BILL/FINANCE BILL, 2001

Annotated Text of Finance Bill, 2001*

[17 OF 2001]

A Bill to give effect to the financial proposals of the Central Government for the financial year 2001-2002.

BE it enacted by Parliament in the Fifty-second 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, 2001.

(2) Save as otherwise provided in this Act, sections 2 to 95 shall be deemed to have come into force on the 1st day of April, 2001.

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, 2001, 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 (43 of 1961) (hereinafter referred to as the Income-tax Act) shall be increased,—

(*a*) in the cases to which Paragraphs A, B, C and D of that Part apply, by a surcharge for purposes of the Union; and

(*b*) in the cases to which Paragraph E of that Part applies, by a surcharge, 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 six hundred 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 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 sections 112 and 113 shall be increased by a surcharge for purposes of the Union or surcharge 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,—

(*a*) by a surcharge for purposes of the Union, calculated,—

(*i*) in the case of a co-operative society, a firm and a local authority, at the rate of twelve per cent of such income-tax;

(*ii*) in the case of a person other than a company, a co-operative society, a firm and a local authority,—

(*A*) at the rate of twelve per cent of such income-tax where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or

(*B*) at the rate of seventeen per cent of such income-tax where the total income exceeds one lakh fifty thousand rupees; and

(*b*) by a surcharge calculated at the rate of thirteen per cent of such income-tax in the case of a domestic company.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115R or section 115U 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 two per cent of such tax:

Provided that no surcharge shall be payable by a foreign company.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule 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, 194K, 194L, 196A, 196B, 196C and 196D of the Income-tax Act, the deduction shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated at the rate of two per cent of such tax:

Provided that no surcharge shall be payable by a foreign company.

(7) In cases in which tax has to be collected under the proviso to section 194B or under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rates specified in Part II of the First Schedule, as the case may be, and shall be increased, by a surcharge for purposes of the Union, calculated in each case in the manner provided therein.

(8) Subject to the provisions of sub-section (9), 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 175 or sub-section (2) of section 176, of the Income-tax Act or deducted under section 192 of the said Act from income chargeable under the head “Salaries” or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, “advance tax” shall be so 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 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 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 income-tax computed in accordance with the provisions of sections 112 and 113 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 and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purposes of the Union, calculated at the rate of two per cent of such tax:

Provided that no surcharge shall be payable by a foreign company.

(9) 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 fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand 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 fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income 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.

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

(*a*) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 2001, 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 in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

NOTES

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2001-2002. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2001-2002 from income subject to such deduction under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2001-2002.

Rates of income-tax for the assessment year 2001-2002

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2001-2002. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2000, for the purposes of deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2000-2001.

Rates for deduction of tax at source during the financial year 2001-2002 from income other than "Salaries"

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 2001-2002 from incomes other than "Salaries". These rates are broadly the same as those specified in Part II of the First Schedule to the Finance Act, 2000, for the purposes of deduction of income-tax at source during the financial year 2000-2001. However, the rates of tax to be deducted on income by way of winnings from lotteries and crossword puzzles, and income by way of winnings from horse races, have been reduced from forty per cent to thirty per cent. Tax on income by way of winnings from card games and other games of any sort is required to be deducted at source at the rate of thirty per cent.The amount of tax so deducted shall be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such income-tax except in the case of a foreign company.

Rates for deduction of tax at source from "Salaries" computation of "advance tax" and charging of income-tax in special cases during the financial year 2001-2002

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 2001-2002.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every 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 Part III applies. No change is proposed in the rate structure.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2001-2002, except for co-operative societies having income above thirty thousand rupees where the tax payable will be three thousand rupees plus thirty per cent of the amount by which the total income exceeds twenty thousand rupees.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2001-2002.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2001-2002.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2001-2002. The rate of tax in the case of domestic companies will continue to be thirty-five per cent and in the case of foreign companies it will be forty-eight per cent.

In the case of every person being an individual, Hindu undivided family, association of persons or body of individuals whose income exceeds sixty thousand rupees and where income-tax is to be deducted at source or "advance tax" is payable in accordance with the provisions of this Part such amount of income-tax after allowing rebate under Chapter VIII-A, is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such tax.

In the case of every artificial juridical person, co-operative society, firm, local authority or domestic company where income-tax is to be computed in accordance with the provisions of this Part, such amount of income-tax is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such tax.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(*a*) after clause (12), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:—

'(12A) "books or books of account" include ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;';

(*b*) after clause (22A), the following clause shall be inserted with effect from the 1st day of June, 2001, namely:—

'(22AA) "document" includes an electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);';

(*c*) in clause (24), in sub-clause (ix), the following Explanation shall be inserted with effect from the 1st day of April, 2002, namely:—

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

(*i*) "lottery" includes winnings, from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(*ii*) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game;';

(*d*) after clause (28B), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:—

'(28BB) "insurer" means an insurer being an Indian insurance company, as defined under clause (*7A*) of section 2 of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;'.

NOTES

Clause 3 seeks to amend section 2 of the Income-tax Act relating to definitions.

Sub-clause (*a*) seeks to insert a new sub-clause (12A) to define "books or books of account" to include ledgers, day-books, cash books, account-books and other books whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device.

Sub-clause (*b*) seeks to insert a new sub-clause (22AA) to define "document" to include electronic record as defined in clause (*t*) of sub-section (1) of section 2 of the Information Technology Act, 2000.

These amendments will take effect from 1st June, 2001.

The existing section 194B of the Income-tax Act, *inter alia,* provides for deduction of income-tax at source on the income by way of winnings from any lottery at the rates in force. It is proposed to amend the said section 194B vide clause 65 of the Bill to provide for deduction of income-tax at source on the income by way of winnings from card game and other game of any sort. Section 115BB of the Income-tax Act provides for the rate at which income-tax shall be payable on the income by way of winnings from any lottery or card game and other game of any sort. Sub-clause (*ix*) of clause (24) of section 2 defines the expression "income" to include, *inter alia,* any winnings from lotteries or card games and other games of any sort.

Sub-clause (*c*) seeks to insert an Explanation in the said sub-clause (*ix*) to define the expressions "lottery" to include winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever under any scheme or arrangement by whatever name called; and "card game and other game of any

sort" to include any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Sub-clause (*d*) seeks to define the expression "insurer" used in the proposed amendments vide clauses 34 to 36 and 43. The insurer shall mean an Indian insurance company which has been granted a certificate of registration under the Insurance Act, 1938.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 9.

4. In section 9 of the Income-tax Act, in sub-section (1), in clause (*vi*), in Explanation 2, with effect from the 1st day of April, 2002,—

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

"(*iva*) the use or right to use, any industrial, commercial or scientific equipment;";

(*ii*) in clause (*vi*), for the words, brackets and figures "sub-clauses (*i*) to (*v*)", the words, brackets, figures and letter "sub-clauses (*i*) to (*iv*), (*iva*) and (*v*)" shall be substituted.

NOTES

Clause 4 seeks to amend section 9 of the Income-tax Act relating to income deemed to accrue or arise in India.

Under the existing provision contained in clause (*vi*) of sub-section (1) of the said section, income by way of royalty payable shall be deemed to accrue or arise in India subject to certain conditions specified in that clause. The term "royalty" has been defined in Explanation 2 to this clause.

It is proposed to include the use or right to use any industrial, commercial or scientific equipment within the scope of the said *Explanation.*

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 10.

5. In section 10 of the Income-tax Act,—

(*a*) in clause (*10C*),—

(*i*) after sub-clause (*vii*), the following sub-clause shall be inserted, namely:-

"(*viia*) any State Government; or";

(*ii*) after sub-clause (*viia*) as so inserted, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:—

"(*viib*) the Central Government; or";

(*b*) in clause (15), with effect from the 1st day of April, 2002,—

(*i*) in sub-clause (iv),—

(*A*) for item (*a*), the following item shall be substituted, namely :—

"(*a*) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;";

(*B*) in item (*b*), for the words "a loan agreement entered into with any such financial institution", the words, figures and letters "a loan agreement entered into before the 1st day of June, 2001 with any such financial institution" shall be substituted;

(*C*) in item (*c*), for the words "moneys borrowed or debt incurred by it", the words, figures and letters "moneys borrowed or debt incurred by it before the 1st day of June, 2001" shall be substituted;

(*D*) in items (*d*) and (*e*), for the words "any moneys borrowed by it from sources outside India", the words, figures and letters "any moneys borrowed by it from sources outside India before the 1st day of June, 2001" shall be substituted;

(*E*) in item (f), for the words "a loan agreement approved by the Central Government", the words, figures and letters "a loan agreement approved by the Central Government before the 1st day of June, 2001" shall be substituted;

(*ii*) for Explanation 1A to sub-clause (*iv*), the following Explanation shall be substituted, namely:—

'*Explanation 1A.*—For the purposes of this sub-clause, the expression "interest" shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent per annum over the rate of interest payable in terms of such loan.';

(*c*) in clause (*23AAB*), with effect from the 1st day of April, 2002,—

(*i*) in the opening portion, for the words "under a pension scheme", the words "or any other insurer under a pension scheme" shall be substituted;

(*ii*) in sub-clause (*ii*), after the words "the Controller of Insurance", the words, brackets and figures "or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) as the case may be" shall be inserted;

(*d*) after clause (*23BBC*), the following clause shall be inserted, namely:—

'(*23BBD*) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 (21 of 1860) for three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004;';

(*e*) in clause (23C), with effect from the 1st day of April, 2002,—

(*a*) in the third proviso,—

(*i*) in clause (*a*), after the words "the objects for which it is established", the words, figures and letters "and in a case where any income is accumulated on or after the 1st day of April, 2001, the period of such accumulation shall in no case exceed five years" shall be inserted;

(*ii*) in clause (*b*),—

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

"(*ia*) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;";

(*B*) in sub-clause (*iii*), after the word, brackets and figure "sub-clause (*i*)", the words, brackets, figure and letter "and sub-clause (*ia*)" shall be inserted;

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

"**Provided** also that where the total receipts of the fund or institution referred to in sub-clause (*iv*) or of any trust or institution referred to in sub-clause (*v*) exceed ten lakh rupees or where the total receipts of any university or other educational institution referred to in sub-clause (*vi*) or of any hospital or other institution referred to in sub-clause (*via*) exceed one crore rupees in any previous year, the fund or trust or institution or university or other educational institution or hospital or other institution, as the case may be, shall—

(*i*) publish its accounts in a local newspaper; and

(*ii*) furnish along with the application prescribed in the first proviso to this clause, the copy of the local newspaper in which such accounts have been published;";

(*f*) in clause (*23FB*),—

(*a*) the *Explanation* shall be numbered as Explanation 1 thereof, and in *Explanation 1* as so numbered, in clause (*b*), for sub-clause (*i*), the following sub-clause shall be substituted, namely:—

"(*i*) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) or operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);";

(*b*) after Explanation 1 as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation 2.*—For the removal of doubts, it is hereby declared that the income of a venture capital company or venture capital fund shall continue to be exempt if the shares of the venture capital

undertaking, in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India;";

(*g*) in clause (*23G*), with effect from the 1st day of April, 2002,—

(*a*) after the words "an infrastructure capital fund or an infrastructure capital company", the words "or a co-operative bank" shall be inserted;

(*b*) for the words, brackets and figures "any enterprise wholly engaged in the business of (*i*) developing, (*ii*) maintaining and operating, or (*iii*) developing, maintaining and operating any infrastructure facility", the words, brackets, figures and letters "any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA" shall be substituted;

(*c*) in *Explanation 1,*—

(*i*) clause (*c*) shall be omitted;

(*ii*) after clause (*d*), the following clauses shall be inserted, namely:—

'(*e*) "co-operative bank" shall have be the meaning assigned to it in clause (*dd*) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961);

(*f*) "interest" includes any fee or commission received by a financial institution for giving any guarantee to, or providing credit rating in respect of, an enterprise which has been approved by the Central Government for the purposes of this clause.';

(*h*) in clause (33), after sub-clause (*iii*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

"**Provided** that this clause shall not apply to any income arising from transfer of units of the Unit Trust of India or a mutual fund to a person other than the Unit Trust of India or such mutual fund.".

NOTES

Clause 5 seeks to amend section 10 of the Income-tax Act relating to incomes not included in the total income.

Under the existing provision contained in clause (10C), any amount received by an employee of a public sector company or any other company or an authority established under a Central, State or Provincial Act or a local authority or a co-operative society or a University or an Indian Institute of Technology or a notified institute of management, at the time of his voluntary retirement, or termination of his service in accordance with any scheme or schemes of voluntary retirement, or in the case of a public sector company, a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees, is not included in computing his total income.

Sub-clause (*a*) seeks to enlarge the scope of the exemption by extending it to an employee of any State Government. The amount received by employees under scheme or schemes of voluntary retirement of any State Government shall be exempt with effect from 1st April, 2001 in accordance with the proposed amendment.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

This sub-clause also proposes to enlarge the scope of the exemption by extending it to an employee of the Central Government.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*b*) seeks to substitute item (*a*) and amend items (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-clause (*iv*) of clause (15) so as to provide that the interest payable on any moneys borrowed, or on moneys borrowed under an agreement approved before 1st June, 2001 by Government or a local authority or by an industrial undertaking or by any other financial institution or a banking company under the Banking Regulation Act, 1949 or by certain Government companies as specified in those items, shall not be included in the total income.

This sub-clause also proposes to substitute *Explanation 1A* so as to provide that the expression "interest" shall not include any interest paid on delayed payment of loan or on default if it is in excess of two per cent per annum over the rate of interest payable in terms of such loan.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in clause (*23AAB*), any income of a fund set up by the Life Insurance Corporation of India on or after 1st October, 1996 under a pension scheme to which contribution is made by any person and which is approved by the Controller of Insurance, is exempt from income-tax.

Sub-clause (*c*) seeks to provide that income of any fund set up by any other insurer who is approved by the Insurance Regulatory and Development Authority shall also be eligible for exemption.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*d*) seeks to insert a new clause (*23BBD*) so as to exempt any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions, registered as ASOSAI SECRETARIAT under the Societies Registration Act, 1860, for a period of three previous years relevant to the assessment years beginning on the 1st day of April, 2001.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment years 2001-2002, 2002-2003 and 2003-2004.

Under the existing provision, the income of any fund or institution referred to in sub-clause (*iv*) or any trust or institution referred to in sub-clause (*v*) or any university or other educational institution or hospital or other medical institution referred to in sub-clauses (*vi*) and (*via*) of clause (*23C*) of section 10, is not exempt under the said sub-clauses unless the income is applied or accumulated for application, wholly and exclusively to the objects for which the fund, etc., is established. At present, no maximum time has been provided for accumulation of such income.

Sub-clause (*e*) seeks to provide that after 1st April, 2001, if any income of the fund or trust or institution or university or other educational institution or hospital or other medical institution, has not been applied to the objects for which the fund, etc., is established and such income is accumulated, the maximum period of such accumulation will be limited to five years only.

This sub-clause further proposes to amend third proviso to this clause so as so provide that the educational and medical institutions referred to in sub-clauses (*vi*) and (*via*) holding any assets in the form of equity shares of a public company, including bonus shares thereon, and forming part of their corpus before 1st June, 1998, will not be denied exemption, even if these are not invested in the assets specified under sub-section (5) of section 11 of the Income-tax Act.

This sub-clause also seeks to insert a new proviso after the eighth proviso so as to provide that an institution or trust having total receipts of more than ten lakh rupees, or a university or other educational institution or hospital or other medical institution having total receipts exceeding one crore rupees, shall publish its accounts in a local newspaper and furnish a copy of such newspaper along with the application prescribed in clause (*23C*).

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in clause (*23FB*), any income of a venture capital company or a venture capital fund set up to raise funds for investment in a venture capital undertaking is not included in the total income of the previous year. As per the Explanation to this clause, “venture capital undertaking” means a domestic company whose shares are not listed in a recognised stock exchange in India. If the shares of such venture capital undertaking get listed subsequently in a recognised stock exchange and if the initial investment made continues, the venture capital company and venture capital fund may lose exemption by virtue of this *Explanation*.

Sub-clause (*f*) seeks to insert another *Explanation* in clause (*23FB*) to clarify that the income of a venture capital company or venture capital fund shall continue to be exempt even if the shares of the venture capital undertaking in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India.

The “venture capital fund” has been defined in clause (*23FB*) as a fund operating under a trust deed registered under the provisions of the Registration Act, 1908. It is also proposed to clarify that the fund operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963, shall

be within the scope of the said clause.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Sub-clause (*g*) seeks to amend clause (*23G*). Under the existing provision contained in this clause, any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made by way of shares or long-term finance in any enterprise wholly engaged in the business of (*i*) developing, (*ii*) maintaining and operating, or (*iii*) developing, maintaining and operating any infrastructure facility and which has been approved by the Central Government, is exempt. It is proposed to enlarge the scope of the exemption by extending it to co-operative banks also.

This sub-clause further seeks to provide that any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company, from investments in any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA shall not be included in computing the total income.

This sub-clause also seeks to omit clause (*c*) to *Explanation 1* and to include and define the expressions "co-operative banks" and "interest" for the purposes of the said clause.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provisions contained in sub-clauses (*ii*) and (*iii*) of clause (*33*), any income by way of income received in respect of units from the Unit Trust of India or units of a mutual fund specified under clause (*23D*) is not included while computing the total income.

Sub-clause (*h*) seeks to amend the said clause (*33*) so as to clarify that income received, in respect of units of Unit Trust of India or a mutual fund on transfer of such units to persons other than Unit Trust of India or a mutual fund shall not be exempt.

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years.

Amendment of section 10A.

6. In section 10A of the Income-tax Act,—

(*a*) in sub-section (1),—

(*i*) in the second proviso, for the words "undertaking was first set up", the words "undertaking began to manufacture or produce such articles or things or computer software" shall be substituted;

(*ii*) the third proviso shall be omitted with effect from the 1st day of April, 2002;

(*b*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.";

(*c*) after sub-section (9),—

(*i*) in *Explanation 1*, for the words "in the case of a company", the words "in the case of a company, not being a company in which the public are substantially interested," shall be substituted;

(*ii*) in *Explanation 2,* in clause (*iv*), for the words "in respect of export", the words "in respect of export by the undertaking" shall be substituted;

(*iii*) after *Explanation 2*, the following Explanation shall be inserted at the end, namely:—

"*Explanation 3*.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.".

NOTES

Clause 6 seeks to amend section 10A of the Income-tax Act relating to newly established undertakings in free trade zone, etc.

Under the existing provision contained in sub-section (1) of the said section, any profits and gains derived by an assessee from an undertaking to which this section applies shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

The second proviso to sub-section (1) provides that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the said period of ten consecutive assessment years is reckoned from the assessment year relevant to the previous year in which such undertaking was first set up in such free trade zone or export processing zone.

Item (*i*) of sub-clause (*a*) seeks to amend the second proviso to sub-section (1) so as to provide that such period of ten consecutive assessment years shall be reckoned from the assessment year relevant to the previous year in which such undertaking began to manufacture or produce such articles or things or computer software in the free trade zone or export processing zone.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Under the existing provision contained in the third proviso to sub-section (1), the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent of total sales of such undertaking shall be deemed to be the profits and gains derived from the export of articles or things or computer software.

Item (*ii*) of sub-clause (*a*) seeks to omit the third proviso to disallow the profits and gains derived from such domestic sales included in the profits and gains derived from the export of such articles or things or computer software.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in sub-section (4), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

Sub-clause (*b*) seeks to clarify that such proportions shall be calculated with reference to the profits and gains of the business of the undertaking and not from any other business carried on by the assessee.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Item (*i*) of sub-clause (*c*) seeks to amend *Explanation 1* to the said section so as to clarify that the company referred to in the *Explanation* shall be the company in which the public are not substantially interested. The company in which the public are substantially interested has been defined in clause (18) of section 2 of the Income-tax Act.

Item (*ii*) of sub-clause (*c*) seeks to amend clause (*iv*) of *Explanation 2* to the said sub-section to clarify that the "export turnover" for computation of profits would relate to profits of the undertaking and not to the business as a whole.

Item (*iii*) of sub-clause (*c*) seeks to insert *Explanation 3* to the aforesaid sub-section to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 10B.

7. In section 10B of the Income-tax Act,—

(*a*) in sub-section (1), the second proviso shall be omitted with effect from the 1st day of April, 2002;

(*b*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.";

(*c*) after sub-section (9),—

(*i*) in *Explanation 1,* for the words "in the case of a company", the words "in the case of a company , not being a company in which the public are substantially interested," shall be substituted;

(*ii*) in *Explanation 2,* in clause (*iii*), for the words "in respect of export", the words "in respect of export by the undertaking" shall be substituted;

(*iii*) after *Explanation 2,* the following Explanation shall be inserted at the end, namely:—

"*Explanation 3.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.".

NOTES

Clause 7 seeks to amend section 10B of the Income-tax Act relating to newly established hundred per cent export-oriented undertakings.

Under the existing provision contained in sub-section (1) of the said section, any profits and gains derived by an assessee from a hundred per cent export-oriented undertaking to which this section applies shall not be included in the total income of the assessee for ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

Under the existing provision contained in the second proviso to the said sub-section (1), the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent of total sales of such undertaking shall be deemed to be the profits and gains derived from the export of articles or things or computer software.

Sub-clause (*a*) seeks to omit the second proviso to disallow the profits and gains derived from such domestic sales included in the profits and gains derived from the export of such articles or things or computer software.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in sub-section (4) of the said section, the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

Sub-clause (*b*) seeks to clarify that such proportion shall be calculated with reference to the profits and gains of the business of the undertaking and not from any other business carried on by the assessee.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Item (*i*) of sub-clause (*c*) seeks to amend *Explanation 1* to the aforesaid section so as to clarify that the company referred to in the said *Explanation* shall be the company in which the public are not substantially interested. The

company in which the public are substantially interested has been defined in clause (18) of section 2 of the Income-tax Act.

Item (*ii*) of sub-clause (*c*) seeks to amend clause (*iii*) of *Explanation 2* to the said sub-section (4) to clarify that the "export turnover" for computation of profits would relate to profits of the undertaking and not to the business as a whole.

Item (*iii*) of sub-clause (*c*) seeks to insert *Explanation 3* to the aforesaid section to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Insertion of new section 10BB.

8. After section 10B of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

'10BB. *Meaning of computer programmes in certain cases.*—The profits and gains derived by an undertaking from the production of computer programmes under section 10B, as it stood prior to its substitution by section 7 of the Finance Act, 2000 (10 of 2000), shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.'.

NOTES

Clause 8 seeks to insert new section 10BB in the Income-tax Act relating to meaning of computer programmes in certain cases. It is proposed to insert a new section so as to clarify that the profits and gains derived by an undertaking from the production of computer programmes under section 10B as it stood prior to its substitution by section 7 of the Finance Act, 2000 shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.

This amendment will take effect retrospectively from 1st April, 1994 and will, accordingly, apply in relation to the assessment year 1994-1995 and subsequent years.

Amendment of section 11.

9. In section 11 of the Income-tax Act, in sub-section (2), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2002, namely:—

'**Provided further** that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.'.

NOTES

Clause 9 seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes. Under the existing provision contained in sub-section (2) of the said section, if seventy-five per cent of the income derived from property held for charitable or religious purposes is not applied for such purposes, then, the portion not applied is permitted to be accumulated or set apart for application for such purposes for a period of ten years.

It is proposed to amend the said sub-section so as to reduce the period of accumulation in respect of the income accumulated after 1st April, 2001 from ten years to five years.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 12A.

10. In section 12A of the Income-tax Act, after clause (*b*), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:—

"(*c*) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of sections 11 and 12 exceeds ten lakh rupees in any previous year, the trust or institution—

(*i*) publishes its accounts in a local newspaper, before the due date for furnishing the return of income under sub-section (4A) of section 139; and

(*ii*) furnishes a copy of such newspaper along with such return.".

NOTES

Clause 10 seeks to amend section 12A of the Income-tax Act relating to conditions as to registration of trusts, etc.

Section 12A provides that two conditions of registration and audit of its accounts must be fulfilled by any trust or institution before claiming exemption under sections 11 and 12. It is proposed to add two more conditions so as to provide that where the total income of the trust or institution as computed under the Income-tax Act without giving effect to the provisions of sections 11 and 12 exceeds ten lakh rupees in any previous year, the trust or institution, as the case may be, shall publish its accounts in a local newspaper and furnish a copy of such newspaper along with the return of income.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Insertion of new section 14A.

11. After section 14 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely :—

"14A. *Expenditure incurred in relation to income not includible in total income.*—For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under this Act.".

NOTES

Clause 11 seeks to insert a new section 14A in the Income-tax Act relating to expenditure incurred in relation to income not includible in the total income.

The new section seeks to provide that no deduction shall be made in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-63 and subsequent years.

Amendment of section 16.

12. In section 16 of the Income-tax Act, for clause (*ii*), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:—

"(*ii*) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;".

NOTES

Clause 12 seeks to amend section 16 of the Income-tax Act relating to deductions from salaries.

Under the existing provision contained in sub-clause (*a*) of clause (*ii*), a deduction of entertainment allowance is allowed to an assessee who is in receipt of a salary from the Government. The deduction allowable in such cases is a sum equal to one-fifth of the salary or five thousand rupees, whichever is less. Sub-clause (*b*) of clause (*ii*) provides for a similar deduction in case of other assessees in receipt of entertainment allowance who have been continuously in receipt of such allowance regularly from the present employer from a date before the 1st day of April, 1955. The deduction in such cases is restricted to the entertainment allowance received from such employer before the 1st day of April, 1955 or a sum equal to one-fifth of salary or seven thousand five hundred rupees,

whichever is the least.

It is proposed to delete the said clause (*ii*) to discontinue deduction for entertainment allowance provided in sub-clause (*b*) to the persons other than those employed in the Government.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 17.

13. In section 17 of the Income-tax Act,—

(*a*) in clause (2),—

(*i*) in sub-clause (*iii*),—

(*A*) in item (*c*), for the words "twenty-four thousand rupees", the words "fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2002;

(*B*) in the proviso, for the words "the Employees' Stock Option Plan or Scheme of the said company", the words and figures "the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme, offered to such employees in accordance with the guidelines issued by the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992)" shall be substituted;

(*ii*) after sub-clause (*vii*), the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:—

"(*viii*) the value of any other fringe benefit or amenity as may be prescribed.";

(*b*) in clause (3), after sub-clause (*ii*) and the *Explanation* relating thereto, the following sub-clause shall be inserted with effect from the 1st day of April, 2002, namely:—

"(*iii*) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(*A*) before his joining any employment with that person; or

(*B*) after cessation of his employment with that person.".

NOTES

Clause 13 seeks to amend section 17 of the Income-tax Act relating to the definitions of "salary", "perquisite" and "profits in lieu of salary".

Under the existing provision contained in clause (2) of the said section, the value of any benefit or amenity granted or provided free of cost or at concessional rate by an employer to an employee (not being a director of a company or a person who has a substantial interest in the company) is not regarded as "perquisite" received by the employee where the salary exclusive of the value of perquisites other than by way of monetary payment of such employee does not exceed twenty-four thousand rupees.

Sub-clause (*a*) seeks to amend item (*c*) of sub-clause (*iii*) of clause (2) to increase the monetary limit of salary from twenty-four thousand rupees to fifty thousand rupees and also seeks to insert a new sub-clause (*viii*) in the said clause (2) so as to provide that the value of any fringe benefit or amenity provided to an employee shall be determined in such manner as may be prescribed.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in sub-clause (*iii*) of clause (2) of the said section, the value of any benefit or amenity granted or provided free of cost or at concessional rate in the cases specified therein shall be included in the perquisite. The proviso to sub-clause (*iii*) provides that the said sub-clause (*iii*) shall not apply to the value of any benefit provided directly or indirectly by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants under the Employees' Stock Option Plan or Scheme of the said company.

It is further proposed to amend the proviso to sub-clause (*iii*) to provide that the provision contained in the said

sub-clause (*iii*) shall not apply if the shares, debentures or warrants are allotted by a company to its employees under the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme in accordance with the guidelines issued by the Securities and Exchange Board of India.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

It is also proposed to insert a new sub-clause (*viii*) in clause (2).

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*b*) seeks to insert a new sub-clause (*iii*) in clause (3) of the said section so as to include any amount due to or received, whether in lump sum or otherwise, by any assessee from any person before joining any employment, or after cessation of such employment as income of that person under the head "Salaries".

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Substitution of new section for section 23.

14. For section 23 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:—

"23. *Annual value how determined.*—(1) For the purposes of section 22, the annual value of any property shall be deemed to be—

(*a*) the sum for which the property might reasonably be expected to let from year to year; or

(*b*) where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (*a*), the amount so received or receivable; or

(*c*) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (*a*), the amount so received or receivable:

Provided that the taxes levied by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (*b*) or clause (*c*) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules as may be made in this behalf, the amount of rent which the owner cannot realise.

(2) Where the property consists of a house or part of a house which—

(*a*) is in the occupation of the owner for the purposes of his own residence; or

(*b*) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house or part of the house shall be taken to be nil.

(3) The provisions of sub-section (2) shall not apply if—

(*a*) the house or part of the house is actually let during the whole or any part of the previous year; or

(*b*) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than one house—

(*a*) the provisions of that sub-section shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf;

(*b*) the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (*a*), shall be determined under sub-section (1) as if such house or houses had been let.".

NOTES

Clause 14 seeks to substitute new section for section 23 of the Income-tax Act relating to determination of annual value of house property.

The existing provision of the said section provides for the determination of annual value of a property in certain circumstances including where the property is let, or is self-occupied, or is vacant, or is partially let, or is let for part of the year. The annual value so determined is subject to the deductions allowable under section 24, including deductions on account of vacancy for any part of the year in respect of the property let, and on account of rent which cannot be realised.

It is proposed to substitute the said section so as to provide for determination of annual value in certain circumstances specified in the proposed new section after allowing deductions in computing the annual value on account of vacancy and unrealised rent.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Substitution of new section for section 24.

15. For section 24 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:—

'24. *Deductions from income from house property.*—Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(*a*) a sum equal to thirty per cent of the annual value;

(*b*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23; the amount of deduction shall not exceed thirty thousand rupees :

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st day of April, 2003, the amount of deduction under this clause shall not exceed one lakh fifty thousand rupees.

Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years.'.

NOTES

Clause 15 seeks to substitute new section for section 24 of the Income-tax Act relating to deductions from income from house property.

Under the existing provisions contained in the said section, the income chargeable under the head "Income from house property" is, in certain cases, computed after making deductions of one-fourth of the annual value in respect of repairs of, and collection of rent from, the property; the amount of insurance premium paid; any annual charge in respect of the property (not being a charge created by the assessee voluntarily or a capital charge); ground rent; interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing the property; land revenue or any other tax levied by the State Government; part of the annual value proportionate to the period during which a property which is let was vacant; and the amount of rent subject to rules made in this behalf which the assessee cannot realise.

It is proposed to substitute the said section so as to provide for a deduction of an amount equal to thirty per cent of the annual value while computing the income chargeable under the head "Income from house property".

It is also proposed, *inter alia,* to provide for a deduction up to an amount of one lakh fifty thousand rupees payable as interest on capital borrowed on or after 1st April, 1999 for the acquisition and construction of a property, where such acquisition or construction is completed before 1st April, 2003 and to be occupied or occupied by the assessee for his own residence.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 25.

16. In section 25 of the Income-tax Act, the words "annual charge or" shall be omitted with effect from the 1st day of April, 2002.

NOTES

Clause 16 seeks to amend section 25 of the Income-tax Act relating to amounts not deductible from income from house property.

Under the existing provision of the said section, any annual charge or interest chargeable to tax under the Income-tax Act, which is payable outside India, on which tax has not been paid or deducted under Chapter XVIIB of the said Act and in respect of which there is no person in India who may be treated as an agent under section 163, shall not be deducted in computing the income chargeable under the head "Income from house property".

It is proposed to omit reference to annual charge in the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 25A.

17. In section 25A of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) after the words, brackets and figures "under clause (*x*) of sub-section (1) of section 24", the words and figures "as it stood immediately before its substitution by the Finance Act, 2001" shall be inserted;

(*b*) after the words and figures "under section 23 or section 24", the words and figures "as it stood immediately before its substitution by the Finance Act, 2001" shall be inserted.

NOTES

Clause 17 seeks to amend section 25A of the Income-tax Act relating to special provision for cases where unrealised rent allowed as deduction is realised subsequently.

Under the existing provision contained in the said section, where a deduction has been made under section 24 in the assessment for any year in respect of rent from property which the assessee cannot realise, and subsequently during any previous year, the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and shall be charged to tax without making any deduction under section 23 or section 24 as the income of that previous year, whether the assessee is the owner of the property in that year or not.

It is proposed to amend the said section so as to provide that the provision of this section shall apply so far as it relates to deduction under section 23 or section 24, as it stood immediately before its substitution proposed in the Bill. Sections 23 and 24 of the Income-tax Act are proposed to be substituted vide clauses 14 and 15 of the Bill. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Insertion of new section 25AA.

18. After section 25A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

'25AA. *Unrealised rent received subsequently to be charged to income-tax.*—Where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in

which such rent is realised whether or not the assessee is the owner of that property in that previous year.'.

NOTES

Clause 18 seeks to insert a new section 25AA in the Income-tax Act relating to unrealised rent received subsequently to be charged to income-tax.

It is proposed to insert a new section to provide that where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year. Sections 23 and 24 are proposed to be substituted vide clauses 14 and 15 of the Bill. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 25B.

19. In section 25B of the Income-tax Act, for the words "a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property", the words "a sum equal to thirty per cent of such amount" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 19 seeks to amend section 25B of the Income-tax Act relating to special provision for arrears of rent received.

Under the existing provision, where the assessee receives any amount by way of arrears of rent from property not charged to income-tax for any previous year, the amount received, after deducting a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property is deemed to be the income chargeable under the head "Income from house property" of the year in which such rent is received.

It is proposed to amend the said section to provide that the amount of arrears of rent so received, after deducting a sum equal to thirty per cent of such amount instead of the said one-fourth of such amount, shall be deemed to be such income chargeable under the head "Income from house property" of such previous year. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 27.

20. In section 27 of the Income-tax Act, clauses (*iv*) and (*v*) shall be omitted with effect from the 1st day of April, 2002.

NOTES

Clause 20 seeks to amend section 27 of the Income-tax Act relating to the definition of the expressions "owner of house property" and "annual charge", etc.

The existing provision of the said section provides definitions, *inter alia,* of the expressions "annual charge" and "capital charge".

It is proposed to omit definitions of the expressions "annual charge" and "capital charge". The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 32.

21. In section 32 of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) in sub-section (1), in clause (*ii*), after Explanation 4, the following Explanation shall be inserted, namely:—

"*Explanation 5.*—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;";

(*b*) for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.".

NOTES

Clause 21 seeks to amend section 32 of the Income-tax Act relating to depreciation.

Sub-clause (*a*) seeks to insert a new *Explanation 5* in clause (*ii*) of sub-section (1) of the said section so as to clarify that the provisions of sub-section (1) of section 32 shall apply whether or not the assessee has claimed the deduction for depreciation in computing his total income.

Sub-clause (*b*) seeks to substitute sub-section (2) so as to provide that where full effect cannot be given to the depreciation allowance in any previous year owing to there being no profits or gains chargeable for that previous year or owing to the profits or gains chargeable being less than the allowance, the depreciation allowance or part thereof to which effect has not been given shall be added to the amount of allowance for depreciation for the following previous year, or for the succeeding previous years till such time the full effect has been given to the depreciation allowance claimed by the assessee.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 33AB.

22. In section 33AB of the Income-tax Act, in sub-section (1), for the words "a sum equal to twenty per cent of the profits", the words "a sum equal to forty per cent of the profits" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 22 seeks to amend section 33AB of the Income-tax Act relating to tea development account.

Under the existing provision contained in sub-section (1), if an assessee carrying on the business of growing and manufacturing tea in India has, during the previous year, deposited with the National Bank for Agriculture and Rural Development any amount in a special account maintained by such assessee with that Bank in accordance with the scheme approved in this behalf by the Tea Board or if an assessee opens an account, to be known as Tea Deposit Account, in accordance with a scheme framed by the Tea Board with the previous approval of the Central Government, such assessee is allowed a deduction of the amount so deposited during the previous year or twenty per cent of the profits from the business of growing or manufacturing tea in India, whichever is less.

It is proposed to amend the said sub-section (1) so as to enhance the said limit of deduction from twenty per cent to forty per cent.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 35.

23. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) in sub-section (2AA),—

(*i*) for the words "University or an Indian Institute of Technology", the words "University or an Indian Institute of Technology or a specified person" shall be substituted; (*ii*) in the *Explanation,* after clause (*c*), the following clause shall be inserted, namely:—

'(*d*) "specified person" means such person as is approved by the prescribed authority.';

(*b*) in sub-section (2AB),—

(*i*) in clause (1), for the words "engaged in the business of", the words "engaged in the business of bio-technology or in the business of" shall be substituted;

(*ii*) after clause (1), the following *Explanation* shall be inserted, namely:—

'*Explanation.*—For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).'.

NOTES

Clause 23 seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

Under the existing provision contained in sub-section (2AA), any sum paid by an assessee to an approved National Laboratory or a University or an Indian Institute of Technology for carrying out approved programme of scientific research is eligible for weighted deduction of one and one-fourth times of the sum so paid.

Sub-clause (*a*) proposes to extend the said sub-section to such specified persons as may be approved by the prescribed authority.

Under the existing provision contained in clause (1) of sub-section (2AB), a company engaged in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board is allowed a deduction of a sum equal to one and one-half times of the expenditure incurred by it on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility, as approved by the prescribed authority.

Sub-clause (*b*) proposes to amend the said clause so as to allow the aforesaid deduction to a company engaged in the business of bio-technology also.

This sub-clause also proposes to insert an *Explanation* to clause (1) of sub-section (2AB) so as to provide that the expenditure on scientific research on in-house research and development in relation to drugs and pharmaceuticals under the said clause shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Insertion of new section 35DDA.

24. After section 35DD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

"35DDA. *Amortisation of expenditure incurred under voluntary retirement scheme.*—(1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided that such payment is made under the scheme or schemes framed in accordance with the guidelines prescribed under the proviso to clause (10C) of section 10.

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

NOTES

Clause 24 seeks to insert a new section 35DDA in the Income-tax Act relating to amortisation of expenditure incurred under voluntary retirement scheme.

Sub-section (1) of the said new section proposes to provide that where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement under any scheme of voluntary retirement framed in accordance with the guidelines prescribed under clause (10C) of section 10, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.

Sub-section (2) of the said new section proposes to provide that no deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of the said Act.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent assessment years.

Amendment of section 43B.

25. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*i*) in clause (*e*), the word "or" shall be inserted at the end;

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

"(*f*) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee,";

(*iii*) in the first proviso, after the word, brackets and letter "clause (*e*)", the words, brackets and letter "or clause (*f*)" shall be inserted;

(*iv*) after *Explanation 3A,* the following *Explanation* shall be inserted, namely:—

"*Explanation 3B.*—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (*f*) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.".

NOTES

Clause 25 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be allowed only on actual payment.

Sub-clause (*ii*) of this clause seeks to insert a new clause (*f*) in section 43B so as to extend the scope of this section to include any sum payable by an employer in lieu of any leave at the credit of his employee as a deduction only in computing the income of that previous year in which such sum is actually paid.

Sub-clause (*iii*) seeks to insert the words, brackets and letter "or clause (*f*)" in the first proviso to the said section so as to make the proviso applicable to clause (*f*).

Sub-clause (*iv*) seeks to insert *Explanation 3B* so as to provide that where a deduction in respect of any sum referred to in clause (*f*) of the said section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent assessment years.

Amendment of section 44AB.

26. In section 44AB of the Income-tax Act,—

(*a*) in the second proviso, after the words "and a further report", the words "by an accountant" shall be inserted;

(*b*) in the *Explanation* occurring at the end, for clause (*ii*), the following clause shall be substituted, namely:—

'(*ii*) "specified date", in relation to the accounts of the previous year relevant to an assessment year, means, —

(*a*) where the assessee is a company, the 31st day of October of the assessment year;

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

NOTES

Clause 26 seeks to amend section 44AB of the Income-tax Act relating to audit of accounts of certain persons carrying on business or profession.

Under the existing provision contained in the second proviso to the said section, where a person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of that section if such person gets his accounts audited under such law before the specified date and furnishes by that date, the report of the audit as required under such other law and a further report in the form prescribed under the aforesaid section.

Sub-clause (*a*) proposes to amend the second proviso so as to provide that the said further report shall be furnished by an accountant.

Under the existing provision contained in clause (*ii*) of *Explanation* to the said section, the specified date in the case of an assessee being a company for getting his accounts of the previous year audited by an accountant and furnishing the report of such audit in the prescribed form is the 30th November of the assessment year and in any other case, the specified date is the 31st October of the assessment year.

Sub-clause (*b*) proposes to substitute the said clause (*ii*) of the *Explanation* to provide that the specified date in the case of an assessee being a company shall be the 31st October and in any other case the specified date shall be the 31st July of the assessment year.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 47.

27. In section 47 of the Income-tax Act,—

(*a*) in clause (*iii*), in the proviso, for the words "the Employees' Stock Option Plan or Scheme", the words and figures "the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme framed in accordance with the guidelines issued by the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992)" shall be substituted;

(*b*) in clause (*viia*), for the word "shares", the words "Global Depository Receipts" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 27 seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

Under the existing provision contained in clause (*iii*) of section 47, any transfer of a capital asset under a gift or will or an irrevocable trust is not regarded as transfer. The proviso to the said clause (*iii*) provides that the provisions contained in clause (*iii*) shall not apply to a transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under the Employees' Stock Option Plan or Scheme.

It is proposed to amend the said proviso to clause (*iii*) to provide that the provisions contained in that clause shall not apply if the shares, debentures or warrants are allotted by a company to its employees under the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme in accordance with the guidelines issued by the Securities and Exchange Board of India.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the

assessment year 2001-2002 and subsequent years.

Under the existing provisions contained in clause (*viia*) of section 47, any transfer of a capital asset, being bonds or shares referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident is not regarded as a transfer.

It is proposed to substitute section 115AC *vide* clause 47 of the Bill. As a consequence to this, it is proposed to substitute the word "shares" used in clause (*viia*) of section 47 with the words "Global Depository Receipts". The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 49.

28. In section 49 of the Income-tax Act, after sub-section (*2A*), the following sub-section shall be inserted, namely:—

"(*2AA*) Where the capital gain arises from the transfer of the shares, debentures or warrants, the value of which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such shares, debentures or warrants shall be the value under that clause.".

NOTES

Clause 28 seeks to amend section 49 of the Income-tax Act relating to cost with reference to certain modes of acquisition.

It is proposed to insert a new sub-section (2AA) to provide that where the capital gain arises from the transfer of a share, debenture or warrant, which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such share, debenture or warrant shall be the value under that sub-section.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 54EC.

29. In section 54EC of the Income-tax Act, in the *Explanation* occurring at the end, for clause (*b*), the following clause shall be substituted with effect from the 1st day of April, 2002, namely:—

'(*b*) "long-term specified asset" means any bond redeemable after three years, issued,—

(*i*) on or after the 1st day of April, 2000, by the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981) or by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988);

(*ii*) on or after the 1st day of April, 2001, by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956).'.

NOTES

Clause 29 seeks to amend section 54EC of the Income-tax Act which provides that the capital gain is not to be charged on investment in certain bonds.

The capital gain arising from the transfer of a long-term capital asset is exempt from tax if such capital gain is invested in a long-term specified asset, being any bond redeemable after three years, issued on or after 1st April, 2000 by the National Bank for Agriculture and Rural Development or the National Highways Authority of India.

It is proposed to substitute item (*b*) of the *Explanation* below sub-section (3) of the said section to extend the benefit of exemption under the said section to the bonds of the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956, if the capital gain arising from the transfer of a long-term capital asset is invested in a long-term specified asset, being any bond redeemable after three years, issued on or after 1st April, 2001, by the said Corporation.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Insertion of new section 54ED.

30. After section 54EC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

'54ED. *Capital gain on transfer of certain listed securities or unit, not to be charged in certain cases.*—(1) Where the capital gain arises from the transfer of a long-term capital asset, being listed securities or unit (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares being hereafter in this section referred to as the specified equity shares), the said capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the specified equity shares is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the specified equity shares is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the specified equity shares acquired bears to the whole of the capital gain shall not be charged under section 45.

Explanation.—For the purposes of this sub-section—

(*i*) "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:—

(*a*) the issue is made by a public company formed and registered in India;

(*b*) the shares forming part of the issue are offered for subscription to the public;

(*ii*) "listed securities" shall have the same meaning as in clause (*a*) of the *Explanation* to sub-section (1) of section 112;

(*iii*) "unit" shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 115AB.

(2) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.

(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 deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.'.

NOTES

Clause 30 seeks to insert section 54ED in the Income-tax Act to provide that capital gain on transfer of certain listed securities or units shall not be charged in certain cases.

Sub-section (1) of the proposed new section seeks to provide that the capital gain arising from transfer of a long-term capital asset, being listed securities or unit of a mutual fund or of the Unit Trust of India shall be exempt from tax if such capital gain is invested in equity shares forming part of an eligible issue of capital, offered for subscription to the public. If part of the capital gain is so invested in acquiring the said equity shares, proportionate exemption will be available.

Explanation to the proposed sub-section (1) defines the expressions "eligible issue of capital", "listed securities" and "unit" for the purposes of the said sub-section.

Sub-section (2) of the proposed new section seeks to provide that the exemption allowed under sub-section (1) will be subject to the condition that the said equity shares are held for a minimum period of one year, failing which the exemption allowed on the basis of such investment will be disallowed and the amount so disallowed will be

deemed to be the income chargeable to tax under the head “Capital gains” of the previous year in which such equity shares are sold or otherwise transferred.

Sub-section (3) of the proposed new section seeks to provide that 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 deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 54H.

31. In section 54H of the Income-tax Act, for the figures and letters “54EA, 54EB”, the figures and letters “54EC” shall be substituted.

NOTES

Clause 31 seeks to amend section 54H of the Income-tax Act relating to extension of time for acquiring new asset or depositing or investing amount of capital gain.

Under the existing provisions contained in section 54H, where the transfer of original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of acquiring the new asset by the assessee referred to in sections 54, 54B, 54D, 54EA, 54EB and 54F or, as the case may be, the period available to the assessee under the said sections, for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of transfer, shall be reckoned from the date of receipt of such compensation. Section 54EC was inserted by the Finance Act, 2000 to provide for exemption from tax on long-term capital gains on investments in select bonds, directed exclusively at agricultural and rural finance and highway infrastructure. Sections 54EA and 54EB were omitted by the said Act.

It is proposed to omit reference to sections 54EA and 54EB and insert reference to section 54EC in section 54H. The proposed amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 55.

32. In section 55 of the Income-tax Act, in sub-section (2), in clause (*a*), after the words “goodwill of a business”, the words “or a trade mark or brand name associated with a business” shall be inserted with effect from the 1st day of April, 2002.

NOTES

Clause 32 seeks to amend section 55 of the Income-tax Act relating to meaning of the expressions “adjusted”, “cost of improvement” and “cost of acquisition”.

Under the existing provision contained in clause (*a*) of sub-section (2), the cost of acquisition in relation to a capital asset, being goodwill of a business or a right to manufacture, produce or process any article or thing, tenancy rights, stage carriage permits or loom hours, shall be taken to be the purchase price in case the asset is purchased by the assessee from a previous owner and in any other case such cost shall be taken to be *nil*.

It is proposed to amend clause (*a*) of sub-section (2) to provide that the cost of acquisition in relation to a trade mark or brand name associated with a business shall also be taken to be the purchase price in case the asset is purchased from a previous owner and *nil* in any other case.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 72A.

33. In section 72A of the Income-tax Act, in sub-section (7), after clause (*a*), the following clause shall be inserted

and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

'(*aa*) "industrial undertaking" means any undertaking which is engaged in—

(*i*) the manufacture or processing of goods; or

(*ii*) the manufacture of computer software; or

(*iii*) the business of generation or distribution of electricity or any other form of power; or

(*iv*) mining; or

(*v*) the construction of ships, aircrafts or rail systems;'.

NOTES

Clause 33 seeks to amend section 72A of the Income-tax Act relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

Under the existing provision contained in sub-section (1), the set-off and carry forward of loss and allowance for depreciation under the Income-tax Act is allowed in the case of an amalgamation of a company owning an industrial undertaking or a ship with another company.

It is proposed to amend sub-section (7) to define the expression "industrial undertaking" so as to mean any undertaking engaged in the manufacture or processing of goods or the manufacture of computer software or the business of generation or distribution of electricity or any other form of power or mining or the construction of ships, aircrafts or rail systems.

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years.

Amendment of section 80CCC.

34. In section 80CCC of the Income-tax Act, in sub-section (1), after the words "Life Insurance Corporation of India", the words "or any other insurer" shall be inserted with effect from the 1st day of April, 2002.

NOTES

Clause 34 seeks to amend section 80CCC of the Income-tax Act, relating to deduction in respect of contribution to certain pension funds.

Under the existing provision contained in sub-section (1), an individual is eligible for deduction of any amount paid or deposited by him in an annuity plan of the Life Insurance Corporation of India for receiving pension from a fund set up by the said Corporation, referred to in clause (*23AAB*) of section 10. The deduction shall be restricted to ten thousand rupees.

The proposed amendment seeks to provide that any amount paid or deposited for keeping in force any annuity plan of any other insurer shall also be eligible for deduction.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80D.

35. In section 80D of the Income-tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 2002, namely:—

"**Provided** that such insurance shall be in accordance with a scheme framed in this behalf by—

(*a*) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or

(*b*) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).".

NOTES

Clause 35 seeks to amend section 80D of the Income-tax Act, relating to deduction in respect of medical insurance premia.

Under the existing provision contained in the said section, deduction of a sum not exceeding fifteen thousand rupees paid to effect or keep in force an insurance on the health of the assessee or his wife or her husband, or dependant parent or any member of his family who is a senior citizen, is allowed if such insurance is in accordance with a scheme framed in this behalf by the General Insurance Corporation of India and approved by the Central Government in this behalf.

It is proposed to substitute the proviso to sub-section (2) of the said section to provide that the amount paid under any scheme of any other insurer which is approved by the Insurance Regulatory and Development Authority shall also be eligible for deduction.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80DD.

36. In section 80DD of the Income-tax Act, in sub-section (1), in clause (*b*), for the words "Unit Trust of India", the words "any other insurer or Unit Trust of India" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 36 seeks to amend section 80DD of the Income-tax Act, relating to deduction in respect of maintenance including medical treatment of handicapped dependant.

The existing provision contained in the said section provides for a deduction in respect of maintenance including medical treatment of handicapped dependant provided such amount is deposited in a scheme framed in this behalf by the Life Insurance Corporation of India or the Unit Trust of India.

The proposed amendment seeks to provide that the amount deposited in any scheme of any other insurer who is approved by the Insurance Regulatory and Development Authority shall also be eligible for deduction.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80G.

37. In section 80G of the Income-tax Act, with effect from the 1st day of April, 2002,—

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

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

"(*iiihj*) the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); or".

NOTES

Clause 37 seeks to amend section 80G of the Income-tax Act, relating to deduction in respect of donations to certain funds, charitable institutions, etc.

Under the existing provisions, an assessee is allowed a deduction from his total income in respect of donations made by him. In respect of donations to certain funds, hundred per cent deduction is allowed.

It is proposed by clauses (*a*) and (*b*) to provide hundred per cent deduction in respect of donations made to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted by the Central Government under sub-section (1) of section 3 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year

2002-2003 and subsequent years.

Amendment of section 80GG.

38. In section 80GG of the Income-tax Act, in the proviso, in clause (*ii*), for the words, brackets, figures and letters "under sub-clause (*i*) of clause (*a*) or, as the case may be, clause (*b*) of sub-section (2) of section 23", the words, brackets, letters and figures "under clause (*a*) of sub-section (2) or, as the case may be, clause (*a*) of sub-section (4) of section 23" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 38 seeks to amend section 80GG of the Income-tax Act relating to deductions in respect of rents paid.

Under the existing provision contained in the said section, in computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, a deduction is allowable in respect of expenditure incurred by him towards payment of rent in respect of any residential accommodation occupied by him to the extent of the limits specified in the said section. However, such deduction is not allowable if any residential accommodation is owned, *inter alia,* by the assessee at the place where he ordinarily resides, etc., or is owned by the assessee at any other place being accommodation in the occupation of the assessee, the value of which is to be determined under sub-clause (*i*) of clause (*a*) or, as the case may be, clause (*b*) of sub-section (2) of section 23.

Clause 14 of the Bill seeks to substitute section 23 by a new section. It is, accordingly, proposed to amend section 80GG to substitute reference of new section 23. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80HHE.

39. In section 80HHE of the Income-tax Act, after sub-section (1), the following Explanation shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.".

NOTES

Clause 39 seeks to amend section 80HHE of the Income-tax Act relating to deduction in respect of profits from export of computer software, etc.

It is proposed to insert an *Explanation* after sub-section (1) of the said section so as to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 80-IA.

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

(*a*) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2002, namely:—

"(1) Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (4) (such business being hereinafter referred to as the eligible business), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent of profits and gains derived from such business for ten consecutive assessment years.";

(*b*) in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of

April, 2002, namely:—

'**Provided** that where the assessee develops or operates and maintains or develops, operates and maintains any infrastructure facility referred to in clause (*a*) or clause (*b*) or clause (*c*) of the *Explanation* to clause (*i*) of sub-section (4), the provisions of this sub-section shall have effect as if for the words "fifteen years", the words "twenty years" had been substituted.';

(*c*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), the deduction in computing the total income of an undertaking providing telecommunication services, specified in clause (*ii*) of sub-section (4), shall be hundred per cent of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent of such profits and gains for further five assessment years.";

(*d*) in sub-section (3), for the words "industrial undertaking" wherever they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(*e*) in sub-section (4),—

(*i*) in clause (*i*),—

(*A*) for the words, brackets and figures "of (*i*) developing, (*ii*) maintaining and operating or (*iii*) developing, maintaining and operating" , the words, brackets and figures "of (*i*) developing or (*ii*) operating and maintaining or (*iii*) developing, operating and maintaining" shall be substituted with effect from the 1st day of April, 2002;

(*B*) for sub-clause (b), the following sub-clause shall be substituted with effect from the 1st day of April, 2002, namely:—

"(*b*) it has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for (*i*) developing or (*ii*) operating and maintaining or (*iii*) developing, operating and maintaining a new infrastructure facility;";

(*ii*) for the *Explanation,* the following *Explanation* shall be substituted with effect from the 1st day of April, 2002, namely:—

'*Explanation.*—For the purposes of this clause, "infrastructure facility" means—

(*a*) a road including toll road, a bridge or a rail system;

(*b*) a highway project including housing or other activities being an integral part of the highway project;

(*c*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(*d*) a port, airport, inland waterway or inland port.';

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

"(*ii*) any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services on or after the 1st day of April, 1995, but on or before the 31st day of March, 2003;";

(*iv*) in clause (*iii*),—

(*A*) after the words "an industrial park", the words "or special economic zone" shall be inserted with effect from the 1st day of April, 2002;

(*B*) for the words, figures and letters "the 31st day of March, 2002", the words, figures and letters "the 31st day of March, 2006" shall be substituted;

(*v*) in clause (*iv*),—

(*A*) for the words "industrial undertaking" at both the places where they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(*B*) in sub-clauses (*a*) and (b), for the words, figures and letters "ending on the 31st day of March, 2003" the words, figures and letters "ending on the 31st day of March, 2006" shall be substituted with effect from the 1st day of April, 2002;

(*f*) in sub-section (7), for the words "industrial undertaking" at both the places where they occur, the word "undertaking" shall be substituted with effect from the 1st day of April, 2002;

(*g*) in sub-section (8), with effect from the 1st day of April, 2002,—

(*i*) for the word “goods” wherever it occurs, the words “goods or services” shall be substituted;

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

‘*Explanation.*—For the purposes of this sub-section, “market value”, in relation to any goods or services, means the price that such goods or services would ordinarily fetch in the open market.’;

(*h*) in sub-section (9), for the words “industrial undertaking” at both the places where they occur, the word “undertaking” shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 40 seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Under the existing provision contained in sub-section (1), the deduction of hundred per cent of profits and gains for the first five assessment years and thereafter twenty-five per cent is allowed.

Sub-clause (*a*) proposes to substitute the said sub-section (1) so as to provide a deduction of hundred per cent of profits and gains for ten consecutive assessment years for the undertakings referred in the said sub-section.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Under the existing provision contained in the proviso to sub-section (2), an assessee at his option can claim deduction for any ten consecutive assessment years out of twenty years beginning from the year in which the undertaking or the enterprise is engaged in a highway project including housing or other activities being integral part of the highway project.

Sub-clause (*b*) proposes to substitute the said proviso to provide that where the assessee develops, or operates and maintains or develops, operates and maintains any infrastructure facility being (*a*) a road including toll road, a bridge or a rail system; (*b*) a highway project including housing or other activities being integral part of the highway project; and (*c*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system, he may at his option claim deduction for any ten consecutive assessment years out of twenty years beginning from the year in which the undertaking or the enterprise is engaged in the said infrastructure facility. For infrastructure facility being port, airport, inland waterway or inland port, ten year tax holiday may be availed in a block of fifteen years.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*c*) proposes to insert new sub-section (2A) to provide that an undertaking providing telecommunication services, specified in clause (*ii*) of sub-section (4) shall be allowed hundred per cent deduction of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent of such profits and gains for further five assessment years.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Sub-clause (*d*) proposes, *inter alia,* to amend sub-section (3) by substituting the word “undertaking” for the words “industrial undertaking”.

It is also proposed to substitute item (*b*) of sub-clause (*i*) of sub-section (4) to do away with the condition that the infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body as is specified under the existing provisions.

This sub-clause also proposes to substitute the *Explanation* of infrastructure facility to mean (*a*) a road including toll road, a bridge or a rail system; (*b*) a highway project including housing or other activities being integral part of the highway project; (*c*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and (*d*) port, airport, inland waterways or inland port.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment

year 2002-2003 and subsequent years.

Under the existing provision contained in clause (*ii*) in sub-section (4), any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service, network of trunking, and electronic data interchange services at any time on or after 1st April, 1995, but before 31st March, 2000, is allowed deduction. It is proposed to substitute the said clause (*ii*) so as to include "broadband network" and "internet services" for the purposes of eligibility for deduction and also extend the said time limit up to the 31st March, 2003.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Under the existing provision contained in clause (*iii*) of sub-section (4), deduction is available to an undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government. It is proposed to include special economic zone to provide the same benefits as are available to such industrial park. It is further proposed to extend the period available to 31st March, 2006.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*e*) also proposes to amend clause (*iv*) by substituting the word "undertaking" for the words "industrial undertaking". It is further proposed to extend the period available for the undertaking engaged in generation, generation and distribution, laying a network of transmission or distribution lines from the 31st March, 2003 to the 31st March, 2006.

This amendment will take effect from the 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*f*) seeks to amend sub-section (7) by substituting the word "undertaking" for the words "industrial undertaking".

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*g*) seeks to amend sub-section (8) to include "services" for the purposes of the sub-section.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (*h*) seeks to amend sub-section (9) by substituting the word "undertaking" for the words "industrial undertaking".

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80-IB.

41. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) in sub-section (1), for the brackets, figures and word "(3) to (11)", the brackets, figures, words and letter "(3) to (11) and (*11A*)" shall be substituted;

(*b*) after sub-section (11), the following sub-section shall be inserted, namely:—

"(11A) The amount of deduction in a case of an undertaking deriving profit from the integrated business of handling, storage and transportation of woodgrains, shall be hundred per cent of the profits and gains derived from such undertaking for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten consecutive assessment years and subject to fulfilment of the condition that it begins to operate such business on or after the 1st day of April, 2001.";

(*c*) in sub-section (14), in clause (*c*), after sub-clause (*iii*), the following sub-clause shall be inserted at the end, namely:—

"(*iv*) in the case of an undertaking engaged in the integrated business of handling, storage and transportation of foodgrains, means the assessment year relevant to the previous year in which the undertaking begins such business.".

NOTES

Clause 41 seeks to amend section 80-IB of the Income-tax Act relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Sub-clause (*a*) seeks to insert the reference of the proposed sub-section (11A) in sub-section (1) of the said section. The amendment is of consequential nature.

Sub-clause (*b*) seeks to insert a new sub-section (11A) in the said section so as to provide that an undertaking deriving profit from the integrated business of handling, storage and transportation of food grains, shall be allowed hundred per cent deduction of such profits and gains for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent (or thirty per cent where the assessee is a company) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten consecutive assessment years and subject to fulfilment of the condition that it begins to operate such business on or after 1st April, 2001.

Sub-clause (*c*) seeks to insert a new sub-clause (*iv*) in clause (*c*) of sub-section (14) to define the "initial assessment year" in relation to the integrated business of handling, storage and transportation of foodgrains.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 80L.

42. In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2002,—

(*a*) in clause (*x*), for the words "twelve thousand" at both the places where they occur, the words "nine thousand" shall be substituted;

(*b*) the proviso below clause (x) shall be omitted.

NOTES

Clause 42 seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

It is proposed to reduce the deduction allowed to an assessee in computing his total income from twelve thousand rupees to nine thousand rupees. It is also proposed to omit the proviso below clause (*x*) which allows additional deduction of three thousand rupees received as interest on Government securities.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 88.

43. In section 88 of the Income-tax Act, with effect from the 1st day of April, 2002,—

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

'**Provided further** that an individual shall be entitled to a deduction of an amount equal to thirty per cent of the aggregate of the sums referred to in sub-section (2) if his income chargeable under the head "Salaries"—

(*a*) does not exceed one lakh rupees during the previous year before allowing deduction under section 16; and

(*b*) is not less than ninety per cent of his gross total income as defined in sub-section (5) of section 80B.';

(*b*) in sub-section (2), in clause (*xiiia*), after the words "Life Insurance Corporation", the words "or any other insurer" shall be inserted.

NOTES

Clause 43 seeks to amend section 88 of the Income-tax Act, relating to rebate on life insurance premia, contribution to provident fund, etc.

Under the existing provision of section 88 of the Income-tax Act, a person is allowed tax rebate of twenty per cent on the investments made by him in a specified security up to the specified limit. Proviso to sub-section (1) of section 88 gives the benefit of higher rebate of twenty-five per cent in the case of sportsman, play-wright, author, etc.

Sub-clause (*a*) seeks to provide that in the case of an individual having income chargeable under the head "Salaries" which does not exceed one lakh rupees before allowing deduction under section 16 and which is not less than ninety per cent of his gross total income, the rate of rebate under section 88 shall be thirty per cent instead of twenty per cent.

The existing provision contained in clause (*xiiia*) of sub-section (2) provides for tax rebate in respect of any sum paid or deposited to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation of India as the Central Government may, by notification in the Official Gazette, specify.

Sub-clause (*b*) seeks to provide that the annuity plan of any other insurer approved by the Insurance Regulatory and Development Authority shall also be eligible for tax rebate.

These amendments will take effect from the 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Substitution of new sections for section 92.

44. For section 92 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 2002, namely:—

'92. *Computation of income from international transaction having regard to arm's length price.*—(1) Any income arising from an international transaction shall be computed having regard to the arm's length price.

(2) In computing income under sub-section (1), the allowance for any expense or interest shall also be determined having regard to the arm's length price.

(3) Where in an international transaction, two or more associated enterprises enter into a mutual agreement or arrangement for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises, the cost or expense allocated or apportioned to, or, as the case may be, contributed by, any such enterprise shall be determined having regard to the arm's length price of such benefit, service or facility, as the case may be.

92A. *Meaning of associated enterprise.*—(1) For the purposes of this section and sections 92, 92B, 92C, 92D, 92E and 92F, "associated enterprise", in relation to another enterprise, means an enterprise—

(*a*) which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise; or

(*b*) in respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise.

(2) Two enterprises shall be deemed to be associated enterprises if, at any time during the previous year,—

(*a*) one enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the other enterprise; or

(*b*) any person or enterprise holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in each of such enterprises; or

(*c*) a loan advanced by one enterprise to the other enterprise constitutes not less than fifty-one per cent of the book value of the total assets of the other enterprise; or

(*d*) one enterprise guarantees not less than ten per cent of the total borrowings of the other enterprise; or

(*e*) more than half of the board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of one enterprise, are appointed by the other enterprise; or

(*f*) more than half of the directors or members of the governing board, or one or more of the executive directors or members of the governing board, of each of the two enterprises are appointed by the same person or persons; or

(*g*) the manufacture or processing of goods or articles or business carried out by one enterprise is wholly dependent on the use of know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights; or

(*h*) ninety per cent or more of the raw materials and consumables required for the manufacture or processing of goods or articles carried out by one enterprise, are supplied by the other enterprise, or by persons specified by the other enterprise, and the prices and other conditions relating to the supply are influenced by such other enterprise; or

(*i*) the goods or articles manufactured or processed by one enterprise, are sold to the other enterprise or to persons specified by the other enterprise, and the prices and other conditions relating thereto are influenced by such other enterprise; or

(*j*) where one enterprise is controlled by an individual, the other enterprise is also controlled by such individual or his relative or jointly by such individual and relative of such individual; or

(*k*) where one enterprise is controlled by a Hindu undivided family, the other enterprise is controlled by a member of such Hindu undivided family, or by a relative of a member of such Hindu undivided family, or jointly by such member and his relative; or

(*l*) where one enterprise is a firm, association of persons or body of individuals, the other enterprise holds not less than ten per cent interest in such firm, association of persons or body of individuals; or

(*m*) there exists between the two enterprises, any relationship of mutual interest, as may be prescribed.

92B. *Meaning of international transaction.*—(1) For the purposes of this section and sections 92, 92C, 92D and 92E, "international transaction" means a transaction between two or more associated enterprises, either or both of whom are non-residents, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses or assets of such enterprises and shall include a mutual agreement or arrangement between two or more associated enterprises for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.

(2) A transaction entered into by an enterprise with a person other than an associated enterprise shall, for the purposes of sub-section (1), be deemed to be a transaction entered into between two associated enterprises, if there exists a prior agreement in relation to the relevant transaction between such other person and the associated enterprise; or the terms of the relevant transaction are determined in substance between such other person and the associated enterprise.

92C. *Computation of arm's length price.*—(1) The arm's length price in relation to an international transaction shall be determined by any of the following methods, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or functions performed by such persons or such other relevant factors as the Board may prescribe, namely:—

(*a*) comparable uncontrolled price method;

(*b*) resale price method;

(*c*) cost plus method;

(*d*) profit split method;

(*e*) transactional net margin method;

(*f*) such other method as may be prescribed by the Board.

(2) The most appropriate method referred to in sub-section (1) shall be applied, for determination of arm's length price, in the manner as may be prescribed:

Provided that where more than one price may be determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices.

(3) Where during the course of any proceeding for the assessment of income, the Assessing Officer is, on the basis of material or information or document in his possession, of the opinion that—

(*a*) the price charged or paid in an international transaction has not been determined in accordance with sub-sections (1) and (2); or

(*b*) any information and document relating to an international transaction have not been kept and maintained by the assessee in accordance with the provisions contained in sub-section (1) of section 92D and the rules made in this behalf; or

(*c*) the information or data used in computation of the arm's length price is not reliable or correct; or

(*d*) the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under sub-section (3) of section 92D, the Assessing Officer may proceed to determine the arm's length price in relation to the said international transaction in accordance with sub-sections (1) and (2), on the basis of such material or information or document available with him:

Provided that an 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, why the arm's length price should not be so determined on the basis of material or information or document in the possession of the Assessing Officer.

(4) Where an arm's length price is determined by the Assessing Officer under sub-section (3), the Assessing Officer may compute the total income of the assessee having regard to the arm's length price so determined:

Provided that no deduction under section 10A or section 10B or under Chapter VI-A shall be allowed in respect of the amount of income by which the total income of the assessee is enhanced after computation of income under this sub-section.

92D. *Maintenance, keeping of information and document by persons entering into an international transaction.*—(1) Every person who has entered into an international transaction shall keep and maintain such information and document in respect thereof, as may be prescribed.

(2) Without prejudice to the provisions contained in sub-section (1), the Board may prescribe the period for which the information and document shall be kept and maintained under that sub-section.

(3) The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person who has entered into an international transaction to furnish any information or document in respect thereof, as may be prescribed under sub-section (1), within a period of thirty days from the date of receipt of a notice issued in this regard:

Provided that the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person, extend the period of thirty days by a further period not exceeding thirty days.

92E. *Report from an accountant to be furnished by persons entering into international transaction.*—Every person who has entered into an international transaction during a previous year shall obtain a report from an accountant and furnish such report on or before the specified date in the prescribed form duly signed and verified in the prescribed manner by such accountant and setting forth such particulars as may be prescribed.

92F. *Definitions of certain terms relevant to computation of arm's length price, etc.*—In sections 92, 92A, 92B, 92C, 92D and 92E, unless the context otherwise requires—

(*i*) "accountant" shall have the same meaning as in the *Explanation* below sub-section (2) of section 288;

(*ii*) "arm's length price" means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

(*iii*) "enterprise" means a person who is, or has been, or is proposed to be, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature, or any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process, of which the other enterprise is the owner or in respect of which the other enterprise has exclusive rights, or the provision of services of any kind, or in investment, or providing loan or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, whether such activity or business is carried on, directly or through one or more of its units or divisions or subsidiaries, or whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or places;

(*iv*) "specified date" means,—

(*a*) where the assessee is a company, the 31st day of October of the relevant assessment year;

(*b*) in any other case, the 31st day of July of the relevant assessment year;

(*v*) "transaction" includes an arrangement, understanding or action in concert,—

(*A*) whether or not such arrangement, understanding or action is formal or in writing; or

(*B*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceeding.'.

NOTES

Clause 44 seeks to substitute section 92 of the Income-tax Act, relating to income from transactions with non-residents, how computed in certain cases.

It is proposed to substitute the said section by new sections 92, 92A, 92B, 92C, 92D, 92E and 92F relating to computation of income from international transactions having regard to the arm's length price, meaning of associated enterprise, meaning of international transaction, computation of arm's length price, maintenance of information and documents by persons entering into international transactions, furnishing of a report from an accountant by persons entering into international transaction and definitions of certain expressions occurring in the new sections.

It is proposed to substitute section 92 by a new section to provide that any income arising from an international transaction shall be computed having regard to arm's length price. It further provides that the cost or expenses allocated or apportioned between two or more associated enterprises shall be at arm's length price.

The proposed new sections 92A and 92B provide meanings of the expressions "associated enterprise" and "international transaction" with reference to which the income is to be computed under the new section 92.

The proposed new section 92C provides for computation of arm's length price. The section provides that the arm's length price in relation to an international transaction shall be determined by (*a*) comparable uncontrolled price method; or (*b*) resale price method; or (*c*) cost plus method; or (*d*) profit split method; or (*e*) transactional net margin method; or (*f*) any other method which may be prescribed by the Central Board of Direct Taxes. One of these methods shall be the most appropriate method which shall be applied for computation of arm's length price in the manner as may be specified by the rules to be made by the Central Board of Direct Taxes in this behalf. In a case where more than one price can be determined by the most appropriate method, in such case the arm's length price shall be the arithmetical mean of such two or more prices. The new section further provides that where during the course of any proceeding for the assessment of income the Assessing Officer is, on the basis of material or information or document in his possession, of the opinion that the price charged in the international transaction has not been determined in accordance with sub-sections (1) and (2) or information and documents relating to the international transaction have not been kept and maintained by the assessee in accordance with the provisions contained in sub-section (1) of section 92D, and the rules made in this behalf or the information or data used in computation of the arm's length price is not reliable or correct or the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under sub-section (3) of section 92D, the Assessing Officer may proceed to determine, after giving an opportunity of being heard to the assessee, the arm's length price in relation to the said transaction in accordance with sub-sections (1) and (2) of this section, on the basis of such material or information or documents available with him.

The new section 92D seeks to provide that every person who has entered into an international transaction shall keep and maintain such information and documents as may be specified by rules made by the Central Board of Direct Taxes. The Central Board of Direct Taxes may also specify by the rules the period for which the information and documents are required to be retained. During the course of any proceedings under the Act, an Assessing Officer or Commissioner (Appeals) may require any person who has entered into an international transaction to furnish any of the information and documents specified under the rules within a period of thirty days from the date of receipt of a notice issued in this regard, and such period may be extended by a further period not exceeding thirty days.

The new section 92E seeks to provide that every person who has entered into an international transaction during a previous year shall obtain a report of an accountant and furnish such report on or before the specified date in the prescribed form and manner.

The new section 92F defines the expressions “accountant”, “arm’s length price”, “enterprise”, “specified date” and “transaction” used in the proposed new sections 92, 92A, 92B, 92C, 92D and 92E.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 94.

45. In section 94 of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) after sub-section (6) but before the *Explanation,* the following sub-section shall be inserted, namely:—

“(7) Where—

(*a*) any person buys or acquires any securities or unit within a period of three months prior to the record date;

(*b*) such person sells or transfers such securities or unit within a period of three months after such date;

(*c*) the dividend or income on such securities or unit received or receivable by such person is exempt,

then, the loss, if any, arising to him on account of such purchase and sale of securities or unit, to the extent such loss does not exceed the amount of dividend or income received or receivable on such securities or unit, shall be ignored for the purposes of computing his income chargeable to tax.”;

(*b*) in the *Explanation* occurring at the end,—

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

‘(*aa*) “record date” means such date as may be fixed by a company or a Mutual Fund or the Unit Trust of India for the purposes of entitlement of the holder of the securities or the unit-holder, to receive dividend or income, as the case may be;’;

(*ii*) after clause (*c*), the following clause shall be inserted at the end, namely:—

‘(*d*) “unit” shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 115AB.’.

NOTES

Clause 45 seeks to amend section 94 of the Income-tax Act, relating to avoidance of tax by certain transactions in securities.

Under the existing provision contained in the said section, transactions of sale and purchase of securities which result in the interest or dividend in respect of such securities being received by a person not being the owner of the securities, are to be ignored and the interest or dividend from such securities is required to be included in the total income of the owner.

Sub-clause (*a*) seeks to insert a new sub-section (7) in the said section so as to provide that where any person buys or acquires securities or unit within a period of three months prior to the record date fixed for declaration of dividend or distribution of income in respect of the securities or unit, and sells or transfers the same within a period of three months after such record date, and the dividend or income received or receivable is exempt, then, the loss, if any, arising from such purchase or sale shall be ignored to the extent such loss does not exceed the amount of such dividend or interest, in the computation of the income, chargeable to tax, of such person.

Sub-Clause (*b*) seeks to insert new expressions “record date” and “unit” as clauses (*aa*) and (*d*) in the *Explanation*.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 115AB.

46. In section 115AB of the Income-tax Act, in the *Explanation,* in clause (*a*), for the words “Central Government”, the words and figures “Securities and Exchange Board of India, established under the Securities and Exchange Board of India Act, 1992 (15 of 1992),” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 46 seeks to amend section 115AB of the Income-tax Act relating to tax on income from units purchased in foreign currency or capital gains arising from their transfer.

Explanation (*a*) to section 115AB defines "overseas financial organisation" to mean any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India, which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified under clause (23D) of section 10 and such arrangement is approved by the Central Government for this purpose.

It is proposed to amend the said *Explanation* to provide that the Securities and Exchange Board of India shall be the authority to grant approval in respect of the above-mentioned arrangement instead of the Central Government.

This amendment will take effect from 1st June, 2001.

Substitution of new section for section 115AC.

47. For section 115AC of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2002, namely:—

'115AC. *Tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.*—(1) Where the total income of an assessee, being a non-resident, includes —

(*a*) income by way of interest on bonds of an Indian company issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, or on bonds of a public sector company sold by the Government, and purchased by him in foreign currency; or

(*b*) income by way of dividends, other than dividends referred to in section 115-O, on Global Depository Receipts—

(*i*) issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, against the initial issue of shares of an Indian company and purchased by him in foreign currency through an approved intermediary; or

(*ii*) issued against the shares of a public sector company sold by the Government and purchased by him in foreign currency through an approved intermediary; or

(*iii*) re-issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, against the existing shares of an Indian company purchased by him in foreign currency through an approved intermediary; or

(*iv*) issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, and purchased by him in foreign currency through an approved intermediary, against the shares of an Indian company arising out of disinvestment by such company in its subsidiary company, and the shares of both such Indian companies are listed in a recognised stock exchange in India; or

(*c*) income by way of long-term capital gains arising from the transfer of bonds referred to in clause (*a*) or, as the case may be, Global Depository Receipts referred to in clause (*b*),

the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated on the income by way of interest or dividends other than dividends referred to in section 115-O, as the case may be, in respect of bonds referred to in clause (*a*) or Global Depository Receipts referred to in clause (*b*), if any, included in the total income, at the rate of ten per cent;

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

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

(2) Where the gross total income of the non-resident—

(*a*) consists only of income by way of interest or dividends other than dividends referred to in section 115-O in respect of bonds referred to in clause (*a*) of sub-section (1) or, as the case may be, Global Depository Receipts referred to in clause (*b*) of that sub-section, no deduction shall be allowed to him

under sections 28 to 44C or clause (*i*) or clause (*iii*) of section 57 or under Chapter VI-A;

(*b*) includes any income referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (1), the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced, were the gross total income of the assessee.

(3) Nothing contained in the first and second provisos to section 48 shall apply for the computation of long-term capital gains arising out of the transfer of long-term capital asset, being bonds or Global Depository Receipts referred to in clause (*c*) of sub-section (1).

(4) It shall not be necessary for a non-resident to furnish under sub-section (1) of section 139 a return of his income if—

(*a*) his total income in respect of which he is assessable under this Act during the previous year consisted only of income referred to in clauses (*a*) and (*b*) of sub-section (1); and

(*b*) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.

(5) Where the assessee acquired Global Depository Receipts or bonds in an amalgamated or resulting company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company, as the case may be, in accordance with the provisions of sub-section (1), the provisions of that sub-section shall apply to such Global Depository Receipts or bonds.

Explanation.—For the purposes of this section,—

(*a*) "approved intermediary" means an intermediary who is approved in accordance with such scheme as may be notified by the Central Government in the Official Gazette;

(*b*) "Global Depository Receipts" shall have the same meaning as in clause (*a*) of the *Explanation* to section 115ACA.'.

NOTES

Clause 47 seeks to substitute section 115AC of the Income-tax Act relating to tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Sub-section (1) of the proposed new section seeks to provide that in the case of an assessee who is a non-resident assessee, the income-tax payable shall be the aggregate of—

(*i*) ten per cent of the income by way of interest in respect of bonds of an Indian company issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, and on bonds of public sector company sold by the Government and purchased by him in foreign currency, if any;

(*ii*) ten per cent of the income by way of dividends (other than dividends referred to in section 115-O) in respect of Global Depository Receipts of an Indian company—

(*a*) issued in accordance with a scheme notified by the Central Government in the Official Gazette against the initial issue of underlying shares of an Indian company and purchased by the non-resident in foreign exchange through an approved intermediary; or

(*b*) issued against the shares of a public sector company sold by the Government through an approved intermediary; or

(*c*) re-issued against the existing underlying shares of an Indian company in accordance with such scheme as the Central Government may notify in the Official Gazette, and purchased by the non-resident in foreign exchange through an approved intermediary; or

(*d*) issued against the shares of a listed Indian company on the disinvestments by such company of its shareholding in its listed subsidiary company, in accordance with such scheme as the Central Government may notify in the Official Gazette, and purchased by the non-resident in foreign exchange through an approved intermediary,

if any;

(*iii*) ten per cent in case of long-term capital gains arising from the transfer of the aforesaid bonds and Global Depository Receipts, if any, and

(*iv*) the amount of income-tax on the total income as reduced by the income from the said bonds and Global Depository Receipts.

Sub-section (2) of the proposed new section seeks to provide that in the case of the aforesaid non-resident assessee, no deduction shall be allowed under any provisions of this Act, where the gross total income consists only of income from aforesaid bonds or Global Depository Receipts. However, where the gross total income includes income from aforesaid bonds or Global Depository Receipts, the deduction under any provisions of the Act shall be allowed as if the gross total income does not include the income from the aforesaid bonds or Global Depository Receipts.

Sub-section (3) of the proposed new section provides that the first and second provisos of section 48 relating to the computation of capital gains shall not apply in case of transfer of aforesaid bonds and Global Depository Receipts of the Indian company purchased by the non-resident assessee in foreign currency.

Sub-section (4) of the proposed new section provides that a non-resident shall not be required to furnish his return of income under section 139(1) if his total income consists only of income referred to in clauses (*a*), (*b*) and (*c*) of sub-section (1) and tax has been deducted at source as per the provisions of Chapter XVII-B from such income.

Sub-section (5) of the proposed new section provides that where an assessee acquires bonds or Global Depository Receipts, as the case may be, in a resulting or amalgamated company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company in accordance with the provisions of sub-section (1), the provisions of the said sub-section shall apply to such bonds or Global Depository Receipts.

The *Explanation* to the new section defines the expressions “approved intermediary” and “Global Depository Receipts”.

These amendments will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 115ACA.

48. In section 115ACA of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) Where the total income of an assessee, being an individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service (hereafter in this section referred to as the resident employee), includes—

(*a*) income by way of dividends, other than dividends referred to in section 115-O, on Global Depository Receipts of an Indian company engaged in specified knowledge based industry or service, issued in accordance with such Employees’ Stock Option Scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf and purchased by him in foreign currency; or

(*b*) income by way of long-term capital gains arising from the transfer of Global Depository Receipts referred to in clause (*a*),

the income-tax payable shall be the aggregate of—

(*i*) the amount of income-tax calculated on the income by way of dividends, other than dividends referred to in section 115-O, in respect of Global Depository Receipts referred to in clause (*a*), if any, included in the total income, at the rate of ten per cent;

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

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

Explanation.—For the purposes of this sub-section,—

(*a*) “specified knowledge based industry or service” means—

(*i*) information technology software;

(*ii*) information technology service;

(*iii*) entertainment service;

(*iv*) pharmaceutical industry;

(*v*) bio-technology industry; and

(*vi*) any other industry or service, as may be specified by the Central Government, by notification in the Official Gazette;

(*b*) "subsidiary" shall have the meaning assigned to it in section 4 of the Companies Act, 1956 (1 of 1956) and includes subsidiary incorporated outside India.'.

NOTES

Clause 48 seeks to amend section 115ACA of the Income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Under the existing provision contained in section 115ACA, in the case of an assessee who is a resident and employee of an Indian company engaged in information technology software and information technology services, income by way of interest or dividend (other than dividends referred to in section 115-O) and long-term capital gains arising from bonds or shares of an Indian company issued in accordance with an Employees' Stock Option Scheme as the Central Government may specify by notification in the Official Gazette, and purchased by the resident individual employee in foreign exchange is taxed at ten per cent

It is proposed to amend section 115ACA so as to extend the concessional tax rate on income by way of interest or dividend (other than dividends referred to in section 115-O) and long-term capital gains to employee of a subsidiary company, whether domestic or foreign, of an Indian company engaged in specified knowledge-based industry or service on shares issued by such an Indian company in accordance with notified stock option scheme and purchased by the resident individual employee in foreign currency.

It is also proposed to define the term "specified knowledge-based industry or service" so as to include within its ambit, entertainment service, pharmaceuticals, bio-technology, and any other industry or service as may be notified by the Central Government in addition to the existing sectors information technology software and information technology services.

It is also proposed to define the term "subsidiary" used in the proposed new section.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 115BB.

49. In section 115BB of the Income-tax Act, in clause (*i*), for the words "forty per cent", the words "thirty per cent" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 49 seeks to amend section 115BB of the Income-tax Act relating to tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever.

Under the existing provisions, any income by way of winnings from any lottery or crossword puzzle or race including horse race (not being income from the activity of owning and maintaining race horses) or card game and other game of any sort or from gambling or betting of any form or nature whatsoever, is chargeable to tax at the rate of forty per cent under clause (*i*) of section 115BB.

It is proposed to amend the said clause so as to provide that such winnings shall be taxed at the rate of thirty per cent as against the existing rate of forty per cent.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 115-O.

50. In section 115-O of the Income-tax Act, in sub-section (1), for the words "twenty per cent", the words "ten per cent" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 50 seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

Under the existing provision contained in sub-section (1) of the said section, any amount declared, distributed or paid by way of dividends (whether interim or otherwise) by a domestic company shall be charged to additional income-tax at a flat rate of twenty per cent in addition to the normal income-tax chargeable in respect of the total income of the company.

It is proposed to reduce the said rate of additional income-tax from twenty per cent to ten per cent

This amendment will take effect from 1st June, 2001.

Amendment of section 115P.

51. In section 115P of the Income-tax Act, for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 51 seeks to amend section 115P of the Income-tax Act relating to interest payable for non-payment of tax by domestic companies.

Under the existing provision, the principal officer of a domestic company and the company are liable to pay simple interest at the rate of one and one-half per cent for every month or part thereof if he or it fails to pay the whole or any part of the tax on distributed profits in accordance with the provisions contained in section 115-O.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 115R.

52. In section 115R of the Income-tax Act, in sub-sections (1) and (2), for the words “twenty per cent”, the words “ten per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 52 seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit holders.

Under the existing provision contained in sub-sections (1) and (2) of the said section, any amount of income distributed by the Unit Trust of India or a Mutual Fund to its unit holders shall be chargeable to income-tax at a flat rate of twenty per cent to be payable by the Unit Trust of India or a Mutual Fund, as the case may be.

It is proposed to amend the said sub-sections (1) and (2) of the aforesaid section so as to reduce the said rate of income-tax from the existing twenty per cent to ten per cent.

This amendment will take effect from 1st June, 2001.

Amendment of section 115S.

53. In section 115S of the Income-tax Act, for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 53 seeks to amend section 115S of the Income-tax Act relating to interest payable for non-payment of tax.

Under the existing provision, the person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, is liable to pay simple interest at the rate of one and one-half per cent for every month or part thereof if he or it fails to pay the tax

in accordance with the provision contained in section 115R.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 139.

54. In section 139 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

'(1) Every person,—

(*a*) being a company; or

(*b*) being a person other than a company, 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 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:

Provided that a person referred to in clause (*b*), who is not required to furnish a return under this sub-section and residing in such area as may be specified by the Board in this behalf by notification in the Official Gazette, and who at any time during the previous year fulfils any one of the following conditions, namely:—

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

(*ii*) is the owner or the lessee of a motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not; or

(*iii*) is a subscriber to a telephone; or

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

(*v*) is the holder of a credit card, not being an "add-on" card, issued by any bank or institution; or

(*vi*) is a member of a club where entrance fee charged is twenty-five thousand rupees or more,

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

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply:

Provided also that every company shall furnish on or before the due date the return in respect of its income or loss in every previous year.

Explanation 1.—For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Explanation 2.—In this sub-section, "due date" means,—

(*a*) where the assessee is a company, the 31st day of October of the assessment year;

(*b*) in the case of a person other than a company, referred to in the first proviso to this sub-section, the 31st day of October of the assessment year;

(*c*) in the case of any other assessee, the 31st day of July of the assessment year.

Explanation 3.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.'.

NOTES

Clause 54 seeks to amend section 139 of the Income-tax Act relating to return of income.

Under the existing provision contained in sub-section (1), every 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 exceeded the maximum amount which is not chargeable to income-tax, is required to file a return of such income on or before the due date in the prescribed form and manner.

It is proposed to provide that every person, being a company, shall file a return of its income on or before the due date whether or not its total income during the previous year is chargeable to income-tax.

Under the existing provision contained in the first proviso to sub-section (1), a person not furnishing a return under the said sub-section and residing in such area as may be specified by the Central Board of Direct Taxes and who at any time during the previous year fulfils any one of the six conditions specified in that proviso, is also required to furnish a return of his income during the previous year, on or before the due date in the prescribed form and manner.

It is proposed to retain the criteria mentioned in the first proviso to sub-section (1).

Under the existing provision contained in *Explanation 1* to sub-section (1), the due date is specified to be the 30th November of the assessment year in the case of the assessee being a company, and where the assessee is a person other than a company, the due date is specified to be (*a*) the 31st October of the assessment year in a case where accounts of the assessee are required to be audited or where a report of an accountant is required to be furnished; (*b*) the 31st August of the assessment year in a case where the total income includes income from business or profession, not being a case falling under (*a*) above; and (*c*) the 30th June of the assessment year in any other case.

It is proposed to revise the due dates for filing returns by different classes of assessees and to provide that in the case of a company, the 31st October of the assessment year shall be the due date for filing the return. In the case of a person other than a company, referred to in the first proviso to sub-section (1), the 31st October of the assessment year shall be the due date for filing the return. In the case of any other assessee, the 31st July of the assessment year shall be the due date for filing the return.

These amendments will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Amendment of section 139A.

55. In section 139A of the Income-tax Act, with effect from the 1st day of June, 2001,—

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

"(5A) Every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIB, shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter:

Provided that nothing contained in this sub-section shall apply to a non-resident referred to in sub-section (4) of section 115AC, or sub-section (2) of section 115BBA, or to a non-resident Indian referred to in section 115G:

Provided further that a person referred to in this sub-section, shall intimate the General Index Register Number till such time permanent account number is allotted to such person.

(5B) Where any sum or income or amount has been paid after deducting tax under Chapter XVIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person to whom such sum or income or amount has been paid by him—

(*i*) in the statement furnished in accordance with the provisions of sub-section (2C) of section 192;

(*ii*) in all certificates furnished in accordance with the provisions of section 203;

(*iii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of section 206 to any income-tax authority:

Provided that the Central Government may, by notification in the Official Gazette, specify different dates from which the provisions of this sub-section shall apply in respect of any class or classes of persons:

Provided further that nothing contained in sub-sections (5A) and (5B) shall apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax, a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the

tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil.*

(5C) Every buyer referred to in section 206C shall intimate his permanent account number to the seller referred to in that section.

(5D) Every seller collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer referred to in that section—

(*i*) in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C;

(*ii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority.".

NOTES

Clause 55 seeks to amend section 139A of the Income-tax Act relating to permanent account number.

Under the existing provision contained in sub-section (5), every person shall quote his permanent account number in all his returns to, or correspondence with, any income-tax authority, in all challans for the payment of any sum due under this Act and in all documents pertaining to such transactions entered into by him as may be prescribed by the Central Board of Direct Taxes in the interests of the revenue.

It is proposed to insert a new sub-section (5A) so as to provide that every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIB shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter. This requirement shall not apply to a non-resident referred to in section 115AC or section 115BBA and to a non-resident Indian referred to in section 115G, for whom it is not necessary to furnish a return under sub-section (1) of section 139.

It is also proposed to insert a new sub-section (5B) so as to provide that where any sum or income or amount has been paid after deducting tax under Chapter XVIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person, to whom such sum or income or amount has been paid by him, in a statement furnished in accordance with the provisions of sub-section (2C) of section 192, in all certificates furnished in accordance with the provision of section 203, and in all returns prepared and delivered or caused to be delivered in accordance with the provision of section 206.

It is proposed to insert two provisos to provide that the Central Government, however, may have the power to notify separately the dates from which these provisions shall apply in respect of any class or classes of persons and that the proposed sub-sections (5A) and (5B) shall not apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year to which such income relates will be nil.

It is also proposed to insert a new sub-section (5C) so as to provide that every buyer referred to in section 206C shall intimate his permanent account number to the seller referred to in that section.

It is also proposed to insert a new sub-section (5D) so as to provide that every seller collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer, referred to in that section, in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C and in all returns prepared and delivered or caused to be delivered in accordance with the provision of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority.

These amendments will take effect from 1st June, 2001.

Amendment of section 140A.

56. In section 140A of the Income-tax Act, after sub-section (1), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

'(1A) For the purposes of sub-section (1), interest payable 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.

(1B) For the purposes of sub-section (1), interest payable under section 234B shall be computed on an

amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

Explanation.—For the purposes of this sub-section, "assessed tax" means the tax on the total income as declared in the return as reduced by the amount of tax deducted or collected at source, in accordance with the provisions of Chapter XVII, on any income which is subject to such deduction or collection and which is taken into account in computing such total income.'.

NOTES

Clause 56 seeks to amend section 140A of the Income-tax Act relating to self-assessment.

It is proposed to insert new sub-section (1A) in the said section to provide that interest payable under section 234A shall be computed on the amount of 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.

It is further proposed to insert new sub-section (1B) in the said section to provide that interest payable under section 234B shall be computed on the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

It is also proposed to insert an *Explanation* to new sub-section (1B) so as to clarify that for the purposes of computing the interest payable under section 234B as required under section 140A, "assessed tax" shall mean tax on the total income as declared in the return as reduced by the amount of tax deducted or collected at source, in accordance with the provisions of Chapter XVII, on any income which is subject to such deduction or collection and which is taken into account in computing such total income.

These amendments will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-1990 and subsequent years.

Amendment of section 143.

57. In section 143 of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2001,—

(*a*) in the second proviso, for the words "two years from the end of the assessment year in which the income was first assessable", the words "one year from the end of the financial year in which the return is made" shall be substituted;

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

"**Provided** also that where the return made is in respect of the income first assessable in the assessment year commencing on the 1st day of April, 1999, such intimation may be sent at any time up to the 31st day of March, 2002.".

NOTES

Clause 57 seeks to amend section 143 of the Income-tax Act relating to assessment.

Sub-section (1) of the said section, *inter alia,* provides that an intimation shall be sent to the assessee in cases where any tax or interest is found to be payable by him, or a refund is due to him, on the basis of the return filed by him. However, under the existing provision contained in the second proviso to sub-section (1), no such intimation shall be sent after the expiry of two years from the end of the assessment year in which the income was first assessable.

It is proposed to amend the second proviso to sub-section (1) to provide that no such intimation shall be sent after the expiry of one year from the end of the financial year in which the return of income is made. The time-limit of two years, however, will continue to apply in respect of returns already furnished for the assessment year 1999-2000.

This amendment will take effect from 1st June, 2001.

Amendment of section 149.

58. In section 149 of the Income-tax Act, in sub-section (1), for clauses (*a*) and (*b*), the following clauses shall be substituted with effect from the 1st day of June, 2001, namely:—

"(*a*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (*b*);

(*b*) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year.".

NOTES

Clause 58 seeks to amend section 149 of the Income-tax Act relating to time-limit for issue of notice under section 148.

Under the existing provision contained in sub-section (1), a notice under section 148 can be issued within a period of four, seven or ten years from the end of the relevant assessment year. An assessment which has already been completed may be reopened by issue of notice under the said sub-section up to the period of four years from the end of relevant assessment year. For any period beyond four years but up to seven years, such notice may be issued when the amount of escaped income is not less than rupees fifty thousand but does not exceed rupees one lakh. Where the amount of escaped income is likely to be rupees one lakh or more, a notice may be issued up to ten years from the end of the relevant assessment year.

It is proposed to amend sub-section (1) to provide that the notice under section 148 can be issued only within four years from the end of the relevant assessment year or within six years from the end of the relevant assessment year in cases where the amount of income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees one lakh or more for that year.

This amendment will take effect from 1st June, 2001.

Amendment of section 153.

59. In section 153 of the Income-tax Act, with effect from the 1st day of June, 2001,—

(*a*) in sub-section (2),—

(*i*) for the words "two years", the words "one year" shall be substituted;

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

"**Provided** that where the notice under section 148 was served on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 2002.";

(*b*) for sub-section (2A), the following sub-section shall be substituted, namely:—

"(2A) Notwithstanding anything contained in sub-sections (1) and (2), in relation to the assessment year commencing on the 1st day of April, 1971, and any subsequent assessment year, an order of fresh assessment in pursuance of an order under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of one year from the end of the financial year in which the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner:

Provided that where the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such an order of fresh assessment may be made at any time up to the 31st day of March, 2002.";

(*c*) in sub-section (3), clause (*i*) shall be omitted.

NOTES

Clause 59 seeks to amend section 153 of the Income-tax Act relating to time-limit for completion of assessments and reassessments.

Under the existing provision contained in sub-section (2), no order of assessment or reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served. Further, sub-section (2A) provides that an order of fresh

assessment under section 146, or in pursuance of an order, under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 146 cancelling the assessment is passed by the Assessing Officer or the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner.

It is proposed to amend sub-section (2) to provide that no order of assessment or reassessment or recomputation shall be made under section 147 after the expiry of one year from the end of the financial year in which the notice under section 148 was served. However, where the notice under section 148 has been served on or after 1st April, 1999 but before 1st April, 2000, such assessment, reassessment or recomputation may be made at any time up to 31st March, 2002.

It is further proposed to substitute sub-section (2A) to provide that an order of fresh assessment in pursuance of an order under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of one year from the end of the financial year in which the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner. However, where any such order has been received or has been passed, as the case may be, on or after the 1st April, 1999 but before the 1st April, 2000, an order of fresh assessment may be made at any time up to the 31st March, 2002.

It is also proposed to omit clause (*i*) of sub-section (3), which is of consequential nature.

These amendments will take effect from 1st June, 2001.

Amendment of section 154.

60. In section 154 of the Income-tax Act, after sub-section (7), the following sub-section shall be inserted with effect from the 1st day of June, 2001,—

"(8) Notwithstanding anything contained in sub-section (7), where an application for amendment under this section is made by the assessee on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,—

(*a*) making the amendment; or

(*b*) refusing to allow the claim.".

NOTES

Clause 60 seeks to amend section 154 of the Income-tax Act relating to rectification of a mistake.

Under the existing provision, no amendment of any order passed by the income-tax authority or any intimation under sub-section (1) of section 143 can be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

It is proposed to insert a new sub-section (8) to provide that where an application for amendment under this section is made by the assessee on or after 1st June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order within six months from the end of the month in which the application is received by it, either making the amendment or refusing to allow the claim.

This amendment will take effect from 1st June, 2001.

Amendment of section 158B.

61. In section 158B of the Income-tax Act, for clause (*a*), the following clause shall be substituted with effect from the 1st day of June, 2001, namely:—

'(*a*) "block period" means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A and also includes the period up to the date of the commencement of such search or date of such requisition in the previous year in which the said search was conducted or requisition was made:

Provided that where the search is initiated or the requisition is made before the 1st day of June, 2001, the

provisions of this clause shall have effect as if for the words “six assessment years”, the words “ten assessment years” had been substituted;’.

NOTES

Clause 61 seeks to amend section 158B of the Income-tax Act relating to definitions.

Under the existing provision contained in clause (*a*) of the said section, the expression “block period” means the previous years relevant to ten assessment years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A, and includes, in the previous year in which such search was conducted or requisition was made, the period up to the date of commencement of such search or, as the case may be, the date of such requisition.

It is proposed to substitute the said clause (*a*) so as to provide that the expression “block period” shall mean the previous years relevant to six assessment years preceding the previous year in which the search was conducted or any requisition was made. In cases where search was conducted or requisition was made before the 1st June, 2001, the block period would continue to be previous years relevent to ten assessment years as per the existing provisions.

This amendment will take effect from 1st June, 2001.

Amendment of section 158BFA.

62. In section 158BFA of the Income-tax Act, in sub-section (1), for the words “two per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 62 seeks to amend section 158BFA of the Income-tax Act relating to levy of interest and penalty in certain cases.

Under the existing provision contained in sub-section (1) of the said section, the assessee is liable to pay simple interest at the rate of two per cent for every month or part of a month on the tax on undisclosed income determined under clause (c) of section 158BC for defaults in furnishing the return of total income including undisclosed income for the block period.

It is proposed to amend the said sub-section so as to reduce the rate of interest from two per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 192.

63. In section 192 of the Income-tax Act, after sub-section (2B), the following sub-section shall be inserted with effect from the 1st day of June, 2001, namely:—

‘(2C) A person responsible for paying any income chargeable under the head “Salaries” shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in such form and manner as may be prescribed.’.

NOTES

Clause 63 seeks to insert a new sub-section (2C) in section 192 of the Income-tax Act relating to salary.

The proposed amendment seeks to provide that any person responsible for paying salary shall furnish to the person who receives salary a statement giving particulars of perquisites or profits in lieu of salary provided to him in the prescribed form.

This amendment will take effect from 1st June, 2001.

Amendment of section 194A.

64. In section 194A of the Income-tax Act, in sub-section (3), in clause (*i*), with effect from the 1st day of June, 2001,—

(*i*) for the words “five thousand rupees”, the words “two thousand five hundred rupees” shall be substituted;

(*ii*) in the proviso, the portion beginning with the words “the provisions of this clause” and ending with the words “had been substituted and” shall be omitted.

NOTES

Clause 64 seeks to amend section 194A of the Income-tax Act relating to deduction of income-tax at source from interest other than interest on securities.

The existing clause (*i*) of sub-section (3) of the said section provides that the deduction of income-tax at source under sub-section (1) shall not be made in cases where the amount of income by way of interest does not exceed five thousand rupees. The proviso below the said clause provides that in the cases of time deposits with a banking company or with a co-operative society engaged in carrying on the business of banking or deposit with a housing finance company, the said limit for deduction of income-tax shall be ten thousand rupees.

The proposed amendment seeks to provide that the limit for tax deduction at source for the purpose of the aforesaid section shall be two thousand five hundred rupees.

This amendment will take effect from 1st June, 2001.

Amendment of section 194B.

65. In section 194B of the Income-tax Act, after the words “crossword puzzle”, the words “or card game and other game of any sort” shall be inserted with effect from the 1st day of June, 2001.

NOTES

Clause 65 seeks to amend section 194B of the Income-tax Act relating to winnings from lottery or crossword puzzle.

Under the existing provision, the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding five thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

It is proposed to provide for deduction of income-tax at source at the rates in force also on winnings from card game and other game of any sort.

This amendment will take effect from 1st June, 2001.

Insertion of new section 194H.

66. After section 194G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2001, namely:—

‘194H. *Commission or brokerage.*—Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent :

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed two thousand five hundred rupees.

Explanation.—For the purposes of this section,—

(*i*) “commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any

asset, valuable article or thing, not being securities;

(*ii*) the expression "professional services" means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;

(*iii*) the expression "securities" shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956;

(*iv*) where any income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.'.

NOTES

Clause 66 seeks to insert a new section 194H of the Income-tax Act relating to commission or brokerage.

Under the proposed new section 194H, the person responsible for paying any income by way of commission or brokerage for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing (not being securities), shall deduct income-tax thereon at the rate of ten per cent. However, no such deduction shall be made where the amount of payment or the aggregate amount of payments, in a financial year, does not exceed two thousand five hundred rupees. The new section will not apply when payments are made by individuals or Hindu undivided families. The expressions "commission or brokerage", "professional services" and "securities" are being defined in the *Explanation* to the proposed section.

This amendment will take effect from 1st June, 2001.

Amendment of section 196C.

67. In section 196C of the Income-tax Act, for the words "bonds or shares" at both the places where they occur, the words "bonds or Global Depository Receipts" shall be substituted with effect from the 1st day of April, 2002.

NOTES

Clause 67 seeks to amend section 196C of the Income-tax Act relating to income from foreign currency bonds or shares of Indian company.

Under the existing provisions contained in section 196C, the person responsible for making any payment to a non-resident by way of interest or dividend in respect of bonds or shares referred to in section 115AC or by way of long-term capital gains arising from transfer of such bonds or shares, is required to deduct tax at the rate of ten per cent.

It is proposed to substitute section 115AC vide clause 47 of the Bill. As a consequence, it is proposed to substitute the word "shares" occurring at both the places in section 196C, with the words "Global Depository Receipts".

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 201.

68. In section 201 of the Income-tax Act,—

(*a*) in sub-section (1), after the words "does not deduct", the words "the whole or any part of the tax" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962;

(*b*) in sub-section (1A),—

(*i*) after the words "does not deduct", the words "the whole or any part of the tax" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962;

(*ii*) for the words "eighteen per cent", the words "fifteen per cent" shall be substituted with effect from the 1st

day of June, 2001.

NOTES

Clause 68 seeks to amend section 201 of the Income-tax Act relating to consequences of failure to deduct or pay the tax.

Under the existing provisions contained in sub-section (1) of the said section, the person, the principal officer and the company, referred to in that sub-section, is deemed to be an assessee in default if he does not deduct or after deducting fails to pay the tax as required by or under the Act. Sub-section (1A) of that section provides that such person or such principal officer or such company shall be liable to pay simple interest at the rate of eighteen per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.

It is proposed to clarify that provisions of sub-sections (1) and (1A) shall apply whether such person or such principal officer or such company fails to deduct the whole or any part of the tax.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-63 and subsequent years.

It is further proposed to reduce the said rate of interest from eighteen per cent to fifteen per cent per annum in sub-section (1A).

This amendment will take effect from 1st June, 2001.

Amendment of section 206C.

69. In section 206C of the Income-tax Act, in sub-section (7), for the words “two per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 69 seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

Under the existing provision contained in sub-section (7) of the said section, if the seller does not collect the tax or after collecting the tax fails to pay it as required under the said section, he shall be liable to pay simple interest at the rate of two per cent per month or part thereof on the amount of such tax.

It is proposed to amend the said sub-section (7) so as to reduce the rate of interest from two per cent to one and one-fourth per cent per month or part thereof, on the amount of tax payable by the seller under that sub-section.

This amendment will take effect from 1st June, 2001.

Amendment of section 220.

70. In section 220 of the Income-tax Act, in sub-section (2), for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 70 seeks to amend section 220 of the Income-tax Act as to when the tax is payable and when an assessee is deemed to be in default.

Under the existing provision contained in sub-section (2) of the said section, if the amount specified in any notice of demand under section 156 is not paid within thirty days of the service of the notice, the assessee is liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month comprising the periods specified in that section.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof.

This amendment will take effect from 1st June, 2001.

Omission of section 230A.

71. Section 230A of the Income-tax Act shall be omitted with effect from the 1st day of June, 2001.

NOTES

Clause 71 seeks to omit section 230A of the Income-tax Act relating to restrictions on registration of transfers of immovable property in certain cases.

Under the existing provision of the said section, any document purporting to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property valued at more than five lakh rupees shall not be registered under the Registration Act, 1908, unless the Assessing Officer certifies that such person has either paid or made satisfactory provision for payment of all existing tax liabilities or that the registration of the document will not prejudicially affect the recovery of any existing tax liability.

With a view to simplifying the procedures, it is proposed to omit the said section.

This amendment will take effect from 1st June, 2001.

Amendment of section 234A.

72. In section 234A of the Income-tax Act,—

(*a*) in sub-section (1),—

(*i*) for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001;

(*ii*) *Explanation 4* shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989;

(*b*) in sub-section (3), for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 72 seeks to amend section 234A of the Income-tax Act relating to payment of interest for defaults in furnishing return of income.

Under the existing provision contained in sub-sections (1) and (3) of section 234A, the assessee is liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month for default in furnishing the return of income for the period specified in the said section.

It is proposed to amend sub-sections (1) and (3) of the said section to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

It is further proposed to omit *Explanation 4* to sub-section (1) of the said section which is of consequential nature.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-1990 and subsequent years.

Amendment of section 234B.

73. In section 234B of the Income-tax Act,—

(*a*) in sub-section (1),—

(*i*) for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001;

(*ii*) for *Explanation 1,* the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989, namely:—

'*Explanation 1.*—In this section, "assessed tax" means the tax on the total income determined under sub-section (1) of section 143 or on regular assessment as reduced by the amount of tax deducted or collected at source in accordance with the provisions of Chapter XVII on any income which is subject to such deduction or collection and which is taken into account in computing such total income.';

(*b*) in sub-section (3), for the words "one and one-half per cent", the words "one and one-fourth per cent" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 73 seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

Under the existing provision, the assessee is liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month for default in payment of advance tax for the period specified in the said section.

It is proposed to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

It is further proposed to substitute *Explanation 1* to sub-section (1) of the said section, which is of consequential nature.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-90 and subsequent years.

Amendment of section 234C.

74. In section 234C of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2001,—

(*i*) in clause (*a*), in sub-clauses (*i*) and (*ii*), for the words "one and one-half per cent", the words "one and one-fourth per cent" shall be substituted;

(*ii*) in clause (*b*), in sub-clauses (*i*) and (*ii*), for the words "one and one-half per cent", the words "one and one-fourth per cent" shall be substituted.

NOTES

Clause 74 seeks to amend section 234C of the Income-tax Act relating to payment of interest for deferment of advance tax.

Under the existing provision, the assessee is liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month for deferment of advance tax on the amount of the shortfall specified in the said section.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Omission of section 241.

75. Section 241 of the Income-tax Act shall be omitted with effect from the 1st day of June, 2001.

NOTES

Clause 75 seeks to omit section 241 of the Income-tax Act relating to power to withhold refund in certain cases.

Under the existing provision, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund of any amount due to the assessee till such time as the Chief Commissioner or Commissioner determines, under the circumstances specified in the said section if the grant of refund is likely to adversely affect the revenue.

It is proposed to omit the said section to withdraw the powers conferred upon the Assessing Officer to withhold the refund.

This amendment will take effect from 1st June, 2001.

Amendment of section 244A.

76. In section 244A of the Income-tax Act, in sub-section (1), in clauses (*a*) and (*b*), for the words "one per cent", the words "three-fourth per cent" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 76 seeks to amend section 244A of the Income-tax Act relating to interest on refunds.

Under the existing provision contained in sub-section (1), where refund of any amount becomes due to the assessee under the Income-tax Act, the assessee is entitled to receive, in addition to the said amount, simple interest thereon at the rate of one per cent for every month or part of a month comprised in the period of delay specified in the said section.

It is proposed to amend the said sub-section so as to reduce the rate of interest from one per cent to three-fourth per cent for every month or part of a month, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 251.

77. In section 251 of the Income-tax Act, in sub-section (1), in clause (*a*), the portion beginning with the words "or he may set aside" and ending with the words "on the basis of such fresh assessment;" shall be omitted with effect from the 1st day of June, 2001.

NOTES

Clause 77 seeks to amend section 251 of the Income-tax Act relating to powers of the Commissioner (Appeals).

Under the existing provisions contained in sub-section (1), where an appeal is filed before the Commissioner (Appeals), against an order of assessment, the Commissioner (Appeals) may confirm, reduce, enhance or annul the assessment; or he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment in accordance with the directions given by him and after making such further enquiry as may be necessary.

With a view to help bringing an early finalisation to the assessment and to avoid prolonging the process of litigation, it is proposed to amend clause (*a*) of the aforesaid section so as to provide that, where an appeal is filed before the Commissioner (Appeals), against an order of assessment, the Commissioner (Appeals) may not set aside the assessment or refer the case back to the Assessing Officer for making fresh assessment.

This amendment will take effect from 1st June, 2001.

Amendment of section 254.

78. In section 254 of the Income-tax Act, in sub-section (2A), the following provisos shall be inserted with effect from the 1st day of June, 2001, namely:—

"**Provided** that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 253, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order:

Provided further that if such appeal is not so disposed of within the period specified in the first proviso, the stay order shall stand vacated after the expiry of the said period.".

NOTES

Clause 78 seeks to amend section 254 of the Income-tax Act relating to orders of the Appellate Tribunal.

Under the existing provision contained in sub-section (2A) of the said section, the Appellate Tribunal, where it is possible, may hear and decide an appeal filed by the assessee under sub-section (1) of section 253 within a period of four years from the end of the financial year in which such appeal is filed.

It is proposed to provide that where, in an appeal filed by the assessee, the Appellate Tribunal passes an order granting stay, the Tribunal shall hear and decide such appeal within a period of one hundred and eighty days from the date of passing such order granting stay, failing which the stay granted shall stand vacated on the expiry of the aforesaid period.

This amendment will take effect from 1st June, 2001.

Amendment of section 264.

79. In section 264 of the Income-tax Act, in sub-section (5), for the words "a fee of twenty-five rupees", the words "a fee of five hundred rupees" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 79 seeks to amend section 264 of the Income-tax Act relating to revision of other orders.

Under the existing provision contained in the said section, the Commissioner may, either of his own motion or on an application by the assessee for revision, revise any order passed by an authority subordinate to him. Sub-section (5) of the said section provides that every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

It is proposed to amend the said sub-section to enhance the fee from twenty-five rupees to five hundred rupees.

This amendment will take effect from 1st June, 2001.

Amendment of section 271.

80. In section 271 of the Income-tax Act, in sub-section (1),—

(*a*) in clause (*ii*), for the words "a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001;

(*b*) after *Explanation 6,* the following *Explanation* shall be inserted with effect from the 1st day of April, 2002, namely:—

"*Explanation 7.*—Where in the case of an assessee who has entered into an international transaction defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall, for the purposes of clause (*c*) of this sub-section, be deemed to represent the income in respect of which particulars have been concealed or inaccurate particulars have been furnished, unless the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) that the price charged or paid in such transaction was computed in accordance with the provisions contained in section 92C and in the manner prescribed under that section, in good faith and with due diligence.".

NOTES

Clause 80 seeks to amend section 271 of the Income-tax Act relating to failure to furnish returns, comply with notices, concealment of income, etc.

Under the existing provision contained in sub-section (1), if the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under the Income-tax Act, is satisfied that any person has failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142 of the said Act, he may direct that such person shall pay by way of penalty, in addition to any tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.

It is proposed to amend clause (*ii*) of sub-section (1) so as to provide for a fixed amount of penalty of ten thousand rupees for each such failure.

This amendment will take effect from 1st June, 2001.

Clause 44 of the Bill proposes to substitute section 92 by a new section 92 and insert new sections 92A, 92B, 92C, 92D, 92E and 92F relating to computation of income arising from an international transaction.

It is proposed to insert a new *Explanation 7* to sub-section (1) of section 271 to provide that where in the case of an assessee who has entered into an international transaction defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall be deemed to represent income in respect of which particulars have been concealed or inaccurate particulars have been furnished. However, the provisions of this *Explanation* shall not apply where the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) that the price charged or paid in such transaction has been determined in accordance with section 92C in good faith and with due diligence.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of section 271A.

81. In section 271A of the Income-tax Act, for the words "a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees", the words "a sum of twenty-five thousand rupees" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 81 seeks to amend section 271A of the Income-tax Act relating to failure to keep, maintain or retain books of account, documents, etc.

Under the existing provision, if any person fails to keep and maintain in respect of any previous year such books of account and other documents as required by section 44AA or the rules made thereunder or to retain such books of account and other documents for the period specified in the said rules, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees.

It is proposed to provide for the levy of a fixed amount of penalty of twenty-five thousand rupees instead of a penalty of a sum which shall not be less than two thousand rupees but may extend to one hundred thousand rupees.

This amendment will take effect from 1st June, 2001.

Insertion of new section 271AA.

82. After section 271A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

> "271AA. *Penalty for failure to keep and maintain information and document in respect of international transaction.*—Without prejudice to the provisions of section 271, if any person fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of each international transaction entered into by such person.".

NOTES

Clause 82 seeks to insert a new section 271AA in the Income-tax Act relating to penalty for failure to keep and maintain information and documents, in respect of each international transaction.

The new section seeks to provide that if any person who has entered into an international transaction as defined in section 92B fails to keep and maintain any such information and documents as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the international transaction entered into by such person.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Insertion of new section 271BA.

83. After section 271B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

"271BA. *Penalty for failure to furnish report under section 92E.*—If any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one hundred thousand rupees.".

NOTES

Clause 83 seeks to insert a new section 271BA in the Income-tax Act relating to penalty for failure to furnish a report from an accountant under section 92E.

The new section seeks to provide that if any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay by way of penalty, a sum of one hundred thousand rupees.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply to the assessment year 2002-2003 and subsequent years.

Amendment of section 271F.

84. In section 271F of the Income-tax Act, with effect from the 1st day of June, 2001,—

(*a*) for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

(*b*) in the proviso, for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

NOTES

Clause 84 seeks to amend section 271F of the Income-tax Act relating to penalty for failure to furnish return of income.

Under the existing provision, if a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return before the end of the relevant assessment year, he shall be liable to pay, by way of penalty, a sum of one thousand rupees.

Further, if a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees.

It is proposed to enhance the said penalties from one thousand rupees to five thousand rupees and from five hundred rupees to five thousand rupees, respectively.

These amendments will take effect from 1st June, 2001.

Insertion of new section 271G.

85. After section 271F of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2002, namely:—

"271G. *Penalty for failure to furnish information or document under section 92D.*—If any person who has entered into an international transaction fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the international transaction for each such failure.".

NOTES

Clause 85 seeks to insert a new section 271G in the Income-tax Act relating to penalty for failure to furnish certain

information or document, under section 92D.

The new section seeks to provide that if any person who has entered into an international transaction fails to furnish any such information or document under sub-section (3) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent of the value of the international transaction, for each such failure.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply to the assessment year 2002-2003 and subsequent years.

Amendment of section 272A.

86. In section 272A of the Income-tax Act,—

(*a*) in sub-section (1), for the words "a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001;

(*b*) in sub-section (2), after clause (*h*), the following clause shall be inserted with effect from the 1st day of April, 2002, namely:—

"(*i*) to furnish a statement as required by sub-section (2C) of section 192.".

NOTES

Clause 86 seeks to amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

Under the existing provision contained in sub-section (1), if a person fails to comply with any of the requirements specified therein, he is liable to pay by way of penalty a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

It is proposed to amend the said sub-section (1) so as to provide for a fixed amount of penalty of ten thousand rupees for each such default or failure.

This amendment will take effect from 1st June, 2001.

It is further proposed to insert a new clause (*i*) in sub-section (2) so as to provide penalty for failure to furnish a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to an employee.

This amendment will take effect from 1st April, 2002.

Amendment of section 272BB.

87. In section 272BB of the Income-tax Act, in sub-section (1), for the words "a sum which may extend to five thousand rupees", the words "a sum of ten thousand rupees" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 87 seeks to amend section 272BB of the Income-tax Act relating to penalty for failure to comply with the provisions of section 203A.

Under the existing provision contained in sub-section (1), if a person fails to comply with the provision of section 203A, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum which may extend to five thousand rupees.

It is proposed to amend the said sub-section to enhance the penalty and to provide for levy of a fixed amount of penalty of a sum of ten thousand rupees.

This amendment will take effect from 1st June, 2001.

Amendment of section 273B.

88. In section 273B of the Income-tax Act, with effect from the 1st day of April, 2002,—

(*a*) after the word, figures and letter "section 271A", the word, figures and letters ", section 271AA" shall be inserted;

(*b*) after the word, figures and letter "section 271B", the word, figures and letters ", section 271BA" shall be inserted;

(*c*) after the word, figures and letter "section 271F", the word, figures and letter ", section 271G" shall be inserted.

NOTES

Clause 88 seeks to amend section 273B of the Income-tax Act relating to penalty not to be imposed in certain cases.

The existing provision of the said section provides that no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in certain sections specified in the said section, if he proves that there was reasonable cause for such failure.

Clauses 82, 83 and 85 of the Bill seek to insert section 271AA, section 271BA and section 271G in the Income-tax Act, relating to penalties for failure, on the part of a person who has entered into an international transaction defined in the proposed new section 92B, to keep and maintain such information and document as may be prescribed, or to furnish a report from an accountant, or to furnish information or documents required by the Assessing Officer.

It is proposed to amend section 273B to provide that no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in sections 271AA, 271BA and section 271G, if he proves that there was reasonable cause for such failure. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Amendment of Second Schedule.

89. In the Second Schedule to the Income-tax Act, in rule 68A, in sub-rule (3), for the words "twelve per cent", the words "nine per cent" shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 89 seeks to amend rule 68A of the Second Schedule to the Income-tax Act relating to acceptance of property in satisfaction of amount due from the defaulter.

Under the existing provision contained in sub-rule (3) of the said rule, where the price of the property agreed upon between the Assessing Officer and the defaulter under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Assessing Officer to the defaulter within a period of three months from the date of delivery of possession of the property to the Assessing Officer and where the Assessing Officer fails to pay such excess within the period aforesaid, the Central Government is required to pay simple interest at the rate of twelve per cent per annum to the defaulter on such amount for the period of delay.

It is proposed to amend sub-rule (3) so as to reduce the rate of interest which is payable by the Central Government under that sub-rule from twelve per cent to nine per cent per annum.

This amendment will take effect from 1st June, 2001.

Wealth-tax

Amendment of section 17.

90. In section 17 of the Wealth-tax Act, 1957 (27 of 1957), (hereinafter referred to as the Wealth-tax Act), in sub-section (1A), for clauses (*a*) and (*b*), the following clauses shall be substituted with effect from the 1st day of June, 2001, namely:—

"(*a*) if four years have elapsed from the end of the relevant assessment year, unless the case falls under

clause (*b*);

(*b*) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees ten lakh or more for that year.".

NOTES

Clause 90 seeks to amend section 17 of the Wealth-tax Act relating to wealth escaping assessment.

Under the existing provision contained in sub-section (1A), a notice under sub-section (1) of the said section may be issued within a period of four, seven or ten years from the end of the relevant assessment year. An assessment which has already been completed may be re-opened by issue of notice under sub-section (1) up to the period of four years from the end of relevant assessment year. For any period beyond four years but up to seven years, such notice may be issued when the amount of escaped net wealth is not less than five lakh rupees but does not exceed ten lakh rupees. Where, the amount of escaped net wealth is likely to be ten lakh rupees or more, a notice may be issued up to ten years from the end of the relevant assessment year.

It is proposed to amend the said sub-section (1A) to provide that the notice under sub-section (1) of the said section may be issued only within four years from the end of relevant assessment year, or within six years from the end of the relevant assessment year in cases where the amount of net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to ten lakh rupees or more for that year.

This amendment will take effect from 1st June, 2001.

Amendment of section 17A.

91. In section 17A of the Wealth-tax Act, with effect from the 1st day of June, 2001,—

(*a*) in sub-section (2),—

(*i*) for the words "two years", the words "one year" shall be substituted;

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

"**Provided** that where the notice under sub-section (1) of section 17 was served on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such assessment or reassessment may be made at any time up to the 31st day of March, 2002.";

(*iii*) the *Explanation* shall be omitted;

(*b*) in sub-section (3),—

(*i*) for the words "two years", the words "one year" shall be substituted;

(*ii*) for the figures "23" at both the places where they occur, the figures and letter "23A" shall be substituted;

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

"**Provided** that where the order under section 23A or section 24 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 25 is passed by the Commissioner, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, such an order of fresh assessment may be made at any time up to the 31st day of March, 2002.".

NOTES

Clause 91 seeks to amend section 17A of the Wealth-tax Act relating to time-limit for completion of assessment and re-assessment.

Under the existing provision contained in sub-section (2), no order of assessment or re-assessment shall be made under section 17 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served. Further, sub-section (3) provides that an order of fresh assessment in pursuance of an order passed on or after the 1st day of April, 1975, under section 23 or section 24 or section 25, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 23 or section 24 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 25 is passed by the Commissioner.

It is proposed to amend sub-section (2) to provide that no order of assessment or re-assessment shall be made

under section 17 after the expiry of one year from the end of the financial year in which the notice under sub-section (1) of that section was served. However, where the notice under the said sub-section (1) has been served on or after 1st April, 1999 but before 1st April, 2000, such assessment or re-assessment may be made at any time up to 31st March, 2002.

It is further proposed to omit the Explanation in the said sub-section, which is of consequential nature.

It is also proposed to amend sub-section (3) to substitute references to section 23 with references to section 23A, and to provide that an order of fresh assessment in pursuance of an order under section 23A or section 24 or section 25, setting aside or cancelling an assessment, may be made at any time before the expiry of one year from the end of the financial year in which the order under section 23A or section 24 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 25 is passed by the Commissioner. However, where any such order has been received or has been passed, as the case may be, on or after 1st April, 1999 but before 1st April, 2000, an order of fresh assessment may be made at any time up to 31st March, 2002.

These amendments will take effect from 1st June, 2001.

Amendment of section 17B.

92. In section 17B of the Wealth-tax Act, in sub-sections (1) and (3), for the words “two per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 92 seeks to amend section 17B of the Wealth-tax Act relating to payment of interest for defaults in furnishing return of net wealth.

Under the existing provision contained in section 17B, the assessee is liable to pay simple interest at the rate of two per cent for every month or part of a month for default in furnishing the return of net wealth for the period specified in the said section.

It is proposed to amend sub-sections (1) and (3) of the said section so as to reduce the rate of interest from two per cent to one and one-fourth per cent for every month or part of a month, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 31.

93. In section 31 of the Wealth-tax Act, in sub-section (2), with effect from the 1st day of June, 2001,—

(*i*) for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted;

(*ii*) in the second proviso, for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted.

NOTES

Clause 93 seeks to amend section 31 of the Wealth-tax Act which provides when tax, interest, penalty, fine or any other sum is payable by an assessee who is deemed to be in default.

Under the existing provision contained in section 31, if the amount specified in a notice of demand under section 30 is not paid within thirty days of the service of the notice, the assessee is liable to pay simple interest at the rate of one and one-half per cent for every month or part of a month for the period specified in that section.

It is proposed to amend sub-section (2) of the said section so as to reduce the rate of interest payable by the assessee from one and one-half per cent to one and one-fourth per cent for every month or part of a month, as the case may be.

This amendment will take effect from 1st June, 2001.

Amendment of section 34A.

94. In section 34A of the Wealth-tax Act, with effect from the 1st day of June, 2001,—

(*a*) in sub-section (3), for the words “fifteen per cent”, the words “nine per cent” shall be substituted;

(*b*) in sub-section (4B), in clause (*a*), for the words “one per cent”, the words “three-fourth per cent” shall be substituted.

NOTES

Clause 94 seeks to amend section 34A of the Wealth-tax Act relating to refunds.

Under the existing provision contained in sub-section (3) of the said section, where a refund is due to the assessee in pursuance of an order referred to in sub-section (1) and the Assessing Officer does not grant the refund within a period of six months from the date of such order, the Central Government shall pay to the assessee simple interest at fifteen per cent per annum on the amount of refund due for the period specified in the said sub-section.

Sub-clause (*a*) seeks to amend the said sub-section (3) so as to reduce the rate of interest from fifteen per cent per annum to nine per cent per annum.

Under the existing provision contained in clause (*a*) of sub- section (4B) of the said section, where refund of any amount becomes due to the assessee under the said Act, he shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one per cent for every month or part of a month for the period specified in the said clause.

Sub-clause (*b*) seeks to amend the said clause (*a*) of sub-section (4B) so as to reduce the rate of interest from one per cent to three-fourth per cent for every month or part thereof, as the case may be.

These amendments will take effect from 1st June, 2001.

Expenditure-tax

Amendment of section 14 of Act 35 of 1987.

95. In section 14 of the Expenditure-tax Act, 1987, for the words “one and one-half per cent”, the words “one and one-fourth per cent” shall be substituted with effect from the 1st day of June, 2001.

NOTES

Clause 95 seeks to amend section 14 of the Expenditure-tax Act relating to interest on delayed payment of expenditure-tax.

Under the existing provision, every person responsible for collecting expenditure-tax and paying it to the credit of the Central Government, who fails to credit the tax to the account of the Central Government within the period specified in section 7 shall pay simple interest at the rate of one and one-half per cent for every month or part of a month by which such crediting of tax is delayed.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent to one and one-fourth per cent for every month or part of a month, as the case may be.

This amendment will take effect from 1st June, 2001.

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CHAPTER V

SERVICE TAX

Amendment of Act 32 of 1994.

130. In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(*a*) for section 65, the following section shall be substituted, namely:—

'65. *Definitions.*—In this Chapter, unless the context otherwise requires,—

(1) "actuary" has the meaning assigned to it in clause (1) of section 2 of the Insurance Act, 1938 (4 of 1938);

(2) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(3) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(4) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

(5) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962);

(6) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 (20 of 1972) and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

(7) "assessee" means a person liable to pay the service tax and includes his agent;

(8) "authorised service station" means any service station, or centre, authorised by any automobile manufacturer, to carry out any service or repair of any automobile manufactured by such manufacturer;

(9) "banking" and "banking company" shall have the meanings assigned to them in clauses (*b*) and (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), respectively;

(10) "banking and other financial services" means, the following services provided by a banking company or a financial institution including a non-banking financial company, namely:—

(*i*) financial leasing services including equipment leasing and hire-purchase by a body corporate;

(*ii*) credit card services;

(*iii*) merchant banking services;

(*iv*) securities and foreign exchange (forex) broking;

(*v*) asset management including portfolio management, all forms of fund management, pension fund management, custodial depository and trust services, but does not include cash management;

(*vi*) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy; and

(*vii*) provision and transfer of information and data processing;

(11) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963);

(12) "body corporate" shall have the meaning assigned to it in clause (7) of section 2 of the Companies Act, 1956 (1 of 1956);

(13) "broadcasting" has the meaning assigned to it in clause (*c*) of section 2 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);

(14) "cab" means a motor cab or maxi cab;

(15) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(16) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(17) "computer network" has the meaning assigned to it in clause (*j*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(18) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client

in one or more disciplines of engineering;

(19) “convention” means a formal meeting or assembly which is not open to the general public, and does not include a meeting or assembly the principal purpose of which is to provide any type of amusement, entertainment or recreation;

(20) “courier agency” means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(21) “credit rating agency” means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

(22) “ custom house agent” means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962 (52 of 1962);

(23) “data” has the meaning assigned to it in clause (*o*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(24) “electronic form” has the meaning assigned to it in clause (*r*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(25) “facsimile” (FAX) means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;

(26) “financial institution” has the meaning assigned to it in clause (*c*) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(27) “general insurance business” has the meaning assigned to it in clause (*g*) of section 3 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972);

(28) “goods” has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930 (3 of 1930);

(29) “information” has the meaning assigned to it in clause (*v*) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(30) “Insurance Agent” has the meaning assigned to it in clause (10) of section 2 of the Insurance Act, 1938 (4 of 1938);

(31) “insurance auxiliary service” means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business and includes risk assessment, claim settlement, survey and loss assessment;

(32) “intermediary or insurance intermediary” has the meaning assigned to it in sub-clause (*f*) of clause (1) of section 2 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(33) “insurer” means any person carrying on the general insurance business in India;

(34) “interior decorator” means any person engaged whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;

(35) “leased circuit” means a dedicated link provided between two fixed locations for exclusive use of the subscriber and includes a speech circuit, data circuit or a telegraph circuit;

(36) “magnetic storage device” includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;

(37) “management consultant” means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;

(38) “mandap” means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 (4 of 1882) and includes any furniture, fixtures, light fittings and floor coverings therein let out for

consideration for organising any official, social or business function;

(39) “mandap keeper” means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;

(40) “manpower recruitment agency” means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(41) “market research agency” means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(42) “maxi cab” has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(43) “motor cab” has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(44) “non-banking financial company” has the meaning assigned to it in clause (*f*) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);

(45) “on-line information and database access or retrieval” means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network;

(46) “pager” means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(47) “photography” includes still photography, motion picture photography, laser photography, aerial photography and fluorescent photography;

(48) “photography studio or agency” means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

(49) “policy holder” has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938 (4 of 1938);

(50) “port” has the meaning assigned to it in clause (*q*) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(51) “port services” means any service rendered by a port, in any manner, in relation to a vessel or goods;

(52) “practising chartered accountant” means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provision of the Chartered Accountants Act, 1949 (38 of 1949) and includes any concern engaged in rendering services in the field of chartered accountancy;

(53) “practising cost accountant” means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 (23 of 1959) and includes any concern engaged in rendering services in the field of cost accountancy;

(54) “practising company secretary” means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 (56 of 1980) and includes any concern engaged in rendering services in the field of company secretaryship;

(55) “prescribed” means prescribed by rules made under this Chapter;

(56) “real estate agent” means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;

(57) “real estate consultant” means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(58) “recognised stock exchange” has the meaning assigned to it in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(59) “rent-a-cab scheme operator” means any person engaged in the business of renting of cabs;

(60) “scientific or technical consultancy” means any advice, consultancy, or scientific or technical assistance,

rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;

(61) "securities" has the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(62) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(63) "service tax" means tax leviable under the provisions of this Chapter;

(64) "ship" means a sea-going vessel and includes a sailing vessel;

(65) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(66) "sound recording" means recording of sound on a magnetic storage device and editing thereof, in any manner;

(67) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;

(68) "steamer agent" means any person who undertakes, either directly or indirectly,—

(*a*) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(*b*) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(*c*) to provide container feeder services for or on behalf of a shipping line;

(69) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(70) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(71) "subscriber" means a person to whom any service of a telephone connection or a facsimile or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;

(72) "taxable service" means any service provided,—

(*a*) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(*b*) to a subscriber, by the telegraph authority in relation to a telephone connection;

(*c*) to a subscriber, by the telegraph authority in relation to a pager;

(*d*) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(*e*) to a client, by an advertising agency in relation to advertisement, in any manner;

(*f*) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(*g*) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(*h*) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(*i*) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;

(*j*) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;

(*k*) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;

(*l*) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(*m*) to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(*n*) to any person, by a tour operator in relation to a tour;

(*o*) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(*p*) to a client, by an architect in his professional capacity, in any manner;

(*q*) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;

(*r*) to a client, by a management consultant in connection with the management of any organisation, in any manner;

(*s*) to a client, by a practising chartered accountant in his professional capacity, in any manner;

(*t*) to a client, by a practising cost accountant in his professional capacity, in any manner;

(*u*) to a client, by a practising company secretary in his professional capacity, in any manner;

(*v*) to a client, by a real estate agent in relation to real estate;

(*w*) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(*x*) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(*y*) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(*z*) to a client, by an underwriter in relation to underwriting, in any manner;

(*za*) to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(*zb*) to a customer, by a photography studio or agency in relation to photography, in any manner;

(*zc*) to a client, by any commercial concern in relation to holding of convention, in any manner;

(*zd*) to a subscriber, by the telegraph authority in relation to a leased circuit;

(*ze*) to a subscriber, by the telegraph authority in relation to a communication through telegraph;

(*zf*) to a subscriber, by the telegraph authority in relation to a communication through telex;

(*zg*) to a subscriber, by the telegraph authority in relation to a facsimile communication;

(*zh*) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;

(*zi*) to a client, by a video production agency in relation to video-tape production, in any manner;

(*zj*) to a client, by a sound recording studio or agency in relation to any kind of sound recording;

(*zk*) to a client, by a broadcasting agency or organisation in relation to broadcasting, in any manner;

(*zl*) to a policy holder by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services;

(*zm*) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(*zn*) to any person, by a port, in relation to port services, in any manner;

(*zo*) to a customer, by an authorised service station, in relation to any service or repair of automobiles, in any manner;

and the term "service provider" shall be construed accordingly;

(73) "telegraph" has the meaning assigned to it in clause (1) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885);

(74) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 (13 of 1885) and includes a person who has been granted a licence under the first proviso to

sub-section (1) of section 4 of that Act;

(75) "telex" means a typed communication by using teleprinters through telex exchanges;

(76) "tour" means a journey from one place to another irrespective of the distance between such places;

(77) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(78) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 (59 of 1988) or the rules made thereunder;

(79) "underwriter" has the meaning assigned to it in clause (*f*) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(80) "underwriting" has the meaning assigned to it in clause (*g*) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(81) "vessel" has the meaning assigned to it in clause (*z*) of section 2 of the Major Port Trusts Act, 1963 (38 of 1963);

(82) "video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tape production;

(83) "video-tape production" means the process of any recording of any programme, event or function on a magnetic tape and editing thereof, in any manner;

(84) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder, shall apply, so far as may be in relation to service tax as they apply in relation to a duty of excise;

(*b*) for section 66, the following section shall be substituted, namely:—

"66.*Charge of service tax.*—(1) On and from the date of commencement of this Chapter, there shall be levied a tax (hereinafter referred to as the service tax), at the rate of five per cent of the value of the taxable services referred to in sub-clauses (*a*), (*b*) and (*d*) of clause (72) of section 65 and collected in such manner as may be prescribed.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996 (33 of 1996), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (*c*), (*e*) and (*f*) of clause (72) of section 65 and collected in such manner as may be prescribed.

(3) With effect from the date notified under section 88 of the Finance Act, 1997 (26 of 1997), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (*g*), (*h*), (*i*), (*j*), (*k*), (*l*) ,(*m*), (*n*) and (*o*) of clause (72) of section 65 and collected in such manner as may be prescribed.

(4) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998 (21 of 1998), there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (*p*), (*q*), (*r*), (*s*), (*t*), (*u*), (*v*), (*w*), (*x*), (*y*) and (*z*) of clause (72) of section 65 and collected in such manner as may be prescribed.

(5) With effect from the date notified under section 130 of the Finance Act, 2001, there shall be levied a service tax at the rate of five per cent of the value of the taxable services referred to in sub-clauses (*za*), (*zb*), (*zc*), (*zd*), (*ze*), (*zf*), (*zg*), (*zh*), (*zi*), (*zj*), (*zk*), (*zl*), (*zm*), (*zn*) and (*zo*) of

clause (72) of section 65 and collected in such manner as may be prescribed";

(*c*) for section 67, the following section shall be substituted, namely:—

"67. *Valuation of taxable services for charging service tax.*—For the purposes of this Chapter, the value of any taxable service shall be the gross amount charged by the service provider for such service rendered by him.

Explanation.—For the removal of doubts, it is hereby declared that the value of a taxable service, as the case may be, includes,—

(*a*) the aggregate of commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;

(*b*) the adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;

(*c*) the amount of premium charged by the insurer from the policy holder;

(*d*) the commission received by the air travel agent from the airline;

(*e*) the commission received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer; and

(*f*) the reimbursement received by the authorised service station from manufacturer for carrying out any service of any automobile manufactured by such manufacturer, but does not include,—

(*a*) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;

(*b*) the cost of unexposed photography film, unrecorded magnetic tape or such other storage devices if any, sold to the client during the course of providing the service; and

(*c*) the cost of parts or accessories, if any, sold to the customer during the course of service or repair of automobiles";

(*d*) in section 69, for the words "Central Excise Officer", the words "Superintendent of Central Excise" shall be substituted;

(*e*) for sections 70 and 71, the following sections shall be substituted, namely:—

"70. *Furnishing of returns.*—Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

71. *Verification of tax assessed by the assessee, etc.*—(1) The Superintendent of Central Excise may, on the basis of information contained in the return filed by the assessee under section 70, verify the correctness of the tax assessed by the assessee on the services provided.

(2) The Superintendent of Central Excise may require the assessee to produce any accounts, documents or other evidence as he may deem necessary for such verification as and when required.

(3) If on verification under sub-section (2), the Superintendent of Central Excise is of the opinion that service tax on any service provided has escaped assessment or has been under-assessed, he may refer the matter to the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise, who may pass such order of assessment as he thinks fit";

(*f*) in section 72,—

(*a*) for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*b*) in clause (*b*), for the words, brackets and figures "to comply with all the terms of a notice issued under sub-section (1) of section 71,", the words and figures "to comply with the provisions of section 71," shall be substituted;

(*g*) in section 73,—

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

"(*a*) the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise has reason to believe that by reason of omission or failure on the part of the assessee, to make a return under section 70 for any prescribed period or to disclose wholly or truly all material facts required for verification of the assessment under section 71, the value of taxable service has escaped assessment or has been under-assessed or any sum has erroneously been refunded, or";

(*ii*) in clause (*b*), for the portion beginning with the words "Central Excise Officer has", and ending with the words "has been under-assessed" the following shall be substituted, namely:—

"Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise has in consequence of information in his possession, reason to believe that the value of any taxable service assessable in any prescribed period has escaped assessment or has been under-assessed or any sum has erroneously been refunded";

(*iii*) the following Explanation shall be inserted at the end, namely :—

"*Explanation.*—Where the service of notice is stayed by an order of a court, the period of such stay shall be excluded in computing the period of five years or six months, as the case may be, under this section.";

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

(*i*) in section 75, for the words "at the rate of one and one-half per cent for every month or part of the month", the words "at the rate of twenty-four per cent per annum for the period" shall be substituted;

(*j*) after section 75, the following section shall be inserted, namely:—

"75A. *Penalty for failure of registration.*—Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, fails to make an application for registration under section 69, shall pay, by way of penalty, a sum of five hundred rupees";

(*k*) in section 77, for the words "a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every week or part thereof during which such failure continues", the words "a sum which may extend to one thousand rupees" shall be substituted;

(*l*) in section 78, for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*m*) in section 79, for the portion beginning with the words "If the Central Excise Officer" and ending with the word and figures "section 71,", the following shall be substituted, namely:—

"If the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise in the course of any proceedings under this Chapter is satisfied that any person has failed to comply with the provisions of section 71,";

(*n*) in section 82, for the words "Central Excise Officer", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*o*) in section 84,—

(*a*) in sub-section (1) , for the words "Central Excise Officer subordinate to him", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*b*) in sub-section (3), for the words "Central Excise Officer", the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*p*) in section 85, for the words "Central Excise Officer", wherever they occur, the words "Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise" shall be substituted;

(*q*) in section 86,—

(*a*) for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The Board may, if it objects to any order passed by the Commissioner of Central Excise under section 84, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

(2A) The Commissioner of Central Excise may, if he objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to appeal to the Appellate Tribunal against the order";

(*b*) in sub-section (3), for the words, brackets and figure "or sub-section (2)", the words, brackets, figures and letter "or sub-section (2) or sub-section (2A)" shall be substituted;

(*c*) in sub-section (4), for the portion beginning with the words "The Central Excise Officer" and ending with the words, brackets and figure "or sub-section (2)," , the following shall be substituted, namely:—

"The Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or the assessee, as the case may be, on receipt of a notice

that an appeal against the order of the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A)";

(*d*) in sub-section (6), for the words, brackets and figure "in sub-section (2)", the words, brackets, figures and letter "in sub-section (2) or sub-section (2A)" shall be substituted.

NOTES

Clause 130 seeks to amend Chapter V of the Finance Act, 1994 relating to service-tax.

Sub-clauses (*a*), (*b*) and (*c*) substitute sections 65, 66 and 67 so as to levy a tax on services rendered by—

(*i*) a scientist or a technocrat or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(*ii*) a photography studio or agency in relation to photography, in any manner;

(*iii*) any commercial concern in relation to holding of convention, in any manner;

(*iv*) the telegraph authority, in relation to a communication through facsimile, telegraph, telex or leased circuit;

(*v*) a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner;

(*vi*) a video production agency in relation to video-tape production, in any manner;

(*vii*) a sound recording studio or agency in relation to any kind of sound recording;

(*viii*) a broadcasting agency or organisation, in relation to broadcasting, in any manner;

(*ix*) an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services;

(*x*) a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(*xi*) a port, in relation to port services, in any manner; and

(*xii*) an authorised service station, in relation to any service or repair of automobiles, in any manner.

Service tax is sought to be levied on the above services at the rate of five per cent on the gross amount charged to the client or customer or subscriber or policy holder or any other person, as the case may be, provided by the service provider.

Sub-clause (*d*) seeks to amend section 69 of the said Act so that a person liable to pay service tax make application for registration to Superintendent of Central Excise.

Sub-clause (*e*) seeks to substitute sections 70 and 71 of the said Act so as to provide for self-assessment of service tax due on the services provided by the assessee and to provide for verification of the correctness of the service tax assessed by the assessee, for requiring the assessee to produce documents, accounts or other evidences as and when required and for passing an order by Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise, in case where service tax on any service provided has escaped assessment or has been under assessed, respectively.

Sub-clause (*f*) seeks to amend section 72 of the said Act so that the Assistant Commissioner of Central Excise or, Deputy Commissioner of Central Excise, as the case may be, are empowered to act instead of Central Excise Officer for the purpose of assessment of service tax.

Sub-clause (*g*) seeks to amend section 73 of the said Act so as to give power of assessment of service tax on the value of escaped assessment or under-assessment or on erroneous refund, and to exclude the period of stay by an order of a Court for the purpose of computing the period of five years or six months as the case may be specified in that section.

Sub-clause (*h*) seeks to amend section 74 of the said Act so as to empower the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, to rectify any mistake apparent from the record.

Sub-clause (*i*) seeks to amend section 75 of the said Act so as to prescribe the interest at the rate of twenty four

per cent per annum on delayed payment of service tax.

Sub-clause (*j*) seeks to insert new section 75A in the said Act so as to prescribe a penalty for failure to register under section 69.

Sub-clause (*k*) seeks to amend section 77 of the said Act so as to revise the penalty to a sum which may extend to one thousand rupees for failure to furnish prescribed return.

Sub-clauses (*l*) and (*m*) seek to amend sections 78 and 79 of the said Act so as to empower Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to direct any person to pay a penalty for suppressing value of taxable service and for failure to comply with the provisions of section 71, respectively.

Sub-clause (*n*) seeks to amend section 82 of the said Act so as to authorise Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise to search premises.

Sub-clause (*o*) seeks to amend section 84 of the said Act so as to provide, the Commissioner of Central Excise shall communicate the order passed by him under that sub-section to the assessee, Assistant Commissioner of Central Excise, or Deputy Commissioner of Central Excise and the Board.

Sub-clauses (*p*) and (*q*) seek to amend sections 85 and 86 of the said Act so as to empower the Commissioner of Central Excise or, Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, to appeal to the Commissioner of Central Excise (Appeals) or the Appellate Tribunal, respectively.

CHAPTER VI

MISCELLANEOUS

Amendment of Act 6 of 1898

131. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(*See* section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams	Rs. 4.00
For every twenty grams, or fraction thereof, exceeding twenty grams	Rs. 4.00.

Letter-cards

For a letter-card	Rs. 2.00.

Post cards

Post cards (not being post cards containing printed communication or competition post cards)

Single	50 paise
Reply	Re. 1.00

Printed post cards

Post cards containing printed communication (not being

competition post cards)

For a post card Rs. 3.00.

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card Rs. 5.00.

Explanation.—A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspapers, magazine or any other media.

Book, pattern and sample packets

For the first fifty grams or fraction thereof Rs. 3.00

For every additional fifty grams, or fraction thereof, in excess of fifty grams Rs. 4.00.

Registered newspapers

For a weight not exceeding fifty grams 25 paise

For a weight exceeding fifty grams but not exceeding one hundred grams 50 paise

For every additional one hundred grams, or fraction thereof, exceeding one hundred grams 20 paise.

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

For a weight not exceeding one hundred grams 50 paise

For every additional one hundred grams, or fraction thereof, exceeding one hundred grams 20 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams Rs.16.00

For every five hundred grams, or fraction thereof, exceeding five hundred grams Rs.15.00."

NOTES

Clause 131 seeks to substitute the First Schedule to the Indian Post Office Act, 1898 so as to provide for the revised rates for letters, post cards, printed post cards, competition post cards, registered newspapers, book, pattern and sample packets, registered newspapers and parcels.

These revised rates will be effective from a date to be notified in the Official Gazette after the Bill is passed and receives the assent of the President.

Amendment of section 14 of Act 74 of 1956.

132. In the Central Sales Tax Act, 1956, in section 14,—

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

'(*iid*) Aviation Turbine Fuel sold to a Turbo-Prop Aircraft.

Explanation.—For the purposes of this clause, "Turbo-Prop Aircraft" means an aircraft deriving thrust, mainly from propeller, which may be driven by either turbine engine or piston engine;'

(*b*) in clause (*iv*), in sub-clause (*i*), for the words "pig iron and", the words "pig iron, sponge iron and" shall be substituted.

NOTES

Clause 132 seeks to amend section 14 of the Central Sales Tax Act, so as to include Aviation Turbine Fuel sold to a Turbo-Prop Aircraft and sponge iron for the purpose of declaring it the goods of special importance in inter-State trade or commerce.

Omission of section 55 of Act 61 of 1981.

133. Section 55 of the National Bank for Agriculture and Rural Development Act, 1981 shall be omitted with effect from the 1st day of April, 2002.

NOTES

Clause 133 seeks to omit section 55 of the National Bank for Agriculture and Rural Development Act, 1981.

Section 55 of the said Act provides that notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964, or any other enactment for the time being in force relating to tax on income, profits or gains, the National Bank for Agriculture and Rural Development shall not be liable to pay income-tax, surtax or any other tax in respect of any income, profits or gains derived or any amount received by it.

It is proposed to omit the said section to make the National Bank for Agriculture and Rural Development liable to pay income-tax or any other tax in respect of the income, profits or gains derived, or any amount received by it.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Omission of section 48 of Act 53 of 1987.

134. Section 48 of the National Housing Bank Act, 1987 shall be omitted with effect from the 1st day of April, 2002.

NOTES

Clause 134 seeks to omit section 48 of the National Housing Bank Act, 1987.

Section 48 of the said Act provides that notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on income, profits or gains, the National Housing Bank shall not be liable to pay income-tax or any other tax in respect of its income, profits or gains derived.

It is proposed to omit the said section to make the National Housing Bank liable to pay income-tax or any other tax in respect of the income, profits or gains derived by it.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Omission of section 50 of Act 39 of 1989.

135. Section 50 of the Small Industries Development Bank of India Act, 1989 shall be omitted with effect from the 1st day of April, 2002.

NOTES

Clause 135 seeks to omit section 50 of the Small Industries Development Bank of India Act, 1989.

Section 50 of the said Act provides that notwithstanding anything to the contrary contained in the Income-tax Act,

1961 or in any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Small Industries Development Bank of India shall not be liable to pay income-tax or any other tax in respect of (*a*) any income, profits or gains accruing or arising to the Small Industries Development Assistance Fund or any amount received in that Fund; and (*b*) any income, profits or gains derived or any amount received by it.

It is proposed to omit the said section to make the Small Industries Development Bank of India liable to pay income-tax or any other tax in respect of any income, profits or gains accruing or arising to the Small Industries Development Assistance Fund or on any amount received in that Fund and any income, profits or gains derived or any amount received by it.

This amendment will take effect from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

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 clause 110, sub-clause (*a*) of clause 113, clause 127, clause 128 and clause 129 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. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent of the amount by which the total income not 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 112 or section 113 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 sixty 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—

(*A*) at the rate of twelve per cent of such income-tax where the total income exceeds sixty thousand rupees but does not exceed one lakh fifty thousand rupees; or

(*B*) at the rate of seventeen per cent of such income-tax where the total income exceeds one lakh fifty thousand rupees;

(*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 twelve per cent of such income-tax :

Provided that in case of persons mentioned in sub-item (*A*) of item (*i*) above having a total income exceeding sixty 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 sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees:

Provided further that in case of persons mentioned in sub-item (*B*) of item (*i*) above having a total income exceeding one lakh 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 and surcharge on a total income of one lakh fifty thousand rupees by more than the amount of income that exceeds one lakh 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* 35 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 112 or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union of calculated at the rate of twelve 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 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of twelve 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 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of twelve 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 by the Central Government — 50 per cent;

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

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of item I of this Paragraph, or in section 112 or section 113, shall, in the case of every domestic company, be increased by a surcharge calculated at the rate of thirteen per cent of such income-tax.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

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

Rate of income-tax

1. In the case of a person other than a company—

(*a*) where the person is resident in India—

(*i*) on income by way of interest other than "Interest on securities" — 10 per cent;

(*ii*) on income by way of winnings from lotteries, 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 recognised 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 — 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 — 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 — 20 per cent;

(*v*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian

concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(*A*)	where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent;
(*B*)	where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent;
(*C*)	where the agreement is made on or after the 1st day of June, 1997	20 per cent;

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

(*A*)	where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent;
(*B*)	where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent;
(*C*)	where the agreement is made on or after the 1st day of June, 1997	20 per cent;

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

(*viii*) on any other income — 48 per cent;

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

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of this Part shall be increased by a surcharge for purposes of the Union, calculated at the rate of two per cent of such income-tax:

Provided that no surcharge shall be payable by a foreign company.

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 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or 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] shall be charged, deducted or computed at the following rate or rates :—

Paragraph A

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

Rates of income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil;*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent of the amount by which the total income 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 112 or section 113 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 sixty 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 two 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 two per cent of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding sixty 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 sixty thousand rupees by more than the amount of income that exceeds sixty 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 112 or section 113 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 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 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two 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 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two 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 by the Central Government	50 per cent;
(*ii*) on the balance, if any, of the total income	48 per cent;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of item I of this Paragraph, or in section 112 or section 113, shall, in the case of every domestic company, be increased by a surcharge for purposes of the Union calculated at the rate of two per cent of such income-tax.

PART IV

[*See* section 2(10)(*c*)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural Income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-

tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

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

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling house by the receiver of the rent or revenue 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 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 manufactured by him from rubber 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 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, 2001, 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, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 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, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000,

(*v*) 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,

(*vi*) 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,

(*vii*) 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,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000,

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, 2001.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or 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 is a loss, then, for the purposes of sub-section (9) of section 2 of this Act, —

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

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

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

(*iv*) 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,

(*v*) 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,

(*vi*) 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,

(*vii*) 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,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001,

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, 2002.

(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, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No.2) Act, 1996 (33 of 1996), or 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), 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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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to insert a new sub-clause (*viii*) in clause (2) of section 17 of the Income-tax Act relating to definitions of “Salary”, “perquisite” and “profits in lieu of salary”. The amendment proposed by this clause confers power upon the Central Board of Direct Taxes to prescribe, by rules, the value of any other fringe benefit or amenity to be included in “Salary”.

Clause 14 of the Bill seeks to substitute section 23 of the Income-tax Act relating to determination of annual value of house property. The Explanation to sub-section (1) of the proposed new section empowers the Central Board of Direct Taxes to prescribe, by rules, the conditions in which the amount of rent which the owner cannot realise shall not be included in the actual rent received or receivable.

Clause 23 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research. Sub-clause (*a*), which seeks to amend sub-section (2AA) of the said section, empowers the Central Board of Direct Taxes to specify, by rules, the authority which will approve the specified person and the scientific research programme.

Clause 44 of the Bill seeks to substitute section 92 in the Income-tax Act relating to income from transactions with

non-residents, how computed in certain cases.

Clause (*m*) of sub-section (2) of the proposed new section 92A empowers the Central Board of Direct Taxes to specify any relationship of mutual interest between two enterprises, the existence of which shall deem the enterprises to be associated enterprises.

Sub-section (1) of the proposed new section 92C empowers the Central Board of Direct Taxes to prescribe the factors having regard to which any of the methods specified in the sub-section shall be taken to be the most appropriate method for determination of the arm's length price in relation to an international transaction. Clause (*f*) of the said section also empowers the Central Board of Direct Taxes to prescribe any other method for determination of the said arm's length price.

Sub-section (2) of the proposed new section 92C empowers the Central Board of Direct Taxes to prescribe the manner in which the most appropriate method is to be applied for determination of the arm's length price in relation to an international transaction.

Sub-section (1) of the proposed new section 92D empowers the Central Board of Direct Taxes to prescribe the information and documents which a person, who has entered into an international transaction, is required to keep and maintain. Sub-section (2) empowers the Central Board of Direct Taxes to prescribe the period for which the information and documents referred to in sub-section (1) shall be kept and maintained.

The proposed new section 92E empowers the Central Board of Direct Taxes to prescribe, by rules, the form and the manner of verification of, and the particulars to be set forth in, the report to be furnished by a person who has entered into an international transaction during a previous year.

Clause 47 of the Bill seeks to substitute section 115AC of the Income-tax Act relating to tax on income from bonds or shares purchased in foreign currency or capital gains arising from their transfer.

Clauses (*a*) and (*b*) of sub-section (1) of the proposed new section empower the Central Government to specify by notification in the Official Gazette, a scheme for issue of bonds and Global Depository Receipts by an Indian Company for purchase by non-residents in foreign currency.

The proposed new section also empowers the Central Government to specify by notification in the Official Gazette, the scheme under which "intermediary" may be approved.

Clause 48 of the Bill seeks to amend section 115ACA of the Income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

The amendment proposed by clause (*a*) of sub-section (1) empowers the Central Government to specify, by notification in the Official Gazette, the Employees' Stock Option Scheme whereby an Indian company engaged in specified knowledge-based industry or service may issue Global Depository Receipts to a resident employee. The amendment proposed by the Explanation to sub-section (1) empowers the Central Government to specify, by notification in the Official Gazette, any other industry or service as specified knowledge based industry or service.

Clause 54 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

The proposed new sub-section (1) empowers the Central Board of Direct Taxes to prescribe, by rules, the form and manner of verification of, and the particulars to be set forth in, the return to be furnished by every person. The proposed proviso to the said sub-section empowers the Central Board of Direct Taxes to specify, by notification in the Official Gazette, the area in which the person, being a person other than a company, who is not required to furnish a return under this sub-section, resides and who on fulfilling at any time during the previous year any one of the six conditions specified in the said section, shall furnish a return of his income during the previous year on or before the due date in the form and manner prescribed as aforesaid.

The proposed second proviso of the proposed new sub-section (1) empowers the Central Government, to specify, by notification in the Official Gazette, the class or classes of persons to whom the provisions of the first proviso shall not apply.

Explanation 3 to the said sub-section empowers the Central Board of Direct Taxes to specify, by notification in the Official Gazette, the neighbouring countries or such places of pilgrimage which are not included in "travel to any foreign country".

Clause 55 of the Bill seeks to amend section 139A of the Income-tax Act relating to permanent account number.

The first proviso to the proposed new sub-section (5B) empowers the Central Government, to specify, by notification in the Official Gazette, different dates from which the provisions of the said sub-section shall apply in respect of any class or classes of persons.

Clause 63 of the Bill seeks to amend section 192 of the Income-tax Act relating to "Salary".

The proposed new sub-section (2C) empowers the Central Board of Direct Taxes to prescribe the form and manner of furnishing a statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof which a person, responsible for paying any income-tax chargeable under the head "Salaries", shall furnish to the person to whom such payment is made.

Clause 99(*a*) of the Bill seeks to amend section 28AB of the Customs Act, 1962. The amendment proposed by this clause confers powers upon the Central Government to fix rate of interest at such rate not below eighteen per cent and not exceeding thirty six per cent per annum on delayed refunds, by notification in the Official Gazette.

Clause 110(*a*) of the Bill seeks to amend section 3 of the Customs Tariff Act, 1975. The amendment proposed by this clause confers powers upon the Central Government to specify the rate of additional duty on imported alcoholic liquor having regard to the excise duty for the time being leviable on the like alcoholic liquor produced or manufactured in different States, and in case the like 119 alcoholic liquor is not produced or manufactured in any State, then, having regard of the excise duty leviable on the class or description of alcoholic liquor to which the imported alcoholic liquor belongs, by notification in the Official Gazette.

Clause 111(*a*) of the Bill seeks to amend section 8B of the Customs Tariff Act, 1975. The amendment proposed by this clause confers powers upon the Central Government to exempt the quantity of any article, when imported from any country or territory into India, by notification in the Official Gazette.

Clause 113(*b*) of the Bill seeks to amend the First Schedule to the Customs Tariff Act, 1975. This clause also confers powers upon the Central Government to appoint the date to bring into force the said amendment by notification in the Official Gazette.

Clause 119(*a*) of the Bill seeks to amend section 11 AB of the Central Excise Act, 1944. The amendment propose by this clause confers powers upon the Central Government to fix rate of interest at such rate not below eighteen per cent and not exceeding thirty-six per cent per annum on delayed refunds, by notification in the Official Gazette.

Clause 130 of Bill seeks to amend the Finance Act, 1994. Sub-clause (*a*) of the said clause proposes to substitute section 66 of the said Act. Sub-sections (1), (2), (3), (4) and (5) of the proposed new section 66 empowers the Central Government to make rules to provide the manner of collection of service-tax levied under those sub-sections. Sub-clause (*e*) of the said clause proposes to substitute new sections 70 and 71 of the Finance Act, 1994. The proposed section 70 empowers the Central Government to make rules to provide form and manner in which and the frequency at which a return shall be furnished under that section.

Clause 131 seeks to substitute the First Schedule to the Indian Post Office Act, 1898.

The proposed amendment empowers the Central Government to revise the rates for letters, post cards, printed post cards, competition post cards, book, pattern and sample packets, registered newspapers and parcels from a date to be notified in the Official Gazette after the Bill is passed and receives the assent of the President.

The matters in respect of which notifications may be issued or rules may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.