 84” shall be substituted;

(b) in sub-section (2), for the word and figures “section 84”, the words, letter and figures “section 73 or section 83A or section 84” shall be substituted;

(c) in sub-section (2A), for the words “the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to appeal”, the words “any Central Excise Officer to appeal on his behalf” shall be substituted;

(d) in sub-section (4), for the words “Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise”, the words “any Central Excise Officer subordinate to him” shall be substituted;

(n) in section 94, in sub-section (2),—

(i) in clause (b), for the words and figures “under section 69”, the words, brackets and figures “under sub-sections (1) and (2) of section 69” shall be substituted;

(ii) in clause (c), for the words and figures “under section 70”, the words, brackets and figures “under sub-sections (1) and (2) of section 70” shall be substituted;

(o) in section 96A,—

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

‘(b) “applicant” means—

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) a resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 96c;’;

(ii) in clause (d), for the words “Authority for Advance Rulings”, the words and brackets “Authority

for Advance Rulings (Central Excise, Customs and Service Tax)” shall be substituted.

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## CHAPTER VII

### Banking cash transaction tax

#### **Extent, commencement and application.**

93. (1) This Chapter extends to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force on the 1st day of June, 2005.

(3) It shall apply to taxable banking transactions entered into on or after the commencement of this Chapter.

#### **Definitions.**

94. In this Chapter, unless the context otherwise requires,—

(1) “Appellate Tribunal” means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961 (43 of 1961);

(2) “Assessing Officer” means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(3) “banking cash transaction tax” means tax leviable on the taxable banking transactions under the provisions of this Chapter;

(4) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(5) “person” shall have the same meaning as in clause (31) of section 2 of the Income-tax Act, 1961 (43 of 1961) and includes an office or establishment of the Central Government or the Government of a State;

(6) “prescribed” means prescribed by rules made by the Board under this Chapter;

(7) “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(8) “taxable banking transaction” means—

(a) a transaction, being withdrawal of cash (by whatever mode) exceeding ten thousand rupees on any single day by a person from any scheduled bank; or

(b) a transaction, being purchase of a bank draft or banker’s cheque or any other financial instrument on payment of cash exceeding ten thousand rupees on any single day by a person from any scheduled bank; or



(c) a transaction, being receipt of cash from any scheduled bank exceeding ten thousand rupees on any single day by a person on encashment of term deposit, whether on maturity or otherwise, from that bank;

(9) words and expressions used but not defined in this Chapter and defined in the Negotiable Instruments Act, 1881 (26 of 1981), the Reserve Bank of India Act, 1934 (2 of 1934), the Banking Regulation Act, 1949 (10 of 1949), the Income-tax Act, 1961 (43 of 1961), or the rules or regulations made thereunder, shall apply, so far as may be, in relation to banking cash transaction tax.

#### **Charge of banking cash transaction tax.**

**95.** (1) On and from the commencement of this Chapter, there shall be charged a banking cash transaction tax, in respect of every taxable banking transaction of the value exceeding ten thousand rupees and entered into on or after the 1st day of June, 2005, at the rate of 0.1 per cent, of the value of every such taxable banking transaction.

(2) The banking cash transaction tax referred to in sub-section (1) shall be payable,—

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of section 94, by the person who withdraws the cash from any scheduled bank;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of section 94, by the person who purchases a bank draft or banker's cheque or any other financial instrument from any scheduled bank;

(iii) in respect of taxable banking transaction referred to in sub-clause (c) of clause (8) of section 94, by the person who received the cash on encashment of term deposit;

(iv) in respect of taxable banking transaction being withdrawal of cash exceeding ten thousand rupees by way of bearer cheque or such other instrument, by the bearer of such cheque or instrument to whom such payment is made in cash by the scheduled bank:

**Provided** that no banking cash transaction tax shall be payable if the amount of term deposit is credited to any account with the bank.

#### **Value of taxable banking transaction.**

**96.** The value of taxable banking transaction shall be,—

(i) in respect of taxable banking transaction referred to in sub-clause (a) of clause (8) of section 94, the amount of cash withdrawn;

(ii) in respect of taxable banking transaction referred to in sub-clause (b) of clause (8) of section 94, the amount of cash deposited;

(iii) in respect of taxable banking transaction referred to in sub-clause (c) of clause (8) of section 94, the amount of cash received on encashment of term deposit.

#### **Collection and recovery of banking cash transaction tax.**

**97.** (1) Every scheduled bank shall collect the banking cash transaction tax from every person, being a person referred to in clause (i) or clause (ii) or clause (iii) of sub-section (2) of section 95 who enters into a taxable banking transaction with that bank, at the rate specified in section 95.

(2) The banking cash transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every scheduled bank to the credit of the Central Government by the fifteenth day of the month immediately following the said calendar month.

(3) Any scheduled bank, who fails to collect the tax in accordance with the provisions of sub-section (1), shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with

the provisions of sub-section (2).

#### **Scheduled bank to furnish prescribed return.**

**98.** (1) Every scheduled bank (hereafter in this Chapter referred to as assessee) shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form and verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable banking transactions entered into during such financial year in the scheduled bank.

(2) Where any assessee fails to furnish the return under sub-section (1) within the prescribed time, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(3) Any assessee who has not furnished the return within the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2), discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

#### **Assessment.**

**99.** (1) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under sub-section (1) or sub-section (3) of section 98 or upon whom a notice has been served under sub-section (2) of section 98 (whether a return has been furnished or not), a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable banking transactions during the relevant financial year and determine the amount of banking cash transaction tax payable or refundable on the basis of such assessment:

**Provided** that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(3) Every assessee, in case any amount is refunded to it on assessment under sub-section (2), shall, within such time as may be prescribed, refund such amount to the concerned person from whom such amount was collected.

#### **Rectification of mistake.**

**100.** (1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed.

(2) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (1), the Assessing Officer passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Assessing Officer may—

(a) make an amendment under sub-section (1) of his own motion; or

(b) make such amendment if any mistake is brought to his notice by the assessee.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer concerned has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable

opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the Assessing Officer.

(6) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund, which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

**Interest on delayed payment of banking cash transaction tax.**

**101.** Every assessee who fails to credit the banking cash transaction tax or any part thereof as required under section 97, to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent, of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed.

**Penalty for failure to collect or pay banking cash transaction tax.**

**102.** Any assessee who—

(a) fails to collect the whole or any part of the banking cash transaction tax as required under section 97; or

(b) having collected the banking cash transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of section 97,

shall be liable to pay,—

(i) in the case referred to in clause (a), in addition to paying the tax in accordance with the provisions of sub-section (3) of section 97, or interest, if any, in accordance with the provisions of section 101, by way of penalty, a sum equal to the amount of banking cash transaction tax that it failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying the tax in accordance with the provisions of sub-section (2) of section 97 and interest in accordance with the provisions of section 101, by way of penalty, a sum of one thousand rupees for every day during which the failure continues, so, however, that the penalty under this clause shall not exceed the amount of banking cash transaction tax that it failed to pay.

**Penalty for failure to furnish prescribed return.**

**103.** If an assessee fails to furnish in due time the return which it is required to furnish under sub section (1) of section 98 or by notice given under sub-section (2) of that section, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

**Penalty for failure to comply with notice.**

**104.** If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with a notice under sub-section (1) of section 99, he may direct that such person shall pay, by way of penalty, in addition to any banking cash withdrawal transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each such failure.

**Penalty not to be imposed in certain cases.**

**105.** Notwithstanding anything contained in the provisions of section 102 or section 103 or section 104, no penalty shall be imposable for any failure referred to in the said provisions if the assessee proves that there was reasonable cause for the said failure:

Provided that no order imposing a penalty under this Chapter shall be made unless the assessee has been given

a reasonable opportunity of being heard.

#### **Application of certain provisions of Act 43 of 1961.**

**106.** The provisions of the following sections of the Income-tax Act, 1961, as in force from time to time, shall apply, so far as may be, in relation to banking cash transaction tax as they apply in relation to income-tax:—

120,131,133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293.

#### **Appeals to Commissioner of Income-tax (Appeals).**

**107.** (1) Any assessee aggrieved by any assessment order passed by the Assessing Officer under section 99 or any order under section 100, or denying his liability to be assessed under this Chapter, or by an order levying penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(2) Every appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under the provisions of sub-section (1), the provisions of sections 249 to 251 of the Income-tax Act, 1961 (43 of 1961), shall, as far as may be, apply.

#### **Appeals to Appellate Tribunal.**

**108.** (1) Any assessee aggrieved by an order passed by a Commissioner of Income-tax (Appeals) under section 107 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 107, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is received by the assessee, or by the Commissioner of Income-tax, as the case may be.

(4) Every appeal under sub-section (1) or sub-section (2) shall be in the prescribed form and shall be verified in the prescribed manner and in the case of an appeal filed under sub-section (1) shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of sections 252 to 255 of the Income-tax Act, 1961 (43 of 1961), shall, as far as may be, apply.

#### **False statement in verification, etc.**

**109.** (1) If a person makes a statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

#### **Institution of proceedings.**

**110.** A person shall not be proceeded against for any offence under section 109 except with the previous sanction of the Chief Commissioner of Income-tax.

#### **Power to make rules.**

**111.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time within which the return shall be delivered or caused to be delivered to the Assessing Officer or to any other agency and the form and the manner in which such return shall be furnished under sub-section (1) or sub-section (2) of section 98;

(b) the time within which the return shall be furnished on receipt of notice under sub-section (2) of section 98;

(c) the time within which refund shall be made under sub-section (3) of section 99;

(d) the form in which an appeal under section 107 or section 108 may be filed and the manner in which they may be verified;

(e) any other matter which by this Chapter is to be, or may be, prescribed.

(3) Every rule made under this Chapter shall 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.

#### **Power to remove difficulties.**

**112.** (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, 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 Chapter come into force.

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

## **CHAPTER VIII**

### **Miscellaneous**

#### **Amendment of Act 5 of 1873.**

**113.** In section 3 of the Government Savings Banks Act, 1873, in the definition of “depositor”, the following proviso shall be inserted, namely:—

‘Provided that on and after the date on which the Finance Bill, 2005 receives the assent of the President, the provisions of this clause shall have effect as if for the words “a person”, the words “an individual” had been substituted.’

#### **Insertion of new section 8B in Act 2 of 1899.**

#### **Corporatisation and demutualisation schemes and related instruments not liable to duty.**

**114.** After section 8A of the Indian Stamp Act, 1899, the following section shall be inserted, namely:—

‘8B. Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) a scheme for corporatisation or demutualisation, or both of a recognised stock exchange; or

(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised stock exchange pursuant

to a scheme,

as approved by the Securities and Exchange Board of India under sub-section (2) of section 4B of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), shall not be liable to duty under this Act or any other law for the time being in force.

*Explanation.*—For the purposes of this section,—

(a) the expressions “corporatisation”, “demutualisation” and “scheme” shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(b) “Securities and Exchange Board of India” means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992).’.

#### **Amendment of section 2 of Act 49 of 1950.**

**115.** Section 2 of the Contingency Fund of India Act, 1950 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) On and from the date on which the Finance Bill, 2005 receives the assent of the President, the sum which shall be paid from and out of the Consolidated Fund of India into the Contingency Fund of India under sub-section (1) shall stand enhanced to five hundred crores of rupees”.

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#### **Amendment of section 2 of Act 46 of 1959.**

**117.** In section 2 of the Government Savings Certificates Act, 1959, for clause (a), the following clauses shall be substituted, namely:—

‘(a) “holder”, in relation to a savings certificate, means—

(i) a person who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time before the date on which the Finance Bill, 2005 receives the assent of the President; and

(ii) an individual who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time on or after the date on which the Finance Bill, 2005 receives the assent of the President;

(aa) “minor” means a person who is not deemed to have attained his majority under the Majority Act, 1875 (9 of 1875);’.

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#### **Amendment of section 10 of Act 54 of 2000.**

**121.** Section 10 of the Central Road Fund Act, 2000 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in clause (viii) of sub-section (1), the Central Government shall, with effect from 1st day of March, 2005, allocate fifty paise from the amount of rupee two as amended by sections 119 and 120 of the Finance Act, 2005 as the additional duty of customs and the additional duty of excise on petrol, levied under sub-section (1) of section 103 and sub-section (1) of section 111, as the case may be, of the Finance (No. 2) Act, 1998 (21 of 1998) and the additional duty of customs and the additional duty of excise on high speed diesel oil levied under sub-section (1) of section

116 and sub-section (1) of section 133, as the case may be, of the Finance Act, 1999 (27 of 1999), exclusively for the development and maintenance of national highways.”.

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#### **Amendment of Act 23 of 2004.**

**124.** In the Finance (No. 2) Act, 2004 —

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(c) In section 98, in the Table, with effect from the 1st day of June, 2005,—

- (i) Against sl. no.1, under column (3) relating to rate, for the figures and words “0.075 per cent”, the figures and words “0.1 per cent” shall be substituted;
- (ii) Against sl. no. 2, under column (3) relating to rate, for the figures and words “0.075 per cent”, the figures and words “0.1 per cent” shall be substituted;
- (iii) Against sl. no. 3, under column (3) relating to rate, for the figures and words “0.015 per cent”, the figures and words “0.02 per cent” shall be substituted;
- (iv) Against sl. no. 4, under column (3) relating to rate, for the figures and words “0.01 per cent”, the figures and words “0.0133 per cent” shall be substituted;
- (v) Against sl. no. 5, under column (3) relating to rate, for the figures and words “0.15 per cent”, the figures and words “0.2 per cent” shall be substituted.

### **DECLARATION UNDER THE PROVISIONAL COLLECTION OF TAXES ACT, 1931**

It is hereby declared that it is expedient in the public interest that the provisions of clauses 72, 74, 85,86, 119, 120 and 123(d) 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 not exceed Rs. *Nil*;  
50,000

(2) where the total income exceeds Rs. 50,000 10 per cent of the amount by which the total income

but does not exceed Rs. 60,000                      exceeds Rs. 50,000;

- (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000      Rs. 1,000 *plus* 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. 19,000 *plus* 30 per cent of the amount by which the total income exceeds Rs. 1,50,000.

#### Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

**Provided** that in case of persons mentioned in item (i) above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

## 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* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

#### Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

## Paragraph C

In the case of every firm,—

### Rate of income-tax

On the whole of the total income

35 per cent



## Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

### Paragraph D

In the case of every local authority,—

#### Rate of income-tax

On the whole of the total income 30 per cent

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

### 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 either case, been approved 50 per cent; by the Central Government
  - (ii) on the balance, if any, of the total income 40 per cent

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-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-
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, crossword puzzles, card games and other games of any sort	30 per cent;
(iii) on income by way of winnings from horse races	30 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 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 recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 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 [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	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, crossword puzzles, card games and other games of any sort	30 per cent;
(F) on income by way of winnings from horse races	30 per cent;
(G) on the whole of the other income	30 per cent;
(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;
(B) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent;
(C) on income by way of winnings from horse races	30 per cent;

(D) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent;
(E) on the whole of the other income	30 per cent
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, crossword puzzles, card games and other games of any sort	30 per cent;
(iii) on income by way of winnings from horse races	30 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, crossword puzzles, card games and other games of any sort	30 per cent;
(ii) on income by way of winnings from horse races	30 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 but before the 1st day of June, 2005	20 per cent;
(C) where the agreement is made on or after the 1st day of June, 2005	10 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 but before the 1st day of June, 2005	20 per cent;
(D) where the agreement is made on or after the 1st day of June, 2005	10 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 but before the 1st day of June, 2005 | 20 per cent; |
| (D) where the agreement is made on or after the 1st day of June, 2005                                      | 10 per cent; |
- (vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent;
- (viii) on any other income 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. 40 per cent

#### Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(A) item 1, of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(ii) in the case of every firm and artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax;

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every domestic company at the rate of ten per cent of such income tax;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent of such income-tax.

### PART III

#### **Rates for 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 charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head “Salaries” under section 192 of the said Act 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 fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB 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 or surcharge on such “advance tax” in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed

at the following rate or rates:—

## Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph 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. Nil;  
1,00,000
- (2) where the total income exceeds Rs. 10 per cent of the amount by which the  
1,00,000 but does not exceed Rs. 1,50,000 total income exceeds Rs. 1,00,000;
- (3) where the total income exceeds Rs. Rs. 5,000 plus 20 per cent of the  
1,50,000 but does not exceed Rs. 2,50,000 amount by which the total income  
exceeds Rs. 1,50,000;
- (4) where the total income exceeds Rs. Rs. 25,000 plus 30 per cent of the  
2,50,000 amount by which the total income  
exceeds Rs. 2,50,000.

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

### Rates of income-tax

- (1) where the total income does not exceed Rs. Nil;  
1,25,000
- (2) where the total income exceeds Rs. 10 per cent of the amount by which  
1,25,000 but does not exceed Rs. 1,50,000 the total income exceeds Rs. 1,25,000;
- (3) where the total income exceeds Rs. Rs. 2,500 plus 20 per cent of the  
1,50,000 but does not exceed Rs. 2,50,000 amount by which the total income  
exceeds Rs. 1,50,000;
- (4) where the total income exceeds Rs. Rs. 22,500 plus 30 per cent of the  
2,50,000 amount by which the total income  
exceeds Rs. 2,50,000.

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

## Rates of income-tax

- (1) where the total income does not exceed Rs. *Nil*;  
1,50,000
- (2) where the total income exceeds Rs. 20 per cent of the amount by which the  
1,50,000 but does not exceed Rs. 2,50,000 total income exceeds Rs. 1,50,000;
- (3) where the total income exceeds Rs. Rs. 20,000 *plus* 30 per cent of the  
2,50,000 amount by which the total income  
exceeds Rs. 2,50,000.

### Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 111A or section 112 shall, —

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

## Paragraph B

In the case of every co-operative society,—

## Rates of income-tax

- (1) where the total income does not exceed 10 per cent of the total income;  
Rs. 10,000
- (2) where the total income exceeds Rs. 1,000 *plus* 20 per cent of the  
Rs. 10,000 but does not exceed amount by which the total  
Rs. 20,000 income exceeds Rs. 10,000.
- (3) where the total income exceeds Rs. 3,000 *plus* 30 per cent of the  
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

30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax.

## 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 30 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 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent.

## PART IV

[See section 2(12)(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 of 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—

(a) 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;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, 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, 2005, 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, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004, 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, 1997, 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003 or the 1st day of April, 2004,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, 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, 2004,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004,

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, 2005.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of

April, 2006, 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 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, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005, is a loss, then, for the purposes of sub-section (70) 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, 1998, 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, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, 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, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, 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, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, 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, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, 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, 2004 or the 1st day of April, 2005,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April 2004, 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, 2005,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005,

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, 2006.

(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, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) 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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