

\*Finance Bill, 2008†

[17 OF 2008]

A Bill to give effect to the financial proposals of the Central Government for the financial year 2008-09.

Be it enacted by Parliament in the Fifty-ninth 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, 2008.

(2) Save as otherwise provided in this Act, sections 2 to 62 shall be deemed to have come into force on the 1st day of April, 2008.

**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, 2008, 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 by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh ten 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 one lakh ten 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 one lakh ten 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 in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh ten thousand rupees”, the words “one lakh forty-five thousand rupees” had been substituted:

**Provided further** that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh ten thousand rupees”, the words “one lakh ninety-five thousand rupees” had been substituted:

**Provided also** that the amount of income-tax so arrived at, as reduced by the amount of rebate of

income-tax calculated under Chapter VIII-A of the Income-tax Act, 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 Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

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

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

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such income-tax where the total income exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such income-tax;
- (c) in the case of every firm and domestic company, at the rate of ten per cent of such income-tax where the total income exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such income-tax where the total income exceeds one crore rupees:

**Provided also** that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees:

**Provided also** that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

- (a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of income-tax where the fringe benefits exceed ten lakh rupees;
- (b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent of such income-tax;
- (c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such income-tax.

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

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in each case, in the manner provided therein.

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

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the

Income-tax Act, at the rate of ten per cent of such tax;

- (c) in the case of every firm and domestic company, at the rate of ten per cent of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

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

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

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax;
- (c) in the case of every firm and domestic company at the rate of ten per cent of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

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

**Provided** that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

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

**Provided also** that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 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,—

- (a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of "advance tax", where the total income exceeds ten lakh rupees;
- (b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such "advance tax";
- (c) in the case of every firm and domestic company, at the rate of ten per cent of such "advance tax", where the total income exceeds one crore rupees;
- (d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such "advance tax", where the total income exceeds one crore rupees:

**Provided also** that in the case of every company having total income chargeable to tax under section 115JB of

the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as “advance tax” and surcharge on such income shall not exceed the total amount payable as “advance tax” on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

**Provided also** that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, “advance tax” computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

- (a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of “advance tax”, where the fringe benefits exceed ten lakh rupees;
- (b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent of such “advance tax”;
- (c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent of such “advance-tax”.

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

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh 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 one lakh 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 in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh fifty thousand rupees”, the words “one lakh eighty thousand rupees” had been substituted:

**Provided further** that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words “one lakh fifty thousand rupees”, the words “two lakh twenty-five thousand rupees” had been substituted:

**Provided also** that the amount of income-tax or “advance tax” so arrived at shall be increased by a surcharge, for purposes of the Union, calculated, in each case, in the manner provided therein.

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

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional

surcharge, for purposes of the Union, to be called the Secondary and Higher “Education Cess on income-tax”, calculated at the rate of one per cent of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education.

(13) 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, 2008, has made the prescribed arrangements for the declaration and payment within India of the dividends, including dividends on preference shares, payable out of such income;
- (b) “insurance commission” means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business, including business relating to the continuance, renewal or revival of policies of insurance;
- (c) “net agricultural income”, in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;
- (d) all other words and expressions used in this section and the First Schedule but not defined in this subsection and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

### **CHAPTER III**

### **DIRECT TAXES**

#### *Income-tax*

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

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

- (a) in clause (1A), after *Explanation 2*, the following Explanation shall be inserted with effect from the 1st day of April, 2009, namely:—

*“Explanation 3.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income;”*;

- (b) for clause (15), the following clause shall be substituted with effect from the 1st day of April, 2009, namely:

—

‘(15) “charitable purpose” includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility:

**Provided** that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;’.

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

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

- (a) after clause (26AA) as omitted by the Finance Act, 1997 (26 of 1997), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1990, namely:—

‘(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

**Provided** that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

*Explanation.—For the purposes of this clause, “Sikkimese” shall mean—*

- (i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter

referred to as the “Register of Sikkim Subjects”), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual’s father or husband or paternal grandfather or brother from the same father has been recorded in that register;”;

(b) in clause (29A), after sub-clause (g), the following sub-clause shall be inserted with effect from the 1st day of April, 2009, namely:—

“(h) the Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953);”;

(c) after clause (42), the following clause shall be inserted, namely:—

“(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.”.

### **Amendment of section 35**

5. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2009,—

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

“(iia) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

**Provided** that such company—

(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed;”;

(b) in sub-section (2AB), after clause (5), the following clause shall be inserted, namely:—

“(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.”.

### **Amendment of section 35D**

6. In section 35D of the Income-tax Act, with effect from the 1st day of April, 2009,—

(a) for the words “industrial undertaking”, wherever they occur, the word “undertaking” shall be substituted;

(b) for the words “industrial unit”, wherever they occur, the word “unit” shall be substituted.

### **Amendment of section 36**

7. In section 36 of the Income-tax Act, in sub-section (1), after clause (xiv), the following clauses shall be inserted with effect from the 1st day of April, 2009, namely:—

‘(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession.”.

*Explanation.*—For the purposes of this clause, the expressions “securities transaction tax” and “taxable securities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

*Explanation.*—For the purposes of this clause, the expressions “commodities transaction tax” and

“taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2008.’

#### **Amendment of section 40**

8. In section 40 of the Income-tax Act, in clause (a), sub-clause (ib) shall be omitted with effect from Amendment of the 1st day of April, 2009.

#### **Amendment of section 40A**

9. In section 40A of the Income-tax Act, for sub-section (3), the following sub-sections shall be substituted, with effect from the 1st day of April, 2009, namely:—

“(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees:

**Provided** that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.”.

#### **Amendment of section 43**

10. In section 43 of the Income-tax Act, in clause (6), after *Explanation 5*, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of April, 2003, namely:—

“*Explanation 6.*—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

- (a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;
- (b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and
- (c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.”.

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

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

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

“(xa) any transfer by way of conversion of bonds referred to in clause (a) of sub-section (1) of section 115AC into shares or debentures of any company;”;

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

“(xvi) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.”.

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

12. In section 49 of the Income-tax Act, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.”.

#### **Amendment of section 80C**

13. In section 80C of the Income-tax Act,—

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

“(xxiii) in an account under the Senior Citizens Savings Scheme Rules, 2004;

(xxiv) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.”;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) If any amount, including interest accrued thereon, is withdrawn by the assessee from his account referred to in clause (xxiii) or clause (xxiv) of sub-section (2), before the expiry of the period of five years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year:

**Provided** that the amount liable to tax shall not include the following amounts, namely:—

(i) any amount of interest, relating to deposits referred to in clause (xxiii) or clause (xxiv) of sub-section (2), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and

(ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year.”.

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

14. For section 80D of the Income-tax Act, the following section shall be substituted with effect from new section for the 1st day of April, 2009,—

‘80D. *Deduction in respect of health insurance premia.*—(1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode, other than cash, in the previous year out of his income chargeable to tax.

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family as does not exceed in the aggregate fifteen thousand rupees; and

(b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee as does not exceed in the aggregate fifteen thousand rupees.

*Explanation.*—For the purposes of clause (a), “family” means the spouse and dependant children of the assessee.

(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1) shall be the whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate fifteen thousand rupees.

(4) Where the sum specified in clause (a) or clause (b) of sub-section (2) or in sub-section (3) is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen, the provisions of this section shall have effect as if for the words “fifteen thousand rupees”, the words “twenty thousand rupees” had been substituted.

*Explanation.*— For the purposes of this sub-section, “senior citizen” means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.

(5) The insurance referred to in this section shall be in accordance with a scheme made in this behalf by—



- (a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 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).'

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

**15.** In section 80-IB of the Income-tax Act,—

- (a) in sub-section (9), after the second proviso, the following proviso shall be inserted, namely:—

“**Provided also** that no deduction under this sub-section shall be allowed to an undertaking engaged in refining of mineral oil, if it begins refining on or after the 1st day of April, 2009.”;

- (b) after sub-section (11B), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

‘(11C) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, shall be hundred per cent of the profits and gains derived from such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

- (i) the hospital is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013;
- (ii) the hospital has at least one hundred beds for patients;
- (iii) the construction of the hospital is in accordance with the regulations or bye-laws of the local authority; and
- (iv) the assessee furnishes along with the return of income, a report of audit in such form and containing such particulars, as may be prescribed, and duly signed and verified by an accountant, as defined in the *Explanation* to sub-section (2) of section 288, certifying that the deduction has been correctly claimed.

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

- (a) a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned;
- (b) “initial assessment year” means the assessment year relevant to the previous year in which the business of the hospital starts functioning;
- (c) “excluded area” shall mean an area comprising—
  - (i) Greater Mumbai urban agglomeration;
  - (ii) Delhi urban agglomeration;
  - (iii) Kolkata urban agglomeration;
  - (iv) Chennai urban agglomeration;
  - (v) Hyderabad urban agglomeration;
  - (vi) Bangalore urban agglomeration;
  - (vii) Ahmedabad urban agglomeration;
  - (viii) District of Faridabad;
  - (ix) District of Gurgaon;
  - (x) District of Gautam Budh Nagar;
  - (xi) District of Ghaziabad;
  - (xii) District of Gandhinagar; and
  - (xiii) City of Secunderabad;
- (d) the area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.’.

#### **Amendment of section 80-ID**

16. In section 80-ID of the Income-tax Act, with effect from the 1st day of April, 2009,—

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

“(iii) engaged in the business of hotel located in the specified district having a World Heritage Site, if such hotel is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013.”;

(b) in sub-section (6), after clause (d), the following shall be inserted, namely: —

(e) “specified district having a World Heritage Site” means districts, specified in column (2) of the Table below, of the States, specified in the corresponding entry in column (3) of the said Table:

**TABLE**

S.No.	<b>Name of district</b>	<i>Name of State</i>
(1)	(2)	(3)
1.	Agra	Uttar Pradesh
2.	Jalgaon	Maharashtra
3.	Aurangabad	Maharashtra
4.	Kancheepuram	Tamil Nadu
5.	Puri	Orissa
6.	Bharatpur	Rajasthan
7.	Chhatarpur	Madhya Pradesh
8.	Thanjavur	Tamil Nadu
9.	Bellary	Karnataka
10.	South 24 Parganas (excluding areas falling within the Kolkata urban agglomeration on the basis of the 2001 census)	West Bengal
11.	Chamoli	Uttarakhand
12.	Raisen	Madhya Pradesh
13.	Gaya	Bihar
14.	Bhopal	Madhya Pradesh
15.	Panchmahal	Gujarat
16.	Kamrup	Assam
17.	Goalpara	Assam
18.	Nagaon	Assam
19.	North Goa	Goa
20.	South Goa	Goa
21.	Darjeeling	West Bengal
22.	Nilgiri	Tamil Nadu.”.

**Amendment of section 88E**

17. In section 88E of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:

—  
“(3) No deduction under this section shall be allowed in, or after, the assessment year beginning on the 1st day of April, 2009.”.

#### **Amendment of section 111A**

**18.** In section 111A of the Income-tax Act, in sub-section (1), in clause (i), for the words “ten per cent”, the words “fifteen per cent” shall be substituted with effect from the 1st day of April, 2009.

#### **Amendment of section 115AD**

**19.** In section 115AD of the Income-tax Act, in sub-section(1), in the proviso, for the words “ten per cent”, the words “fifteen per cent” shall be substituted with effect from the 1st day of April, 2009.

#### **Amendment of section 115JB.**

**20.** In section 115JB of the Income-tax Act, after sub-section (2),—

(a) the *Explanation* shall be numbered as *Explanation 1* and in *Explanation 1* as so numbered, after clause (g), for the portion beginning with the words “if any amount referred ” and ending with the words “as reduced by —”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

“(h) the amount of deferred tax and the provision therefor,

if any amount referred to in clauses (a) to (h) is debited to the profit and loss account, and as reduced by—”;

(b) after *Explanation 1* as so numbered, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“*Explanation 2.*— For the purposes of clause (a) of *Explanation 1*, the amount of income-tax shall include—

- (i) any tax on distributed profits under section 115-O or on distributed income under section 115R;
- (ii) any interest charged under this Act;
- (iii) surcharge, if any, as levied by the Central Acts from time to time;
- (iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and
- (v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.”.

#### **Amendment of section 115-O**

**21.** In section 115-O of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The amount referred to in sub-section (1) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, if—

- (a) such dividend is received from its subsidiary;
- (b) the subsidiary has paid tax under this section on such dividend; and
- (c) the domestic company is not a subsidiary of any other company:

**Provided** that the same amount of dividend shall not be taken into account for reduction more than once.

*Explanation.*—For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company.”.

#### **Amendment of section 115WB**

**22.** In section 115WB of the Income-tax Act,—

(a) in sub-section (1), in the *Explanation* to clause (d), in clause (i), for the words “and includes employees’ stock option”, the words “and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme” shall be substituted;

(b) in sub-section (2), with effect from the 1st day of April, 2009,—

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

- “(iii) any expenditure on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils such other conditions as may be prescribed;”;
- (II) in clause (E), for the *Explanation*, the following *Explanation* shall be substituted, namely:—  
 “*Explanation*.—For the purposes of this clause, any expenditure incurred or payment made to—
- (i) fulfil any statutory obligation; or
  - (ii) mitigate occupational hazards; or
  - (iii) provide first aid facilities in the hospital or dispensary run by the employer; or
  - (iv) provide creche facility for the children of the employee; or
  - (v) sponsor a sportsman, being an employee; or
  - (vi) organise sports events for employees,
- shall not be considered as expenditure for employees’ welfare;”;
- (III) clause (K) shall be omitted.

#### **Amendment of section 115WC**

**23.** In section 115WC of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2009,—

- (i) in clause (c), for the words, brackets and letters “clauses (A) to (K)”, the words, brackets and letters “clauses (A) to (L)” shall be substituted;
- (ii) in clause (d), for the words, brackets and letters “clauses (L) to (P)”, the words, brackets and letters “clauses (M) to (P)” shall be substituted.

#### **Amendment of section 115WD**

**24.** In section 115WD of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (a), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted.

#### **Amendment of section 115WE**

**25.** In section 115WE of the Income-tax Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

‘(1) Where a return has been made under section 115WD, such return shall be processed in the following manner, namely:—

- (a) the value of fringe benefits shall be computed after making the following adjustments, namely:—
  - (i) any arithmetical error in the return; or
  - (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
- (b) the tax and interest, if any, shall be computed on the basis of the value of fringe benefits computed under clause (a);
- (c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;
- (d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and
- (e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

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

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

- (a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,
  - (i) of an item, which is inconsistent with another entry of the same or some other item in such return;

- (ii) in respect of which the information required to be furnished to substantiate such entry has not been so furnished under this Act; or
  - (iii) in respect of a deduction or value of fringe benefits, where such deduction or value exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;
- (b) the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under that sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.’

### **Insertion of new section 115WKB**

**26.** After section 115WKA of the Income-tax Act, the following section shall be inserted, namely:—

“115WKB. *Deemed payment of tax by employee.*—(1) Where an employer has paid any fringe benefit tax with respect to allotment or transfer of specified security or sweat equity shares, referred to in clause (d) of sub-section (1) of section 115WB, and has recovered such tax subsequently from an employee, it shall be deemed that the fringe benefit tax so recovered is the tax paid by such employee in relation to the value of the fringe benefit provided to him only to the extent to which the amount thereof relates to the value of the fringe benefit provided to such employee, as determined under clause (ba) of sub-section (1) of section 115WC.

(2) Notwithstanding anything contained in any other provisions of this Act, where the fringe benefit tax recovered from the employee is deemed to be the tax paid by such employee under sub-section (1), such employee shall, under this Act, not be entitled to claim —

- (i) any refund out of such payment of tax; or
- (ii) any credit of such payment of tax against tax liability on other income or against any other tax liability.”.

### **Amendment of section 139**

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

- (a) in sub-section (1), in *Explanation 2*, in clause (a), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted;
- (b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), the words, figures and letters “before the 1st day of April, 2008” shall be omitted.

### **Amendment of section 142**

**28.** In section 142 of the Income-tax Act, in sub-section (2C), in the proviso, for the words “on an application”, the words “*suo motu*, or on an application” shall be substituted.

### **Amendment of section 143**

**29.** In section 143 of the Income-tax Act,—

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

‘(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

- (a) the total income or loss shall be computed after making the following adjustments, namely:—
  - (i) any arithmetical error in the return; or

- (ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;
- (b) the tax and interest, if any, shall be computed on the basis of the total income computed under clause (a);
- (c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;
- (d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and
- (e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

**Provided** that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is reduced but no tax or interest is payable by, or no refund is due to, him:

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

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

- (a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,—
  - (i) of an item, which is inconsistent with another entry of the same or some other item in such return;
  - (ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or
  - (iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;
- (b) the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.;

- (b) in sub-section (2), in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

“**Provided** that no notice under clause (ii) shall be served on the assessee after the expiry of six months from the end of the financial year in which the return is furnished.”.

#### **Amendment of section 147**

- 30.** In section 147 of the Income-tax Act, after the proviso, the following proviso shall be inserted, namely:—

“**Provided further** that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject-matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”.

#### **Amendment of section 151**

- 31.** In section 151 of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

*“Explanation.—*For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”

### **Amendment of section 153**

**32.** In section 153 of the Income-tax Act, after sub-section (3),—

- (a) the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“(4) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A and sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.”;

- (b) in *Explanation 1*, after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

“**Provided further** that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or section 244 or, as the case may be, section 244A, this proviso shall also apply accordingly.”.

### **Amendment of section 153A**

**33.** Section 153A of the Income-tax Act shall be renumbered as sub-section (1) thereof and,—

- (a) in sub-section (1) as so renumbered, in the second proviso, for the words “referred to in this section”, the words “referred to in this sub-section” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003;

- (b) after sub-section (1) as so renumbered and before the *Explanation*, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

“(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner:

**Provided** that such revival shall cease to have effect, if such order of annulment is set aside.”.

### **Amendment of section 153B**

**34.** In section 153B of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2003,—

- (i) in clause (a), for the word, figures and letter “section 153A”, the words, brackets, figures and letter “sub-section (1) of section 153A” shall be substituted and shall be deemed to have been substituted;

- (ii) in the *Explanation*,—

- (A) after clause (vi) and before the words “shall be excluded”, the following clause shall be inserted and shall be deemed to have been inserted, namely:—

“(vii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A till the date of the receipt of the order setting aside the order of such annulment, by the Commissioner.”;

- (B) in the proviso, for the words, brackets and letters “clause (a) or clause (b) of this section”, the words, brackets and letters “clause (a) or clause (b) of this sub-section” shall be substituted and shall be deemed to have been substituted.

### **Amendment of section 153C**

35. In section 153C of the Income-tax Act, in sub-section (1), in the proviso, for the word, figures and letter "section 153A", the words, brackets, figures and letter "sub-section (1) of section 153A" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003.

### **Amendment of section 153D**

36. In section 153D of the Income-tax Act, for the word, figures and letter "section 153A", the words, brackets, figures and letter 'sub-section (1) of section 153A' shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003.

### **Amendment of section 156**

37. In section 156 of the Income-tax Act, the following proviso shall be inserted, namely:—

"**Provided** that where any sum is determined to be payable by the assessee under sub-section (1) of section 143, the intimation under that sub-section shall be deemed to be a notice of demand for the purposes of this section."

### **Amendment of section 191**

38. In section 191 of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that if any person, including the principal officer of a company,—

- (a) who is required to deduct any sum in accordance with the provisions of this Act; or
- (b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default within the meaning of sub-section (1) of section 201, in respect of such tax."

### **Amendment of section 193**

39. In section 193 of the Income-tax Act, in the proviso, after clause (viii) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of June, 2008, namely:—

"(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder."

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

40. In section 194C of the Income-tax Act, in sub-section (1), after clause (j), the following clause shall be inserted with effect from the 1st day of June, 2008, namely:—

"(ja) any association of persons or body of individuals, whether incorporated or not; or"

### **Amendment of section 195**

41. In section 195 of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board."

### **Substitution of new section for section 199**

42. For section 199 of the Income-tax Act, the following section shall be substituted, namely:—

"199. *Credit for tax deducted.*—(1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the



owner of property or of the unit-holder, or of the shareholder, as the case may be.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.”.

#### **Amendment of section 201**

**43.** In section 201 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2002, namely:—

“(1) Where any person, including the principal officer of a company,—

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

Provided that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.”.

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

**44.** In section 203 of the Income-tax Act, in sub-section (3), for the figures, letters and words ‘1st day of April, 2008’, the figures, letters and words ‘1st day of April, 2010’ shall be substituted.

#### **Amendment of section 206C**

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

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

“(4) Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person for the amount so collected in a particular assessment year in accordance with the rules as may be prescribed by the Board from time to time.”;

(b) in sub-section (5), in the first proviso, for the figures, letters and words ‘1st day of April, 2008’, the figures, letters and words ‘1st day of April, 2010’ shall be substituted.

#### **Amendment of section 254**

**46.** In section 254 of the Income-tax Act, in sub-section (2A), for the third proviso, the following proviso shall be substituted with effect from the 1st day of October, 2008, namely:—

“Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.”.

#### **Insertion of new section 268A**

**47.** After section 268 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, 1999, namely:—

“268A. *Filing of appeal or application for reference by income-tax authority.*—(1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for

any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

- (a) the same assessee for any other assessment year; or
- (b) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.”.

#### **Amendment of section 271**

**48.** In section 271 of the Income-tax Act, after sub-section (1A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(1B) Where any amount is added or disallowed in computing the total income or loss of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under sub-section (1).”.

#### **Insertion of new section 273AA**

**49.** After section 273A of the Income-tax Act, the following section shall be inserted, namely:—

“273AA. *Power of Commissioner to grant immunity from penalty.*—(1) A person may make an application to the Commissioner for granting immunity from penalty, if—

- (a) he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA; and
- (b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”.

#### **Insertion of new section 278AB**

**50.** After section 278AA of the Income-tax Act, the following section shall be inserted, namely:—

“278AB. *Power of Commissioner to grant immunity from prosecution.*—(1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the

prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived:

Provided that where the application for settlement under section 245C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.”.

#### **Insertion of new section 282A**

**51.** After section 282 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2008, namely:—

“282A. *Authentication of notices and other documents.*—(1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed in manuscript by that authority.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2).”.

#### **Insertion of new section 292BB**

**52.** After section 292B of the Income-tax Act, the following section shall be inserted, namely:—

“292BB. *Notice deemed to be valid in certain circumstances.*—Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner.”.

#### **Amendment of section 292C**

**53.** Section 292C of the Income-tax Act shall be renumbered as sub-section (1) thereof and—

(a) in sub-section (1) as so renumbered, after the words and figures “search under section 132”, the words, figures and letter “or survey under section 133A” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of October, 1975 namely:—

“(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person

referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132.”.

#### **Amendment of section 295**

**54.** In section 295 of the Income-tax Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:—

“(fa) the form and manner in which the information relating to payment of any sum may be furnished under sub-section (6) of section 195;”.

#### **Amendment of Fourth Schedule**

**55.** In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first proviso, for the figures, letters and words “31st day of March, 2008”, the figures, letters and words “31st day of March, 2009” shall be substituted.

### ***Wealth-tax***

#### **Amendment of section 17**

**56.** In section 17 of the Wealth-tax Act,—

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

“**Provided also** that the Assessing Officer may assess or reassess such net wealth, other than the net wealth which is the subject matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”;

(b) in sub-section (1B), after clause (b), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice, need not issue such notice himself.”.

#### **Amendment of section 17A.**

**57.** In section 17A of the Wealth-tax Act, after sub-section (4), in *Explanation 1*, after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

“**Provided further** that where a proceeding before the Settlement Commission abates under section 22HA, the period of limitation referred to in this section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 22HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.”.

#### **Amendment of section 18**

**58.** In section 18 of the Wealth-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(1A) Where any amount is added or disallowed in computing the net wealth of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under sub-section (1).”.

#### **Insertion of new section 18BA**

**59.** After section 18B of the Wealth-tax Act, the following section shall be inserted, namely:—

“18BA. *Power of Commissioner to grant immunity from penalty.*—(1) A person may make an application to the Commissioner for granting immunity from penalty, if-

(a) he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”.

### **Insertion of new section 35GA**

**60.** After section 35G of the Wealth-tax Act, the following section shall be inserted, namely:—

“35GA. *Power of Commissioner to grant immunity from prosecution.*—(1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived:

Provided that where the application for settlement under section 22C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.”.

### **Insertion of new section 42**

**61.** After section 41 of the Wealth-tax Act, the following section shall be inserted, namely:—

“42. *Notice deemed to be valid in certain circumstances.*—Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or

(b) not served upon him in time; or

(c) served upon him in an improper manner.”.

### **Amendment of section 42D**

**62.** Section 42D of the Wealth-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day October, 1975, namely:—

“(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 37B, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 37B, had been found in the possession or control of that person in the course of a search under section 37A.”.

\*\*

\*\*

\*\*

## **CHAPTER VII**

### **COMMODITIES TRANSACTION TAX**

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

**97.** (1) This Chapter extends to the whole of India.

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

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

#### **Definitions**

**98.** In this Chapter, unless the context otherwise requires,—

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

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

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

(4) “prescribed” means prescribed by rules made under this Chapter;

(5) “taxable commodities transaction” means a transaction of purchase or sale of option in goods, or option in commodity derivative, or any other commodity derivative, traded in recognised associations;

(6) words and expressions used but not defined in this Chapter and defined in the Forward Contracts (Regulations) Act, 1952 (74 of 1952), the Income-tax Act, 1961 (43 of 1961), or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts.

#### **Charge of commodities transaction tax**

**99.** On and from the date of commencement of this Chapter, there shall be charged a commodities transaction tax in respect of every taxable commodities transaction specified in column (2) of the Table below, at the rates specified in the corresponding entry in column (3) of the said Table, on the value of such transaction and such tax shall be payable by the seller or the purchaser, as the case may be, specified in the corresponding entry in column (4) of the said Table:

**TABLE**

<i>Sl. No.</i>	<i>Taxable commodities transaction</i>	<b>Rate</b>	<i>Payable by</i>
(1)	(2)	(3)	(4)

1.	Sale of an option in goods or an option in commodity derivative	0.017 per cent	Seller
2.	Sale of an option in goods or an option in commodity derivative, where option is exercised	0.125 per cent	Purchaser
3.	Sale of any other commodity derivative	0.017 per cent	Seller

### **Value of taxable commodities transaction**

**100.** The value of a taxable commodities transaction specified under column (2) of the Table in section 99 shall, with reference to such transactions—

- (a) against serial number 1, be the option premium;
- (b) against serial number 2, be the settlement price of the option in goods or option in commodity derivative, as the case may be;
- (c) against serial number 3, be the price at which the commodity derivative is sold.

### **Collection and recovery of commodities transaction tax**

**101.** (1) Every recognised association (hereinafter in this Chapter referred to as assessee) shall collect the commodities transaction tax from the seller or the purchaser, as the case may be, who enters into a taxable commodities transaction in that recognised association, at the rates specified in section 99.

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

(3) Any assessee who fails to collect the tax in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

### **Furnishing of return**

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

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

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

### **Assessment**

**103.** (1) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under section 102 or upon whom a notice has been served under sub-section (2) of that section, whether a return has been furnished or not, a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

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

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

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

### **Rectification of mistake**

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

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

(3) Subject to the other provisions of this section, the Assessing Officer may make an amendment under sub-section (1), either *suo motu* or on any mistake brought to his notice by the assessee.

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

(5) An order of amendment under this section shall be made by the Assessing Officer in writing.

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

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

### **Interest on delayed payment of commodities transaction tax**

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

### **Penalty for failure to collect or pay commodities transaction tax**

**106.** Any assessee who—

- (a) fails to collect the whole or any part of the commodities transaction tax as required under section 101; or
- (b) having collected the commodities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section, shall be liable to pay,—
  - (i) in the case referred to in clause (a), in addition to paying the tax in accordance with the provisions of sub-section (3) of that section, or interest, if any, in accordance with the provisions of section 105, by way of penalty, a sum equal to the amount of commodities transaction tax that he failed to collect; and
  - (ii) in the case referred to in clause (b), in addition to paying the tax in accordance with the provisions of sub-section (2) of that section and interest in accordance with the provisions of section 105, by way of penalty, a sum of one thousand rupees for every day during which the failure continues; so, however, that the penalty under this clause shall not exceed the amount of commodities transaction tax that it failed to pay.

### **Penalty for failure to furnish return**

**107.** Where an assessee fails to furnish the return within the time-limits prescribed under sub-section (1) or sub-section (2) of section 102, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day



during which the failure continues.

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

**108.** If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that the assessee has failed to comply with a notice under sub-section (1) of section 103, he may direct that such assessee shall pay, by way of penalty, in addition to any commodities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each day during which the failure continues.

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

**109.** (1) Notwithstanding anything contained in section 106 or section 107 or section 108, no penalty shall be imposable for any failure referred to in the said sections, if the assessee proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure.

(2) No order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

### **Application of certain provisions of Income-tax Act**

**110.** The provisions of sections 120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961 (43 of 1961), shall apply, so far as may be, in relation to commodities transaction tax.

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

**111.** (1) An assessee aggrieved by any assessment order made by the Assessing Officer under section 103 or any order under section 104, or denying his liability to be assessed under this Chapter, or by an order imposing penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

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

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

### **Appeal to Appellate Tribunal**

**112.** (1) An assessee aggrieved by an order made by a Commissioner of Income-tax (Appeals) under section 111 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 111, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

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

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

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of sections 253 to 255 of the Income-tax Act, 1961 (43 of 1961), shall, as far as may be, apply to such appeal.

### **Punishment for false statement**

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

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

#### **Institution of prosecution**

**114.** No prosecution shall be instituted against any person for any offence under section 113 except with the previous sanction of the Chief Commissioner of Income-tax.

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

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

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

- (a) the time-limits within which and the form and the manner in which the return shall be delivered or caused to be delivered or furnished under section 102; and
- (b) the form in which an appeal may be filed and the manner in which it may be verified under sections 111 and 112.

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

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

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

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

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

## **CHAPTER VIII**

### **MISCELLANEOUS**

#### **Amendment of Seventh Schedule to Act 14 of 2001**

**117.** The Seventh Schedule to the Finance Act, 2001 shall be amended in the manner specified in the Eighth Schedule.

#### **Amendment of section 13 of Act 58 of 2002**

**118.** In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (1), for the words 'for a period of five years computed from the appointed day', the words, figures and letters 'for the period beginning on the appointed day and ending on the 31st day of March, 2009' shall be substituted and shall be deemed to have been substituted with effect from the 1st day of February, 2008.

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

**119.** In the Finance (No. 2) Act, 2004, with effect from the 1st day of June, 2008,—

- (i) in section 98, in the Table, for serial number 4 and the entries relating thereto, the following serial number and the entries shall respectively be substituted, namely:—

Sl. No.	Taxable securities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
"4	(a) Sale of an option in securities	0.017 per cent	Seller
	(b) Sale of an option in securities, where option is exercised	0.125 per cent	Purchaser
	(c) Sale of a futures in securities	0.017 per cent	Seller.";

(ii) in section 99, for clause (a), the following clause shall be substituted, namely:—

“(a) in the case of a taxable securities transaction relating to an option in securities, shall be—

(i) the option premium, in respect of transaction at item (a) of serial number 4 of the Table in section 98;

(ii) the settlement price, in respect of transaction at item (b) of serial number 4 of the Table in section 98;”.

### Amendment of Act 18 of 2005

120. In the Finance Act, 2005,—

(i) in section 95, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

“(3) Notwithstanding anything contained in sub-section (1), no banking cash transaction tax shall be charged in respect of any taxable banking transaction entered into on or after the 1st day of April, 2009.”;

(ii) the Seventh Schedule shall be amended in the manner specified in the Ninth Schedule.

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

It is hereby declared that it is expedient in the public interest that the provisions of clauses 72(i), 72(ii), 84, 117 and 120(ii) of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.

### THE FIRST SCHEDULE

(See section 2)

#### PART I

#### INCOME-TAX

#### Paragraph A

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

#### Rates of income-tax

(1) where the total income does not exceed Rs. Nil;  
1,10,000

(2) where the total income exceeds Rs. 1,10,000 but does not exceed Rs. 1,50,000 10 per cent of the amount by which the total income exceeds Rs. 1,10,000;

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

(4) where the total income exceeds Rs. 2,50,000 Rs. 24,000 plus 30 per cent of the amount by which the total income exceeds Rs. 2,50,000.

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

time during the previous year,—

*Rates of income-tax*

- (1) where the total income does not exceed Rs. Nil;  
1,45,000
- (2) where the total income exceeds Rs. 1,45,000 but does not exceed Rs. 1,50,000 10 per cent of the amount by which the total income exceeds Rs. 1,45,000;
- (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 Rs. 500 plus 20 per cent of the amount by which the total income exceeds Rs. 1,50,000;
- (4) where the total income exceeds Rs. 2,50,000 Rs. 20,500 plus 30 per cent of the amount by which the total income exceeds Rs. 2,50,000.

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

*Rates of income-tax*

- (1) where the total income does not exceed Rs. Nil;  
1,95,000
- (2) where the total income exceeds Rs. 1,95,000 but does not exceed Rs. 2,50,000 20 per cent of the amount by which the total income exceeds Rs. 1,95,000;
- (3) where the total income exceeds Rs. 2,50,000 Rs. 11,000 plus 30 per cent of the amount by which the total income exceeds Rs. 2,50,000.

*Surcharge on income-tax*

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

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

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

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- (1) where the total income does not exceed 10 per cent of the total income;  
Rs.10,000
- (2) where the total income exceeds Rs.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.

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent

*Surcharge on income-tax*

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

Provided that in the case of every firm having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent of the total income;

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

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

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

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

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

(ii) on the balance, if any, of the total income 40 per cent

*Surcharge on income-tax*

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

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.

Provided that in the case of every company having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

*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:—

	<i>Rate of income-tax</i>
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 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	
(C) any security of the Central or State Government	
(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 income by way of short-term capital gains referred to in section 111A	15 per cent;
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent;
(E) 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;
(F) 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 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—	
(i) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June,	20 per

	2005	cent;	
	(I) where the agreement is made on or after the 1st day of June, 2005	10	per
(G)	on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] 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—	cent;	
	(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20	per
	(II) where the agreement is made on or after the 1st day of June, 2005	10	per
(H)	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—	cent;	
	(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20	per
	(II) where the agreement is made on or after the 1st day of June, 2005	10	per
(I)	on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30	per
(J)	on income by way of winnings from horse races	cent;	
(K)	on the whole of the other income	30	per
(ii)	in the case of any other person—	cent;	
(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
(B)	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 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—	cent;	
	(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20	per
	(II) where the agreement is made on or after the 1st day of June, 2005	10	per
(C)	on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] 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—	cent;	
	(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20	per
	(II) where the agreement is made on or after the 1st day of June, 2005	10	per
(D)	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	cent;	

India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent;

(II) where the agreement is made on or after the 1st day of June, 2005 10 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 income by way of short-term capital gains referred to in section 111A 15 per cent;

(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent;

(I) on the whole of the other income 30 per cent

2. In the case of a company—

(a) where the company is a domestic company—

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

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent;

(iii) on income by way of winnings from horse races 30 per cent;

(iv) on any other income 20 per cent;

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

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent;

(ii) on income by way of winnings from horse races 30 per cent;

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

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

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

(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(C) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

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



of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(ix) on any other income	40 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—

- (A) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—
- in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;
  - in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income- tax Act, at the rate of ten per cent of such tax;
  - in the case of every firm at the rate of ten per cent of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;
- (B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—
- in the case of every domestic company at the rate of ten per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;
  - in the case of every company other than a domestic company at the rate of two and one-half per cent of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

### *PART III*

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

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

*Paragraph A*

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

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. Nil;<br>1,50,000                  |  |
| (2) where the total income exceeds Rs.1,50,000 but does not exceed Rs. 3,00,000  | 10 per cent of the amount by which the total income exceeds Rs. 1,50,000;                    |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 15,000 plus 20 per cent. of the amount by which the total in- come exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 55,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.   |

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

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. Nil;<br>1,80,000                  |  |
| (2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,80,000;                   |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 12,000 plus 20 per cent. of the amount by which the total in- come exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 52,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000.   |

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

*Rates of income-tax*

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs. Nil;<br>2,25,000 |   |
| (2) where the total income exceeds Rs. 2,25,000                 | 10 per cent of the amount by which the total income |

- |  |   |
|--|---|
| but does not exceed Rs. 3,00,000   | exceeds Rs. 3,00,000;   |
| (3)where the total income exceeds Rs.3,00,000 but does not exceed Rs. 5,00,000 | Rs. 7,500 <i>plus</i> 20 per cent of the amount by which the total in- come exceeds Rs. 3,00,000; |
| (4)where the total income exceeds Rs. 5,00,000                                 | Rs. 47,500 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 5,00,000.  |

*Surcharge on income-tax*

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

- (i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;
- (ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax:

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

*Paragraph B*

In the case of every co-operative society, —

- |  |  |
|--|--|
| (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 <i>plus</i> 20 per cent. of the amount by which the total in- come exceeds Rs. 10,000; |
| (3)where the total income exceeds Rs. 20,000                               | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total in- come exceeds Rs. 20,000. |

*Rates of income-tax*

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income	30 per cent
----------------------------------	-------------

*Surcharge on income-tax*

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

Provided that in the case of every firm having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income	30 per cent
----------------------------------	-------------

### *Paragraph E*

In the case of a company,—

#### *Rates of income-tax*

tic company

ny other than a domestic company—

total income as consists of,—

ceived 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; or

dering 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,

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

f any, of the total income

#### *Surcharge on income-tax*

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

- (i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent of such income-tax;
- (ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent:

Provided that in the case of every company having a total income exceeding one crore 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 one crore rupees by more than the amount of income that exceeds one crore rupees.

### *PART IV*

[See section 2(12)(c)]

#### **RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME**

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

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

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

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

*Rule 4.*—Notwithstanding anything contained in any other provisions of these rules, in a case—

- (a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee;
- (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent of such income shall be regarded as the agricultural income of the assessee;
- (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent or seventy-five per cent, as the case may be, of such income shall be regarded as the agricultural income of the assessee.

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

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

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

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

*Rule 8.*—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2008, 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, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007, 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, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the

previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, 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, 2006 or the 1st day of April, 2007,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, 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, 2007,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, 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, 2008.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2009, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008, is a loss, then, for the purposes of sub-section (10) 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, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,
- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, 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, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, 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, 2007 or the 1st day of April, 2008,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, 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, 2008,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, 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, 2009.

(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, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) 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.

\*\*

\*\*

\*\*