Notes on clauses

Income-tax

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 1998-99. Further, it lays down the rates at which tax is to be deducted at source during the financial year 1998-99 from income subject to such deduction under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 1998-99.

Rates of income-tax for the assessment year 1998-99

Part I of the First Schedule to the Bill specifies the rates of income-tax liable to tax for the assessment year 1998-99. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 1997, for the purposes of deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 1997-98.

Rates for deduction of tax at source during the financial year 1998-99 from income other than "Salaries"

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 1998-99 from incomes other than "Salaries". These rates are broadly the same as those specified in Part II of the First Schedule to the Finance Act, 1997, for the purposes of deduction of income-tax at source during the financial year 1997-98.

Rates for deduction of tax at source from "Salaries" computation of "advance tax" and charging of income-tax in special cases during the financial year 1998-99

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 1998-99.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. The basic exemption limit is proposed to be raised to Rs.50,000. No other change is proposed in the rate structure.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for the assessment year 1998-99.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will be 35 per cent.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 1998-99.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. The rate of tax in the case of domestic companies will continue to be 35 per cent. and in the case of foreign companies it will be 48 per cent.

Clause 3 seeks to substitute references of Income-tax Authorities for certain existing Income-tax Authorities. The Fifth Central Pay Commission has recommended change of designation of certain income-tax authorities. The proposed amendment seeks to amend references of certain Income-tax authorities specified in the Income-tax Act.

The proposed amendments are consequential in nature.

The proposed amendment will come into effect from 1st October, 1998.

Clause 4 seeks to amend section 2 of the Income-tax Act relating to definitions.

Sub-clauses (b), (d) and (e) seek to amend clauses (9A), (19A) and (19C) which define the authorities "Assistant Commissioner", "Deputy Commissioner" and "Deputy Director", respectively. It is proposed to amend clause (9A) so as to include Deputy Commissioner of income-tax in that clause. It is also proposed to amend clauses (19A) and (19C) so as to omit the reference of Additional Commissioner of Income-tax from those clauses. It is also proposed to include the definition of Joint Commissioner and Joint Director in clauses (28C) and (29D), respectively. Consequential amendments are also proposed in clause (7A).

This amendment will take effect from 1st October, 1998.

Sub-clause (c) proposes to amend definition of block of assets so as to include certain intangible assests within the definition of block of assets.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Sub-clause (f) seeks to amend clause (24) of section 2 so as to bring the value of any movable and immovable property received on or after 1 october, 1998 by any person without consideration in money within the scope of income.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Sub-clause (h) seeks to omit the reference to a person who is not ordinarily resident in India within the meaning of sub-section (6) of section 6. This amendment is consequential to the omission of sub-section (6) of section 6.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 5 seeks to amend section 5 of the Income-tax Act.

The proposed amendment seeks to omit the proviso in sub-section (1) of section 5 which relates to the exclusion of the income which accrucs or arises outside India to a person not ordinarily resident in India from the scope of total income in his case. This amendment is consequential to the omission of sub-section (6) of section 6.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 6 seeks to amend section 6 of the Income-tax Act.

The proposed amendment seeks to omit sub-section (6) thereby omitting the special residential status of 'not ordinarily resident' in India.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 7 seeks to amend section 10 of the Income-tax Act relating to income not included in the total income.

Sub-clause (a) seeks to insert clause (iv) after clause (iii) in the proviso to clause (3) of section 10 so as not to treat income chargeable under clause (v) of sub-section (2) of section 56 as casual income within the meaning of clause 3.

Sub-clause (b) seeks to omit clause (5A) of the said section providing exemption in respect of remuneration received by a non-resident individual who is not a citizen of India and who comes to

India in connection with the shooting of a cinematograph film in India.

Sub-clause (c) seeks to omit item (aa) of sub-clause (i) and sub-clauses (via), (viia), (ix) and (x) of clause (6) providing exemption in respect of various perquisites of foreigners employed in India.

Sub-clauses (d) and (e) seek to omit the references to a person not ordinarily resident in India from clauses (8A) and (8B) of the section. This is as a consequence of the omission of residential status "not ordinarily resident in India" from section 6.

Sub-clause (f) seeks to omit items (c), (e) and (f) of sub-clause (iv) of clause (15) providing exemption in respect of interest on moneys borrowed from foreign sources. It also seeks to omit the reference to a person not ordinarily resident in India from item (fa).

Sub-clause (g) seeks to omit clause (18A) providing exemption in respect of ex-gratia payments made by the Central Government consequent on the abolition of privy purse.

Sub-clause (h) seeks to omit clause (22) providing exemption of any income of a university or other educational institution, existing solely for educational purposes and not for purposes of profit. Such educational and medical institution can now claim exemption under sections 11 and 12 of the Income-tax Act.

Sub-clause (h) also proposes to omit clause (22A) providing exemption of any income of a hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or re-habilitation and existing solely for philanthropic purposes and not for purposes of profit.

Sub-clause (i) proposes to insert a new sub-clause (iiiab) in clause (23C) so as to provide that any income received by any university or other educational institution, hospital or medical institution, established by a Central, State or Provincial Act or by a local authority or any society registered under the Societies Registration Act, 1860 or any other corresponding law for the time being in force and which is wholly or substantally financed by the Government will be exempted from the income-tax.

Sub-clause (j) seeks to substitute clause (23G) of section 10.

Clause (23G) of section 10 provides for income-tax exemption on any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company on investments made by way of purchase of shares or long-term finance to an enterprise carrying on the business of developing, maintaining and operating any infrastructure facility which fulfils the conditions specified in sub-section (4A) of section 80-IA.

It is proposed to substitute the existing clause (23G) by a new clause so as to make certain amendments. The definition of "infrastructure capital company" is being amended to mean a company established for making investment by way of long-term finance in an enterprise wholly engaged in developing, maintaining and operating infrastructure facility. The scope of exemption is also proposed to be restricted to include interest income on primary investments only. It is also proposed that the exemption would be in respect of investments in such infrastructure enterprises which are wholly engaged in the business of developing, maintaining and operating any infrastructure facility and which are approved by the Central Government in accordance with rules made in this behalf on an application made by it and which satisfy the prescribed conditions.

Sub-clause (k) proposes to amend clause (26) so as to extend the exemption in the said clause to the ladakh region of the state of Jammu and Kashmir.

The amendments in sub-clauses (a) to (k) will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 8 seeks to amend section 16 of the Income-tax Act relating to deduction from salaries.

Clause (i) of section 16 of the Income-tax Act provides that in case of an assessee having income from salary, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty thousand rupees, whichever is less, shall be allowed as a deduction from his salary.

The proposed amendment seeks to provide that in case of an assessee having income from salary upto one lakh rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty-five thousand rupees, whichever is less, shall be allowed as a deduction from his salary. An assessee having income from salary which is more than one lakh but less than five lakh rupees will avail deduction of a sum of twenty thousand rupees. The deductions under clause (i) of section 16 will not be available to the assessees having income of more than five lakh rupees from salary.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 9 seeks to amend clause (v) of the proviso to clause (2) of section 17 of the Income-tax Act relating to definition of "perquisite".

Under the existing provision, any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family other than the treatment referred to in clauses (i) and (ii) of the proviso to clause (2) of section 17 of the Income-tax Act to the extent of ten thousand rupees will not be included in the "perquisite" of the employee.

It is proposed to enhance the present limit from ten thousand rupees to fifteen thousand rupees.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 10 seeks to amend section 24 of the income-tax Act relating to deductions from income from house property.

Sub-clause (a) proposes to allow deductions in respect of repairs and collection of rent from the property equal to one-fourth of the annual value instead of one-fifth of the annual value.

Sub-*clause* (b) seeks to amend the proviso to sub-section (2) of section 24 of the Income-tax Act relating to deduction in respect of interest on borrowed capital in case of self-occupied property under the head "Income from house property".

It is proposed to enhance the present limit of deduction of fifteen thousand rupees to thirty thousand rupees where the self-occupied house property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital. The amount of interest payable on such capital, to the extent of thirty thousand rupees, will now be deductible from the annual value of the property.

These amendments will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years.

Clause 11 seeks to amend section 32 of the Income-tax Act relating to depreciation.

Sub-clauses (a) to (c) propose to widen the scope of this section so as to provide that depreciation will also be allowed in respect of intangible assets owned wholly or partly by the assessee and used by such assessee for the purposes of his business or profession. The intangible assets are know-how, patents rights, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible. These intangible assets will form a separate block of assets. As and when

any capital expenditure is incurred by an assessee on acquiring such intangible assets, the amount of such expenditure will be added to the block of intangible assets and depreciation will be claimed on the written-down value at the end of the financial year.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Sub-clause (d) seeks to insert clause (iii) in sub-section (1) of section 32 to provide for the manner of computation of depreciation when an asset on which depreciation has been claimed under clause (i) of sub-section (1) of section 32 is sold, discarded, demolished or destroyed in the previous year. The depreciation amount will be the amount by which the money is payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-1999 and subsequent years.

Clause (e) seeks to restrict the deduction in the fourth proviso to sub-section (1) for depreciation of assets in any previous year in the cases of succession in business or profession or in the case of amalgamation of companies, as the case may be, to the deduction admissible at the prescribed rates under the said sub-section. It also seeks to allow the deduction to the predecessor and the successor or the amalgamating company and the amalgamated company in the same proportion as the number of days for which they used the assets in the busines or profession.

It is proposed to amend the fourth proviso to provide that in case of business organisation, the aggregate depreciation allowable to the predecessor and successor shall not exceed, in any previous year, the deduction calculated at the prescribed rate as if the reorganisation has not taken place.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 12 seeks to insert a new section 33ABA in the Income-tax Act relating to Site Restoration Fund.

The new section provides for a deduction in the computation of the taxable profits in the case of an assessee carrying on business of prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business.

Sub-section (1) of this section provides that where the assessee has deposited, during the previous year, any sum with the State Bank of India in a special account maintained by the assessee with that bank in accordance with the scheme approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas (hereinafter referred to as the Site Restoration Account) or deposited any amount in an account opened by the assessee for the purposes specified in a scheme framed by the said Ministry, the assessee shall be entitled to a deduction of-

(a) a sum equal to the sum deposited; or

(b) a sum equal to twenty per cent. of its profits (as computed under the head “Profits and gains of business or profession” before making any deduction under the new section),

whichever is less.

The provisos to sub-section (1) provide that deduction under this section will not be available to an assessee being a partner of a firm or a member of an association of persons or any body of individuals. It is further provided that where any deduction in respect of any amount deposited in the special account or Site Restoration Account has been allowed in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

Sub-section (2) provides that deduction under sub-section (1) shall not be admissible unless the accounts of the said business of the assessee for the previous year relevant to the assessment year have been audited by an accountant defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes the report of such audit in the prescribed form alongwith the return. It will be sufficient compliance with the provisions of this sub-section if the assessee gets the accounts of the aforesaid business audited under any law and furnishes the further report of the audit required under that law in the prescribed form.

Sub-section (3) provides that any amount standing to the credit in special account or the Site Restoration Account will not be allowed to be withdrawn except for the purposes specified in the scheme or in the deposit scheme or in the circumstances specified in this sub-section.

Sub-section (4) provides that no deduction will be allowed in respect of any amount utilised for the purposes specified in that sub-section.

Sub-section (5) provides that where any amount standing to the credit of the assessee in the special account or the Site Restoration Account is withdrawn during any previous year by the assessee in the event of closure of business or dissolution of a firm, the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.

Sub-section (6) provides that when any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for any expenditure in connection with such business in accordance with the scheme, such expenditure will not be allowed in computing the income chargeable under the head “Profits and gains of business or profession”.

Sub-section (7) provides that where any amount is released in the previous year by the State Bank of India or is withdrawn from the Site Restoration Account and is not utilised in accordance with the scheme or the deposit scheme, the whole of such amount or the part thereof shall be deemed to be the profits and gains of business and accordingly chargeable to income-tax as income of that previous year. This sub-section will not apply in a case where such amount is released in the event of death of an assessee, partition of a Hindu undivided family or liquidation of a company.

Sub-section (8) provides that where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee before the expiry of eight years from the end of the previous year in which such assets were acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year. This sub-section will not apply in certain cases specified in the proviso to this sub-section.

Sub-section (9) provides that the Central Government may, by notification in the Official Gazette, direct that the deduction allowable under this section will not be allowed after such date as may be specified in such notification.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 13 seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

This sub-section (2AB) of section 35 allows weighted deduction of one and one-fourth of the expenditure incurred on scientific research and development by a company carrying on specified research on fulfilment of certain conditions.

It is proposed to amend said sub-section so as to discontinue deductions for scientific research with effect from 1st April, 1999.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 14 seeks to amend section 35A of the Income-tax Act relating to expenditure on acquisition of patent rights or copyrights.

It is proposed to provide that any expenditure of a capital nature incurred before the 1st April, 1998 on the acquisition of patent rights or copyrights used for the purposes of business will qualify for deduction under the said section 35A.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 15 seeks to amend section 35AB of the Income-tax Act relating to expenditure on know-how.

It is proposed to amend sub-section (1) of section 35AB so as to provide that any lump sum consideration paid by the assessee in any previous year relevant to the assessment year commencing on or before 1st April, 1998 for acquiring any know-how for use for the purposes of business, will qualify for a deduction under the said section 35AB.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 16 seeks to amend section 35D of the Income-tax relating to amortisation of certain preliminary expenses. Under the existing provisions, deduction of an amount equal to one-tenth of expenditure specified in sub-section (2) of section 35D for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, previous year in which the extension of the industrial undertaking is completed is allowed. The aggregate amount of such expenditure is restricted upto two-and one-half per cent. in accordance with the provisions contained in sub-section (3) of section 35D.

It is proposed to amend section 35D so as to allow the deduction of certain preliminary expenses from one-tenth to one-fifth of such preliminary expenses incurred after 31st March, 1998 and such deductions would be allowed in each of the five successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the industrial undertaking is completed. It is also proposed to enhance the ceiling from two and one-half per cent. specified in sub-section (3) to five per cent.

These amendments will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 17 seeks to amend section 37 of the Income-tax Act relating to general expenditure.

It is proposed to insert an Explanation in sub-section (1) of section 37 of the Income-tax Act so as to clarify that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be allowed.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to assessment year 1962-1963 and subsequent years.

Clause 18 seeks to amend section 41 of the Income-tax Act relating to profits chargeable to tax.

It is proposed to insert sub-section (2) in section 41 so as to provide for manner for calculation of the amount which shall be chargeable to income-tax as income of the business of the previous year in which the money is payable for the building, machinery, plant or furniture referred to in the proposed sub-section (2) of section 41 is sold, discarded, demolished or destroyed.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-99 and subsequent years.

Clause 19 seeks to amend section 42 of the Income-tax Act relating to special provisions for deduction in the case of business for prospecting, etc., for mineral oil.

Under the existing provisions, where the Central Government has entered into an agreement with any person for the association or participation of the Central Government or any person authorised by it in the business of prospecting for or extraction or production of mineral oils, the expenses and allowances in relation to such business as are specified in the agreement are allowed in lieu of or in addition to those admissible under the Income-tax Act and any agreement entered into after 31st March, 1981, may provide also for allowance in lieu of or in addition to depreciation allowance admissible under section 32 of the Income-tax Act.

It is proposed to amend section 42 so as to provide that, subject to the provisions of the agreement entered into by the Central Government, where the business of assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred or any interest therein is transferred, wholly or partly or any interest in such business is transferred in accordance with the aforesaid agreement entered into by the Central Government and the proceeds of the transfer are less than the expenditure incurred remaining unallowed, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in respect of the previous year, in which the business or an interest therein has been transferred. Further, where such business or any interest therein is transferred and proceeds of the transfer exceed the amount of expenditure incurred remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which such business or interest therein has been transferred. The proposed amendment also provides that no deduction shall be allowed in the previous year in which the business or any interest therein is transferred in case the proceeds of transfer are not less than the expenditure remaining unallowed.

The provisions in relation to transfer of aforesaid business or any interest therein shall not apply in a scheme of amalgamation whereby the business or interest therein is transferred by the amalgamating company to the amalgamated company, the latter being an Indian company.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 20 seeks to amend section 43 of the Income-tax Act relating to definitions of certain terms relevant to income from profits and gains of business or profession.

It is proposed to insert two Explanations in clause (1) of this section which defines the term “actual cost”. Explanation 9 seeks to make it clear that in cases where duty leviable under the Customs Tariff Act, 1975 and duty leviable under the Central Excise Rule, 1944 has been paid and has been included in the actual cost of the asset acquired on or after 1st March, 1994, such duty shall be excluded as and when any credit by way of MODVAT is allowed to the assessee under the Central Excise Rule, 1944. The proposed amendment will take effect retrospectively from 1st April, 1994 and will, accordingly, apply in relation to assessment year 1994-95 and subsequent years.

Explanation 10 seeks to clarify that where the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or State Government or any authority established under any law or by any other person in the form of subsidy, grant or reimbursement (by whatever name called), that so much of the cost as is relatable to such subsidy, grant or reimbursement shall not be included in the actual cost of the asset.

It is also clarified that where the subsidy, grant, etc., is not directly relatable to the asset acquired, then such cost as is proportionate to the assets in respect of such subsidy or grant ,etc., shall not be included in the actual cost of the asset .

The proposed amendment will take effect from 1st April, 1999 and will accordingly apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 21 seeks to amend section 43B of the Income-tax Act relating to allowability of certain expenses only on actual payment.

Under the existing provisions, the sums referred to in clauses (a) to (e) of section 43B are allowable as a deduction when such sum is actually paid by the assessee. The first proviso to section 43B provides that the provisions of section 43B shall not apply to any sum referred to in clause (a) or clause (d) or clause (e) if the sum is actually paid on or before the date on which the return of income is due to be furnished under sub-section (1) of section 139 for the previous year in which the liability to pay such sum was incurred.

The proposed amendment seeks to apply the first proviso to section 43B, being any sum payable by the assessee as interest on any term loan from scheduled bank in accordance with the terms and conditions of the agreement governing such loan.

This amendment will take effect retrospectively from 1st April, 1997 and will, accordingly, apply in relation to the assessment year 1997-98 and subsequent years.

Clause 22 seeks to amend section 44AA of the Income-tax Act relating to maintenance of accounts by certain persons carrying on profession or business.

The proposed amendment seeks to amend sub-section (2) of section 44AA so as to provide that the monetary limits of income and total sales, etc., specified in that sub-section, will be increased from forty thousand rupees to one lakh twenty thousand rupees and from five hundred thousand rupees to ten lakh rupees, respectively.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 23 seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

Sub-clause (a) seeks to amend clause (xi) of section 47 which provides that transfer by way of exchange of a capital asset being membership of recognised stock exchange for the shares of a company to which such membership is transferred would not be regarded as transfer for the purposes of section 45 and will not attract capital gains tax if such exchange is effected on or before the 31st December, 1997 and such shares are retained by the transferor for a period of not less than 3 years from the date of transfer.

The proposed amendment seeks to extend the date specified in the said clause (xi) upto 31st December, 1998.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-1999 and subsequent years.

Sub-clause (b) seeks to insert new clauses (xiii), (xiv) and (xv) in section 47 of the Income-tax Act relating to transactions not regarded as transfer.

Under the existing provisions of Income-tax Act, tax on capital gains is leviable in relation to transfer of assets in cases of business reorganisations where a firm or a proprietary concern is succeeded by a company.

The proposed new clause (xiii) provides that nothing contained in section 45 shall apply to transfer of any building, machinery, plant, furniture or intangible asset to the company where a firm is succeeded by a company in the business carried on by it, subject to certain specified conditions. The conditions *inter alia* are that the assets and liabilities of the firm relating to the business immediately before the succession shall become the assets and liabilities of the company. All the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession. The partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company. The aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent. of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession.

The proposed new clause (xiv) provides that nothing contained in section 45 shall apply to transfer of any building, machinery, plant, furniture or intangible asset to the company where a proprietary concern is succeeded by a company in the business carried on by it, subject to certain specified conditions. The conditions *inter alia* are that the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession shall become the assets and liabilities of the company. The shareholding of the sole proprietor in the company is not less than fifty per cent. of the total voting power in the company and shareholding shall continue to so remain for a period of five years from the date of the succession. The sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company.

The proposed new clause (xv) seeks to provide that any transfer involved in a scheme for lending of any securities under an agreement or arrangement subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992, in this regard, which the assessee has entered into with the borrower of such securities, shall not be regarded as transfer in order to attract levy of capital gains tax.

These amendments will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 24 seeks to amend section 47A of the Income-tax Act relating to withdrawal of exemptions in certain cases.

Under the existing provisions of section 47A, tax on capital gain is attracted on transfer of assets when a firm or proprietary concern is succeeded by a company. However, it is proposed to provide in section 47 that section 45 shall not be applicable in such cases of succession if conditions laid down relating to continuing of business and continuing of ownership are followed.

The proposed sub-section (3) to section 47A provides that if the condition stipulated regarding the succession of proprietary concern or firm by the company whereby capital gain tax is not levied are not complied with, the benefits availed by the sole proprietor or the firm, as the case may be, shall be deemed to be profit and gains of the successor company chargeable to tax in the year in which infringement takes place.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 25 seeks to amend section 48 of the Income-tax Act relating to the mode of computation.

It is proposed to amend section 48 by inserting a fourth proviso. According to the new proviso, in those cases where consideration received or accruing in respect of a transfer of a capital asset, being land or building or both, is less than the value adopted by any authority of a State Government for the purpose of payment of stamp duty, the consideration so adopted shall be the full value of consideration received or accruing for the purpose of charging capital gains tax.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 26 seeks to insert a new section 50A in the Income-tax Act.

It is proposed to make special provision for cost of acquisition in the case of depreciable asset referred to in clause (i) of sub-section (1) of section 32.

The proposed amendment seeks to provide that the provisions of sections 48 and 49 shall apply subject to the modification that the written down value as defined in clause (6) of section (43), of the asset, as adjusted, shall be taken as the cost of acquisition of the asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the assessee in any previous year.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to assessment year 1998-1999 and subsequent years.

Clause 27 seeks to amend section 54H of the Income-tax Act relating to extension of time for acquiring new asset or depositing or investing the amount of capital gain in certain cases.

Section 54EA provides that where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period for acquiring the new asset by the assessee referred to in sections 54, 54B and 54D, or, as the case may be, the period available to the assessee under the said section, for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of transfer, shall be reckoned from the date of receipt of such compensation. Sections 54EA and 54EB were inserted by the Finance (No. 2) Act, 1996. The proposed amendment seeks to insert reference of sections 54EA and 54EB to enable the assessee to acquire the new asset referred to in section 54EA and section 54EB from the date of receipt of compensation referred to in section 54H.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 28 seeks to amend section 56 of the Income-tax Act relating to income from other sources.

It is proposed to insert clause (v) in sub-section (2) of section 56 so that income referred to in sub-clause (xii) of clause (24) of section 2 is chargeable as "income from other sources". This income refers to value of any movable or immovable property received on or after 1st October, 1998 by any person without consideration in money or money's worth.

It is further proposed to include certain amounts for the purpose of clause (v) such as-

(a) where property is transferred otherwise than for adequate consideration;

(b) where property is transferred for a consideration which, having regard to the circumstances of the case, has not passed or is not intended to pass either in full or in part from the transferee to the transferor;

(c) where there is a release, discharge, surrender, forfeiture or abandonment of any debt, contract or other actionable claim or of any interest in property by any person;

(d) where a person absolutely entitled to property causes or has caused the same to be vested in whatever manner in himself and any other person jointly without adequate consideration and such other person makes an appropriation from or out of the said property; and

(e) where a person who has an interest in property as a tenant for a term or for life or a remainderman surrenders or relinquishes his interest in the property or otherwise allows his interest to be terminated without consideration which is not adequate.

It is also proposed to insert a new sub-section (3) in section 56 which shall provide for certain exclusions from the amounts received as mentioned in clause (v) of sub section (2). These exclusions are, amounts received from Non-Resident Indians and persons resident outside India, subject to certain conditions as provided, amounts received at the time of marriage, subject to a limit of Rs.2 lakhs, movable and immovable properties received by will or in contemplation of death, ex-gratia payment given by the employer to the employee, subject to certain conditions as provided, amounts received by a dependent for meeting educational and medical expenses from a relative. Further, all amounts received upto Rs. 30,000/- shall be excluded

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 29 seeks to amend section 69C of the Income-tax Act relating to unexplained expenditure, etc.

It is proposed to add a proviso to section 69C to provide that notwithstanding anything contained in any other provision of the Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 30 seeks to insert a new section 71B in the Income-tax Act.

It is proposed that where the assessee incurs any loss under the head "income from house property" and such loss is not fully adjusted under other heads of income in the same assessment year, then the balance loss shall be allowed to be carried forward and set-off in subsequent years subject to a limit of eight assessment years against income from house property.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 31 seeks to amend section 72A of the Income-tax Act, providing for carry forward and set off of accumulated losses and unabsorbed depreciation in certain cases.

It is proposed to insert sub-section (4) in section 72A to provide that in cases of succession of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 and a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, notwithstanding anything contained in any other provisions of the Income-tax Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or proprietary concern, as the case may be, shall be deemed to be the loss or as the case may be, allowance for depreciation of the successor company for the previous year in which business reorganisation was effected and the other provisions of the Act relating to set off and carry forward loss and allowance for depreciation shall apply accordingly.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessement year 1999-2000 and subsequent years.

Clause 32 seeks to substitute sections 80DD and 80DDA of the Income-tax Act relating to deduction in respect of medical treatments, etc. of a handicapped dependant and deduction in respect of deposit made for maintenance of a handicapped dependant.

Under the existing provisions of section 80DD, a deduction of

Rs.15,000 is allowed to an individual or Hindu undivided family in respect of expenditure incurred on medical treatment in respect of a handicapped dependant. Section 80DDA allows for a separate deduction to a parent or guardian in respect of deposits made in specified schemes of Life Insurance Corporation or Unit Trust of India.

It is proposed to substitute sections 80DD and 80DDA so as to allow a higher benefit of deduction with a choice to the parent or guardian to spend on either the medical treatment of or for the future needs of such handicapped dependant. It is also proposed to provide an overall limit for amounts of expenditure incurred in maintaining handicapped dependants and on deposits made for maintenance of such dependants, which together would qualify for a specified deduction. The limit in this regard is proposed to be Rs.40,000 in each year.

This amendment will take effect from the 1st April, 1999 and will, accordingly, apply in relating to the assessment year 1999-2000 and subsequent years.

Clause 33 seeks to amend section 80G of the Income-tax Act.

Section 80G provides for deduction from total income in respect of donations made by an assessee. In respect of donations to certain funds hundred per cent. deduction is allowed.

It is proposed by clauses (a) and (b) to provide hundred per cent. deduction in respect of donations made to National Sports Fund in order to attract donations to this Fund.

This amendment will take effect from 1st April, 1999 and shall, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 34 seeks to insert a new section 80GG in the Income-tax Act.

It is proposed to insert a new section 80GG which provides deduction in respect of rents paid.

It is proposed to insert a new section 80GG to provide a deduction in respect of any expenditure incurred by the assessee in excess of ten per cent of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for the purpose of his own residence to the extent of two thousand rupees per month or twenty-five per cent of his total income, whichever is less.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-1999 and subsequent years.

Clause 35 seeks to insert a new section 80HHBA in the Income-tax Act relating to deduction in respect of profits and gains towards housing projects in certain cases.

Sub-section (1) of section 80HHBA provides that an Indian company or a non-corporate assessee resident in India will be entitled to a deduction in the computation of the taxable income, of fifty per cent of the profits and gains derived from the business of execution of a housing project aided by World Bank and undertaken by the assessee in pursuance of a contract floated on the basis of a global tender.

Sub-section (2) of section 80HHBA provides that the deduction under this section will be allowed only if the following conditions are satisfied:-

(i) separate accounts are maintained by the assessee in respect of the profits and gains derived from the business of the execution of a housing project aided by the World Bank and undertaken by him on the basis of a global tender. In the case of assessees other than Indian companies and co-operative societies, the accounts are audited by a Chartered Accountant and the assessee furnishes along with his return of income the report of such audit in the prescribed form;

(ii) an amount equal to fifty per cent of the profits and gains from the business of the housing project is debited to the Profit and Loss Account of the previous year in which the deduction under this section is to be allowed and credited to a housing project reserve account to be utilized by the assessee during a period of five years for the purposes of business other than for distribution by way of dividends or profit.

Sub-section (3) of section 80HHBA provides that if at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilizes the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profits or for any other non-business purpose. the deduction originally allowed will be deemed to have been wrongly allowed and the Assessing Officer may re-compute the total income of the assessee for the relevant previous year and make the necessary rectification within a period of four years from the end of the previous year in which the money was so utilized.

Sub-section (4) of new section 80HHBA provides that no part of the income payable to the assessee for the execution of a housing project money under sub-section (1) shall be qualified for the deduction for any assessment year under any other provision.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent year.

Clause 36 seeks to amend section 80HHD of the Income-tax Act relating to deduction in respect of earnings in convertible foreign exchange.

It is proposed to insert a new sub-section in section 80HHD so as to provide that where deduction under sub-section (1) of the said section 80HHD is claimed and allowed in respect of profits derived from the business of hotel, such part of profit shall not qualify for deduction for any assessment year under any of the provisions of Chapter VIA, and in no case shall exceed the profits and gains of such hotel.

This amendment will take effect retrospectively from 1st April, 1990 and will, accordingly, apply in relation to the assessment year 1990-91 and subsequent years.

Clause 37 seeks to amend section 80-IA of the Income-tax Act relating to deduction in respect of profits and gains from industrial undertakings in certain cases.

It is proposed to amend sub-section (1) of section 80-IA which provides for a deduction in respect of profits and gains of an assessee from certain industrial undertakings subject to fulfilling certain conditions specified in that section is allowed in computing its total income. It is proposed to extend this deduction now available in respect of telecommunication services to such services rendered through radio-paging and domestic satellite service as well. In the case of domestic satellite service, this deduction will be allowable only to those Indian companies owning and operating such satellite services themselves. It is also proposed to amend the section to extend the deduction now available in respect of commercial production of mineral oils to refining also.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

It is proposed to amend the proviso to sub-clause (b) in clause (iv) of sub-section (2) of section 80-IA which was inserted by the Income-tax (Amendment) Act, 1998. The proposed amendment seeks to provide that the deductions from profits and gains of an industrial undertaking set up in any part of India for the generation, or generation and distribution, of power will be available upto the year 2003 under section 80-IA.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Sub-clauses (b) and (c) of clause (iv) of sub-section (2) of section

80-IA provide the conditions subject to which an industrial undertaking shall be eligible for tax holiday. Under the existing provisions of the aforesaid sub-clauses, tax holiday is available to a small scale industrial undertaking or an industrial undertaking located in an industrially backward State specified in the Eighth Schedule to the Act or in case of an industrial undertaking set up in any part of India for the generation, or generation and distribution of power on the condition that it begins to manufacture or produce articles or things at any time during the period begining on the 1st day or April, 1993 and ending on the 31st day of March, 1998. The tax holiday in respect of industrial undertakings located in an industrially backward district of category A or an industrially backward district of category B is available in case such industrial undertaking manufactures or produces articles or things at any time during the period beginning on the 1st day of October, 1994 and ending on the 31st day of March, 1999. It is proposed to extend the period of commencement of manufacture or production of articles or things, generation or generation and distribution of power under the aforesaid sub-clause (b) from the 31st day of March, 1998 to 31st day of March, 2000. In cases of industrial undertakings covered under the aforesaid sub-clause (c), it is proposed to extend the period of commencement of manufacture or production of articles or things from the 31st day of March, 1999 to the 31st day of March, 2000.

It is also proposed to make-consequential amendment in the proviso to clause (iii) of sub-section (2) so as to bring it in conformity with the amendment proposed in sub-clause (b) of clause (iv) of sub-section (2).

These amendments will take effect from 1st April, 1998.

It is proposed to insert a new sub-section (9A) in section 80-IA so as to provide that where an amount of profits and gains of an industrial undertaking or a hotel, is claimed and allowed under the said section, the profits to that extent shall not qualify for deduction for any assessment year under any other provision of Chapter VIA and in no case shall exceed the eligible profits of the industrial undertakings or hotel, as the case may be.

This amendment will take effect retrospectively from 1st April, 1991 and will, accordingly, apply to the assessment year 1991-92 and subsequent years.

It is also proposed to amend clause (12), sub-clause (ca) of section 80-IA, so as to amend the definition of 'Infrastructure facility' to include Housing projects and inland port and waterways in addition to bridge, airport, port, rail system, water-supply project, sanitation and sewerage.

Clause 38 seeks to insert a new section 80JJA in the Income-tax Act so as to provide deductions in respect of profits and gains from business of collecting, processing and treating of bio-degradable waste.

The amendment seeks to provide that where the gross total income of an assessee includes any profits and gains derived from the business of collecting, processing and treating bio-degradable waste for generating power, producing bio-gas and making pellets, briquettes for fuel and organic manure, there shall be allowed, in computing the total income of an amount equal to whole of such income, or five lakh rupees, whichever is less.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 39 seeks to insert a new section 80JJAA in the Income-tax Act relating to deduction in respect of employment of new workmen.

The new section provides that where the gross total income of an assessee, being an Indian company, includes any profits and gains from any industrial undertaking engaged in the manufacture or production of article or thing, such undertaking shall be allowed a deduction of an amount equal to thirty per cent. of additional wages paid to the new workmen employed by such assessee subject to certain conditions specified in sub-section (2) of the said new section. It is further provided that no deduction under the new section will be allowed if industrial undertaking is formed by splitting or reconstruction of an existing undertaking or amalgamation with an existing industrial undertaking. The expressions "additional wages", "regular workman", "wages" and "workman" have also been defined for the purposes of the new section.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 40 seeks to amend section 80P of the Income-tax Act relating to deduction in respect of incomes of cooperative societies.

Under the existing provisions contained in sub-clauses (i) and (ii) of clause (c) of sub-section (2) of section 80P, the profits and gains received by a consumer cooperative society are exempted from tax upto forty thousand rupees and the societies other than the cooperative societies are exempted upto twenty thousand rupees.

The proposed amendment seeks to increase monetary limit for exemption in the case of consumer cooperative societies from forty thousand rupees specified in the said sub-clause (i) to one hundred thousand rupees. In any other case from twenty thousand rupees, specified in the said clause (ii), to fifty thousand rupees.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 41 seeks to amend section 116 of the Income-tax Act relating to Income-tax authorities.

It is proposed to amend section 116 so as to include Joint Directors of Income-tax or Joint Commissioner of Income-tax in the classes of Income-tax Authorities.

The proposed amendment will take effect from 1st October, 1998.

Clause 42 seeks to amend the proviso to sub-section (1) of section 139 of the Income-tax Act which prescribes certain conditions for filing a return of income.

It is proposed to insert two more conditions for filing the return under the proviso to sub-section (1) of section 139. These are holding of a credit card, not being a add-on card ,and membership of a club which charges entrance fee of twenty-five thousand rupees or more.

It is also proposed to exclude travel to neighbouring countries or place of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette , from being a condition for filing return under the proviso to sub-section (1) of section 139.

It is also proposed that the obligation to furnish a return will now arise on fulfilling any one of the conditions specified in the proviso to sub-section (1) of section 139.

This amendment will take effect from 1st August, 1998 and will, accordingly, apply in relation to the assessment year 1998-99 and subsequent years.

Clause 43 seeks to amend section 139A of the Income-tax Act relating to permanent account number.

Section 139A deals with procedure for obtaining permanent account number (PAN) and the obligation of every person to quote such number as provided in the section including in the documents relating to transactions prescribed by the Board. It is proposed to provide the alternative of quoting General Index Register (GIR) number till such time the permanent account number is allotted. It is also proposed to provide that Board may notify a class or classes

of persons to whom the provisions of sub-section (5) of section 139A shall not apply. The power is delegated to Board to prescribe the form and contents which shall be furnished by a person not having either general index register number or permanent account number.

This amendment will take effect from 1st August, 1998.

Clause 44 seeks to amend sub-section (3) of section 143 of the Income-tax Act relating to assessment.

Under the existing provision, the Assessing Officer shall determine the sum payable by him on the basis of assessment in accordance with the provisions of sub-section (3) of section 143 of the Income-tax Act.

It is proposed to provide for determination of the sum payable by the assessee or refund of any amount due to him by the Assessing Officer while making an order of assessment after the 1st day of October, 1998 under the said sub-section (3) during the assessment year 1998-99 and subsequent years.

This amendment will take effect from the 1st October, 1998.

Clause 45 seeks to insert a new section 145A in the Income-tax Act relating to method of computation of opening and closing stock.

It is proposed that while computing the value of the inventory as on the 1st and the last day of the previous year, the computation according to the method of accounting regularly employed by the assessee shall be adjusted to include the amount of any tax, duty, cess or fees paid or liability incurred for the same under any law in force. This amendment is proposed as valuation of inventory after this adjustment will present the correct value.

This amendment will take effect retrospectively from 1st April, 1986 and will, accordingly, apply in relation to the assessment year 1986-87 and subsequent years.

Clause 46 seeks to amend section 158BA of the Income-tax Act relating to assessment of undisclosed income as a result of search.

It is proposed to insert an Explanation after sub-section (2) of section 158BA to clarify that-

(a) the assessment made under Chapter XIV-B of the Act shall be in addition to the regular assessment in respect of each previous year included in the block period;

(b) the income assessed in any regular assessment shall not be included in the block period;

(c) the income assessed in Chapter XIV-B of the Act shall not be included in the regular assessment of any previous year included in the block period.

The amendment proposed is of clarificatory in nature.

This amendment will take effect retrospectively from 1st July, 1995.

Clause 47 seeks to amend section 158BB of the Income-tax Act relating to computation of undisclosed income of the block period.

Under the existing provisions, for the purpose of determination of undisclosed income of a firm, the total income assessed for each of the previous year falling within the block period, is the income determined before allowing deduction under clause (b) in the Explanation to sub-section (1) of section 158BB of salary, interest, commission, bonus or remuneration, by whatever name called. It is proposed to provide that the income shall be determined before allowing the deduction of salary, interest, commission, bonus or remuneration, by whatever name called, to any partner, not being a working partner referred to in clause (b) of section 40.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years.

Clause 48 seeks to amend section 158BE of the Income-tax Act relating to time limit for completion of block assessment.

The proposed amendment seeks to renumber the existing Explanation of sub-section (2) of section 158BE and to insert a new Explanation 2 thereafter to provide that the execution of an authorisation for search under section 132 or for requisition under section 132A, will mean the date of conclusion of the search in respect of the authorisation as recorded in the last Panchnama in the case of a person in whose case the warrant has been issued. In the case of requisition under section 132A, the execution of an authorisation will mean the date when the authorised officer receives books, documents or assets.

The amendment proposed is of a clarificatory in nature.

The proposed amendment will take effect from 1st July, 1995.

Clause 49 seeks to amend section 192 of the Income-tax Act relating to deduction of tax at source from salary.

The existing provisions contained in sub-section (2B) of section 192 enables an assessee, having income under the head “salaries”, in addition to income under any other head, not being a loss under any such other head, to furnish in the prescribed manner the details of the total income to the person responsible for making the payment who shall deduct out of salary payment the tax due on total income, subject to the conditions prescribed in that sub-section.

Proviso to the said sub-section (2B) provides that taking into account of such other income will not have the effect of reducing the tax deductible from the income under the head “salaries” below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.

It is proposed to substitute the said sub-section (2B) so as to provide that an assessee having an income under the head “salaries” may furnish in the prescribed manner giving the details of the losses under the head “income from house property” to the person responsible for making the payment who shall take into account such loss for the purpose of computing the tax deductible from salaries, which may be reduced in such a case.

This amendment will take effect from 1st August, 1998 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 50 seeks to amend chapter XIX-B of the Income-tax Act relating to advance rulings.

Under the existing provisions, only the non-residents can apply before the Authority for seeking advance ruling in respect of transactions undertaken or proposed to be undertaken by them.

Sub-clause (a) seeks to amend the definitions of advance ruling and of the applicant. The proposed amendment seeks to enable the notified resident applicants to seek decisions in respect of issues raised in the orders of assessments in their cases pending before the Income-tax authority or the Tribunal.

Sub-clause (b) seeks to amend section 245-R of the Income-tax Act so as to provide that the proviso to sub-section (2) shall not apply in case an applicant is a resident of India.

This amendment will come into effect from 1st day of October, 1998.

Clause 51 seeks to insert a new section 246A in the Income-tax Act.

The proposed amendment is consequential to the abolition of the post ot Deputy Commissioner (Appeals).

It is proposed to provide that against orders specified in clauses (a) to (r) of sub-section (1) of proposed section 246A, an appeal shall lie to Commissioner (Appeals). It is also proposed that every appeal which is pending before the appointed day before the Deputy Commissioner (Appeals) and in matter arising out of or connected with such appeal and which is so pending shall stand transferred on the day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage on which it was on that day.

It is further provided that an appellant may demand that before proceeding further with the appeal and the matter, the previous

proceedings or any part thereof be re-opened or the appellant be re-heard.

This amendment will take effect from 1st October, 1998 and will, accordingly, apply in respect of orders mentioned in sub-section (1) made after that date.

Clause 52 seeks to amend section 249 of the Income-tax Act relating to appeals filed before Deputy Commissioner of Income-tax (Appeals) and Commissioner of Income-tax (Appeals).

Under the existing provision the form of appeal is not required to be accompanied by any fee. The proposed amendment seeks to prescribe a scale of fee for appeals to be made to Commissioner (Appeals) on or after 1st October, 1998, irrespective of the date of initiation of the assessment proceeding relating thereto. Commissioner (Appeals) shall hear appealable orders enumerated in clause 51 of the Bill. The amount of fee payable by the assessee shall be two hundred and fifty rupees when the assessed income is one hundred thousand rupees or less; five hundred rupees when the assessed income is more than one hundred thousand rupees but not more than two hundred thousand rupees and one thousand rupees when the assessed income is more than two hundred thousand rupees.

The proposed amendment will take effect from 1st October, 1998.

Clause 53 seeks to amend section 252 of the Income-tax Act relating to Appellate Tribunal

It is proposed to amend sub-section (2) and sub-section (2A) of section 252 which lays down the eligibility criteria for becoming a judicial member and an accountant member, respectively, of Income-tax Appellate Tribunal.

According to sub-section (2), a member of the Central Legal Service who has held a post in Grade I of that service or any equivalent or higher post for at least three years is eligible to become a judicial member. The nomenclature of the Central Legal Service has since been changed to the Indian Legal Service. It is proposed to amend the sub-section whereby a member of the Central Legal Service holding a post in Grade II or any higher post for three years shall become eligible to be a judicial member. It is also proposed to carry out the change in the nomenclature of the Central Legal Service to the Indian Legal Service.

According to sub-section (2A), a member of the Indian Income-tax Service, Group A who has held the post of Commissioner of Income-tax or any equivalent or higher post for at least three years is eligible to become an accountant member. It is proposed to amend sub-section (2A) whereby an Additional Commissioner of Income-tax holding the post for three years will also become eligible for appointment as an accountant member.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 54 seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

Under the existing provisions, appeals before the Appellate Tribunal lies *inter alia* against the orders of Deputy Commissioner (Appeals) and Commissioner (Appeals). As it is proposed vide clause 51 of the Bill to designate Commissioner (Appeals) as the only appellate authority, consequential changes are proposed under sub-section (1) and sub-section (2).

Sub-section (6) provides that the amount of fee is payable by an assessee before an appeal is filed before Appellate Tribunal.

It is proposed to revise the amount of fee payable as follows:-

(a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent. of the assessed income, subject to a maximum of ten thousand rupees.

The proposed amendment will take effect from 1st October, 1998.

Clause 55 seeks to amend section 254 of the Income-tax Act providing for rectification of orders of Appellate Tribunal.

It is proposed to insert a proviso to sub-section (2) so as to provide that any application filed by the assessee under this sub-section on or after 1st October, 1998 shall be accompanied by a fee of fifty rupees.

This amendment will take effect from 1st October, 1998.

Clause 56 seeks to amend section 255 of the Income-tax Act relating to procedure of Appellate Tribunal. Under the existing provision, a member of the Appellate Tribunal may be empowered sitting singly to dispose of any case where the total income, as computed by the Assessing Officer, does not exceed one hundred thousand rupees.

It is proposed to increase the amount from one hundred thousand rupees to five hundred thousand rupees. Thus, a member sitting singly can decide a case where the total income, as computed by the Assessing Officer, does not exceed five hundred thousand rupees.

This amendment will take effect from 1st October, 1998.

Clause 57 seeks to amend section 256 of the Income-tax Act relating to reference to High Court.

Under the existing provision, an assessee or Commissioner may make an application requiring the Appellate Tribunal to refer to the High Court any question of law arising out of its order.

It is proposed to provide that such reference can be made only in respect of an order made by the Appellate Tribunal on or before 1st October, 1998.

The proposed amendment is consequential to insertion of new section 260A which provides for appeals to the High Court vide clause 60 of the Bill.

The proposed amendment will take effect from 1st October, 1998.

Clause 58 seeks to amend section 257 of the Income-tax Act relating to statement of case to the Supreme Court in certain cases.

The proposed amendment seeks to provide that a reference can be directly made to the Supreme Court by the Appellate Tribunal where application is made to the Tribunal under section 256 on or before 1st October, 1998.

The proposed amendment is consequential to clause 60 of the Bill which seeks to provide for appeal to the High Court.

The proposed amendment takes effect from the date on which an order is passed by the High Court in an appeal made to it in the proposed new section 260A.

Clause 59 seeks to insert a new sub-section (1A) in section 260 of the Income-tax Act.

The proposed amendment seeks to provide that where a judgement of a High Court in an appeal filed before it is varied or reversed, effect shall be given to the order passed on an appeal by the Supreme Court .

This amendment will take effect from 1st October, 1998.

Clause 60 seeks to insert new sections 260A and 260B under sub-heading “Appeals to High Court” containing provisions regarding direct appeal to High Court.

The proposed amendment seeks to provide that an appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law. In an appeal under the

proposed new section, the Memorandum of Appeal shall precisely state the substantial question of law involving the appeal and where the appeal is made by the assessee, such appeal shall be accompanied by a fee of ten thousand rupees and shall be filed within sixty days of the date on which order is communicated to him.

Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question. The appeal shall be heard only on the question so formulated, and the respondents shall at the hearing of appeals, be allowed to argue that the case does not involve such question. However, nothing in this section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such questions. The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

The new section 260B seeks to provide that an appeal filed under section 260A shall be heard by a bench of not less than two Judges of the High Court and shall be decided in accordance with the opinion of such Judges or the majority, if any.

However, where there is no such majority, the point of law upon which they differ shall be referred to one or more of the Judges of the High Court and shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it.

The proposed amendment will take effect from 1st October, 1998.

Clause 61 seeks to amend section 261 of the Income-tax Act relating to appeal to Supreme Court.

Under the existing provision, an appeal shall lie to Supreme Court from any judgement of the High Court delivered on a reference made under section 256. It is proposed to amend section 261 so as to provide that such appeal shall lie in case any order is passed by the High Court under new section 260A.

This amendment will take effect from 1st October, 1998.

Clause 62 seeks to amend section 264 of the Income-tax Act regarding revision of order passed by subordinate authorities by the Commissioner (Appeals).

Under the existing provisions, there is no limit for disposal of application made for revision.

It is proposed to provide by inserting a new sub-section that in respect of an application made on or after 1st October, 1998, it shall be obligatory on the Commissioner to pass an order within a period of one year from the end of financial year in which such application is made by the assessee for revision.

It is also proposed that where a Commissioner fails to pass an order within the period prescribed, the application for revision of the assessee shall be deemed to have been allowed and all the consequences shall follow, accordingly.

It is also proposed to provide a new sub-section (7) that the time limit prescribed under sub-section (6) shall not apply in cases where an order could not be passed within the prescribed time limit, in order to give effect to any finding or direction contained in an order of the Appellate Tribunal, High Court or the Supreme Court.

The proposed amendment will take effect from 1st October, 1998 and will, accordingly, apply in respect of all petitions filed by the assessee on or after that date.

Clause 63 seeks to substitute section 271F of the Income-tax Act relating to penalty for failure to furnish return of income.

Under the existing provisions contained in section 271F, a person who fails to furnish his return of income, as required by the proviso to sub-section (1) of section 139, shall be liable to pay, by way of penalty, a sum of five hundred rupees.

Sub-section (1) of section 139 provides that every person, if his total income or the total income of any other person in respect of which he is assessable under the Income-tax Act, during the previous year, exceeded the amount which is not chargeable to income-tax, shall furnish a return of his income or income of such other person before the due date in accordance with the procedures specified in that sub-section.

It is proposed to substitute section 271F so as to provide that if a person fails to furnish the return, as required by sub-section (1) of section 139, he shall be liable to pay, by way of penalty, a sum of one thousand rupees. No change has been proposed in the existing penalty of five hundred rupees for failure to furnish return of income as required by the proviso to sub-section (1) of section 139.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 64 seeks to amend the proviso to sub-section (2) of section 272A of the Income-tax Act.

It is proposed to amend the proviso to sub-section (2) of section 272A so as to specify the outer limit of the penalty which can be imposed for failure to deliver or cause to be delivered in due time a copy of declaration under section 197A and furnishing certificate as required under section 203. The penalty in such cases shall not exceed the amount of tax deductible or collectible, as the case may be.

This amendment will take effect from 1st April, 1999.

Clause 65 seeks to amend section 285B of the Income-tax Act relating to submission of a statement by producers of cinematograph films.

Under the existing provisions contained in section 285B, any person carrying on the production of the cinematograph films is required to prepare and deliver within the time specified in the said section to the Assessing Officer a statement in the prescribed form containing particulars of all payments of over five thousand rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production.

It is proposed to increase the said monetary ceiling from five thousand rupees to twenty-five thousand rupees.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years.

Clause 66 seeks to amend the First Schedule of the Income-tax Act relating to computation of income of insurance business.

Under the existing provisions contained in rule 5 of the First Schedule, the profits and gains of any business of insurance other than life insurance are taken to be the balance of profits disclosed by the annual accounts subject to certain adjustments specified in the said rule.

It is proposed to amend rule 5 of the First Schedule relating to computation of profits and gains of insurance other than life insurance so as to provide disallowance of provisions for any tax, dividend or any reserve or any other provision prescribed by the Board and debited to the profit and loss account.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-90 and subsequent years.

Clause 67 seeks to amend the Income-tax Act being consequential in nature so as to provide that from the 1st October, 1998 all appeals shall be heard by Commissioner (Appeals) only. Pending appeals shall stand transferred to Commissioner (Appeals) vide clause 51of the Bill.

This amendment will take effect from 1st October, 1998.

Wealth-tax

Clause 68 seeks to substitute references of Income-tax Authorities for certain existing Income-tax Authorities in the Wealth-tax Act. The Fifth Central Pay Commission has recommended change of designation of certain Income-tax Authorities. The proposed amendment seeks to amend references of certain Income-tax Authorities specified in the Income-tax Act.

The proposed amendments are consequential in nature.

This amendment will take effect from 1st October, 1998.

Clause 69 seeks to amend section 2 of the Wealth-tax Act relating to definitions.

Sub-clause (a) seeks to substitute the existing definitions of Assessing Officer and other Income-tax Authorities.

The proposed amendments are consequential to amendments made in clauses 3 and 4 of the Bill.

This amendment will take effect from 1st October, 1998.

Sub-clause (b) seeks to amend sub-section (ea) of section 2 of the Wealth-tax Act relating to the definition of assets for the purpose of wealth-tax.

It is proposed to raise the annual salary limit of employees from two lakh rupees to five lakh rupees in the case where a house is allotted to them for residential purposes by the company. In such cases the house property shall not be included in the definition of assets on which wealth tax is charged.

It is also proposed to raise the period from five years to seven years from the date of acquisition in respect of the land held by an assessee as stock-in-trade, so that such land is excluded from the ambit of urban land.

It is further proposed to exclude let-out residential properties from the definition of asset. This would apply only to those properties that have been let-out for a period of at least three hundred days in a year.

It is also proposed to exclude any property in the nature of commercial establishment or complex from the definition of asset.

These amendments will take effect from the 1st day of April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 70 seeks to amend section 5 of the Wealth-tax Act relating to exemption in respect of certain assets.

It is proposed to substitute clause (vi) of section 5 so as to provide that one house or a part of a house or plot of a land not exceeding five hundred square metres in area and belonging to either an individual or a Hindu undivided family shall not be included in the net-wealth of the assessee.

This amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Clause 71 seeks to amend section 6 of the Wealth-tax Act, 1957 relating to exclusion of assets and debts outside India.

The proposed amendment seeks to delete the words “or resident but not ordinarily resident in India”, occuring in section 6. This is as a consequence of the omission of residential status ‘not ordinarily resident’ in India from section 6 of the Income-tax Act.

This amendment will take effect from 1st April, 1999.

Clause 72 seeks to insert a new section 23A in the Wealth-tax Act so as to provide that an appeal against order of Assessing Officer shall lie to Commissioner (Appeals).

The proposed amendment is consequential to the abolition of the post of Deputy Commissioner (Appeals).

It is proposed to provide that against orders specified in clauses (a) to (j) of sub-section (1) an appeal shall lie to Commissioner (Appeals). It is also proposed that every appeal which is pending before the appointed day before the Deputy Commissioner (Appeals) and in matter arising out of or connected with such appeal and which is so pending shall stand transferred on the appointed day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage on which it was on that day.

It is further provided that an appellant may demand that before proceeding further with the appeal and the matter, the previous proceedings or any part thereof be re-opened or the appellant be re-heard.

This amendment will take effect from 1st October, 1998 and shall, apply in respect of orders mentioned in sub-section (1) made after that day.

Clause 73 seeks to amend section 24 of the Wealth-tax Act relating to appeals to the Appellate Tribunal.

Under the existing provisions, appeals before the Appellate Tribunal lie, inter alia, against the orders of Deputy Commissioner (Appeals) and Commissioner (Appeals). As it is proposed vide clause 72 of the Bill to create Commissioner (Appeals) as the only Appellate Authority, consequential changes have been made in sub-sections (1), (2) and (2A) of this section.

The proposed amendment will take effect from 1st October, 1998.

Clause 74 seeks to amend section 25 of the Wealth-tax Act relating to powers of Commissioners to revise orders of subordinate authorities.

Under the existing provisions, there is no time limit for disposal of application made for revision. It is proposed to provide by inserting a new sub-section that in respect of any application made on or after 1st October, 1998, it shall be obligatory on the Commissioner to pass an order within a period of one year from the end of financial year in which such application is made by the assessee for revision.

It is also proposed that where a Commissioner fails to pass an order within the period prescribed, the application for revision of the assessee, shall be deemed to have been allowed and all the consequencs shall follow, accordingly.

The proposed amendment will take effect from 1st October, 1998.

Clause 75 seeks to insert a new section 27A in the Wealth-tax Act.

The proposed amendment seeks to provide that an appeal shall lie with the High Court from every order passed on an appeal by Appellate Tribunal if the High Court is satisfied that the case involves a substantial question of law.

In an appeal under the proposed new section, the Memorandum of Appeal shall precisely state the substantial question of law involved in the appeal and where the appeal is made by an assessee, such appeal shall be accompanied by a fee of five thousand rupees.

Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question. The appeal shall be heard only on the question so formulated and the respondent shall, at a hearing of the appeal, be allowed to argue that the case does not involve such question. However, nothing in this section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

This amendment will take effect from 1st October, 1998 and will, accordingly, apply in relation to any order passed by the Appellate Tribunal after that date.

Clause 76 seeks to amend section 28 of the Wealth-tax Act.

Under the existing provisions, when a case is referred to a High Court under section 27, such case is heard by a Bench of not less

than two Judges of the High Court.

It is proposed to amend this section so as to provide that an appeal before the High Court shall be heard by a Bench of not less than two Judges.

This amendment is consequential to insertion of section 27A vide clause 75 of the Bill.

This amendment will take effect from 1st October, 1998.

Clause 77 seeks to amend section 29 of the Wealth-tax Act.

Sub-clause (a) of the clause seeks to amend sub-section (1) of section 29 so as to incorporate the reference of section 27A in this sub-section which relates to appeal to High Court made by virtue of the newly inserted section 27A vide clause 75 of the Bill.

Sub-clause (b) of this clause seeks to insert a new sub-section (2A) in section 29. The proposed new sub-section (2A) provides that where the judgement of the High Court in an appeal filed before it is varied or reversed on an appeal by the Supreme Court under section 29, effect shall be given to the order passed on an appeal by the Supreme Court .

This amendment will take effect from 1st October, 1998 and will, accordingly, apply in relation to any order passed by the Appellate Tribunal after that date.

Clause 78 seeks to amend section 3 of the Gift-tax Act relating to charge of gift-tax.

Under the existing provision contained in sub-section (2) of section 3, Gift-tax is charged at the rate of thirty per cent. on the value of all taxable gifts made from the assessment year commencing on 1st April, 1987 and during every subsequent year.

It is proposed to insert sub-section (3) in section 3 to provide that gift-tax at the rate of thirty per cent. on the value of all taxable gifts shall be charged in respect of gifts made before 1st October, 1988.

This amendment will take effect from 1st October, 1998 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years.

Gift-tax

Clause 79 seeks to apply the provisions of the Wealth-tax Act to the Gift-tax Act.

It is proposed that certain provisions of the Wealth-tax Act which are being amended by the Finance Bill (No.2) 1998 shall also apply in relation to Gift-tax Act.

This amendment will take effect from the 1st day of October, 1998.

Interest-tax

Clause 80 seeks to amend section 3 of the Interest-tax Act relating to tax authorities.

It is proposed to amend clause (3) of section 3 so as to substitute Deputy Commissioner for Assistant Commissioner. It is also proposed to insert Joint Commissioner within the expressions mentioned in section 3. The amendments proposed are of a consequential nature.

This amendment will take effect from 1st October, 1998.

Clause 81 seeks to amend section 15 of the Interest-tax Act relating to appeals to the Commissioner (Appeals).

Under the existing provision, an appeal filed before the Commissioner (Appeals) is only required to be in the prescribed form and verified in the prescribed manner. No fee has been prescribed for filing appeals to the Commissioner (Appeals).

The proposed amendment seeks to provide a fee of two hundred fifty rupees to be filed along with appeal before the Commissioner (Appeals) in respect of appeals filed on or after 1st October, 1998.

The proposed amendment takes effect from 1st October, 1998.

Clause 82 seeks to amend section 16 of the Interest-tax Act relating to appeals to the Appellate Tribunal.

Under the existing provisions, appeals to the Appellate Tribunal against orders of Commissioner (Appeals) shall be accompanied with a fee of two hundred and fifty rupees.

The proposed amendment seeks to increase the amount of fee from two hundred and fifty rupees to one thousand rupees in respect of an appeal to be filed before the Appellate Tribunal on or after 1st October, 1998.

The proposed amendment will take effect from 1st October, 1998.

Clause 83 seeks to amend section 20 of the Interest-tax Act relating to revision of orders passed by Commissioners.

Under the existing provisions, there is no time limit for disposal of applications made for revision.

It is proposed to provide by inserting a new sub-section that in respect of an application made on or after 1st October, 1998, it shall be obligatory on the Commissioner to pass an order within a period of one year from the end of financial year in which such application is made by the assessee for revision.

It is also proposed that where a Commissioner fails to pass an order within the period prescribed, the application for revision of the assessee shall be deemed to have been allowed and all the consequences shall follow, accordingly.

It is proposed to provide a new sub-section (7) that the time limit prescribed under sub-section (6) shall not apply in cases where an order could not be passed within the prescribed time limit, in order to give effect to any finding or direction contained in an order of the Appellate Tribunal, High Court or the Supreme Court.

The proposed amendment will take effect from 1st October, 1998 and will, accordingly, apply in respect of all petitions filed by the assessee on or after that date.

Expenditure-tax

Clause 84 seeks to amend section 3 of the Expenditure-tax Act so as to make the provisions of the Act applicable to hotels wherein room charges for any unit of residential accommodation are two thousand rupees or more per day per individual as against the existing charges of one thousand two hundred rupees.

This amendment will take effect from 1st October, 1998.

Clause 85 seeks to amend section 6 of the Expenditure-tax Act relating to tax authorities.

The proposed amendment seeks to amend section 6 so as to provide a new class of Expenditure-tax authorities. Under the existing provisions the existing Deputy Director of Income-tax and Deputy Commissioner of Income-tax are proposed to be redesignated as Joint Director of Income-tax and Joint Commissioner of Income-tax respectively. The proposed amendment includes references of these authorities in sub-section (1) and sub-section (3) of section 6 of the Expenditure-tax Act.

The proposed amendment is consequential to the insertion of new Income-tax authorities, namely, Joint Director of Income-tax and Joint Commissioner of Income-tax vide clause 3 of the Bill.

This amendment will take effect from 1st October, 1998.

Clause 86 seeks to amend section 21 of the Expenditure-tax Act relating to revision of orders by the Commissioner.

Under the existing sub-section (4) of section 21, it is provided that no order under this section shall be passed after the expiry of two years from the end of the financial year in which the order sought to be reviewed has been passed.

It is proposed to substitute sub-section (4) so as to provide that in respect of application made on or after 1st October, 1998 by the assessee, it shall be mandatory for the Commissioner to pass an

order within one year from the end of financial year in which such application is made by the assessee for revision. Where no order is passed by the Commissioner within the time prescribed under sub-section (4), it shall be presumed as if the application for revision had been admitted and all the consequences shall follow, accordingly.

This amendment will take effect from 1st October, 1998.

Clause 87 seeks to amend section 22 of the Expenditure-tax Act relating to appeals to the Commissioner (Appeals).

Under the existing provision, an appeal filed before the Commissioner (Appeals) is only required to be in the prescribed form and verified in the prescribed manner. No fee has been provided for filing appeals to the Commissioner (Appeals).

The proposed amendment seeks to provide a fee of two hundred fifty rupees to be filed along with appeal before the Commissioner (Appeals) in respect of appeals filed on or after 1st October, 1998.

The proposed amendment will take effect from 1st October, 1998.

Clause 88 seeks to amend section 23 of the Expenditure-tax Act.

It is proposed to increase the amount of fee from two hundred rupees to one thousand rupees in case of appeal filed on or after 1st October, 1998.

This amendment will take effect from 1st October, 1998.

Clause 89 relates to short title and commencement of the Scheme for settlement of certain disputed direct and indirect tax arrears, namely, Kar Vivad Samadhan Scheme.

Clause 90 contains definition of certain terms and expressions used in the Scheme.

Clause 91 seeks to provide for settlement of certain disputed arrears of taxes in relation to disputed income, disputed wealth, disputed expenditure, disputed chargeable interest, disputed value of gift and tax arrears payable under the direct tax enactments and the indirect tax enactments. Under the Scheme, if any person makes on or after the 1st September, 1998 but on or before 31st December, 1998, a declaration to the designated authority relating to the arrear of tax payable by him, the amount shall be determined as per the rates laid down in that clause. Under the direct tax enactment, the arrears will be payable at the rate of thirty-five percent in cases of a company or a firm; thirty percent in case of persons other than a company or a firm. In search and seizure cases, higher rates of tax of forty-five percent have been provided for a company or a firm and others respectively. Different rates are provided for the disputed cases under Wealth tax, Expenditure-tax, Interest tax and Gift-tax Acts. Under the indirect tax enactment, the arrears are payable at fifty percent of tax areas.

Clause 92 provides that a declaration under the Scheme will be made to the designated authority. This clause further provides that the declaration will be in such form and will be verified in such manner as may be prescribed.

Clause 93 provides that the designated authority will pass an order on the declarations received by him within sixty days from the date of receipt of such declaration. The designated authority will also issue a certificate to the person making the declaration setting forth therein the particulars of the sum payable by the declarant as determined. The declarant shall pay the sum so determined by the designated authority and furnish proof of such payment before him. This clause further provides that the matter so determined under this clause will not be open for any dispute in the court of law or before any other forum. The declarant is also required to withdraw the appeals pending before any appellate authority or court relating to the tax arrears pending before them. In case it is found that any of the material particulars furnished in the declaration by the declarant is found to be false at any stage, it will be presumed that the declaration has never been made and all consequences under the direct tax enactment or the indirect tax enactment under which the proceedings against the declarant are pending shall be revived.

Clause 94 seeks to provide that the designated authority shall, on the declarant fulfilling the conditions provided in section 93, grant the declarant immunity from penalty and prosecution in relation to such matters as are the subject matter of the declartion.

Clause 95 seeks to bar further proceedings in respect of tax arrears determined under the Scheme.

Clause 96 seeks to provide that in no event the amount of tax paid in pursuance of a declaration made under clause 91 will be refunded.

Clause 97 clarifies that, except as other expressly provided, the Scheme should not be construed as conferring any benefit, concession or immunity on the declarant in any assessment or proceedings other than in respect of which the declaration pertains to.

Clause 98 seeks to specify the circumstances under which the provisions of the Scheme will not be applicable. The Scheme would not be applicable, inter alia, to those persons against whom prosecution proceedings under Chapter IX or Chapter XVII of the India Penal Code, the Narcotics Drugs and Psychotropic Substances Act, 1985 the Terrorists and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988 or where the order of detention has been issued under COFEPOSA or where the prosecution for concealment has been launched under any direct tax enactment or for any offence under indirect tax enactment. The persons who have been proceeded against a Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 are also barred from the Scheme.

Clause 99 seeks to empower the Central Government to issue orders, instructions and directions to the various authorities for proper administration of the Scheme. It also empowers the Central Government to issue such orders, instructions or directions to all other persons employed in the execution of the Scheme. The Central Government, however, will not issue any orders, instructions or directions to the designated authority to dispose of any particular case in a particular manner.

Clause 100 seeks to empower the Central Government to pass any order not inconsistent with the provisions of this Scheme for removing any difficulty which may arise in giving effect to its provisions. All such orders made by the Central Government shall be required to be laid before Parliament.

Clause 101 seeks to empower the Central Government to make rules for carrying out the provisions of the Scheme. All rules made under the Scheme shall be laid before Parliament.

Customs

Clause 102 seeks to insert sub-section (4) and sub-section (5) in section 25 of the Customs Act, 1962 to provide for the effective date of every notification issued under sub-section (1) of section 25, unless otherwise specified, as the date of its issue by the Central Government for publication in the Official Gazette and requiring such notification to be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi. However, if the notification comes into effect on a date later than the date of issue, the notification may be offered for sale on or before the date on which the notification comes into force.

Clause 103 seeks to amend section 27 of the Customs Act, 1962 so as to provide that where any duty is paid provisionally under section 18, the limitation of one year or six months, as the case may be, for claiming refund shall be computed from the date of adjustment of duty after the final assessment.

Clause 104 seeks to substitute the existing sections 53 to 55 of the Customs Act, 1962 by new sections 53 to 55 to provide for certain changes in the provisions relating to goods in transit and

transhipment with out payment of duty from any conveyance, subject to certain conditions.

Clause 105 seeks to insert Chapter XIVA in the Customs Act, 1962 to provide for setting up of a Customs and Central Excise Settlement Commission on the lines of a similar Commission already working under the Income-tax Act, 1961.

The Settlement Commission established under the Central Excise Act will also entertain application for settlement of cases relating to the levy, assessment and collection of customs duty or any appeal or revision in connection with such levy, assessment or collection. Any , importer, exporter or any person who has incurred any liability under any law levying duties of customs may make an application in such form and in such manner as may be prescribed stating, inter alia, a true and full disclosure of his duty liability which has not been disclosed before the proper officer having jurisdiction, the manner in which such liability has been incurred and the additional amount of customs duty accepted to be payable by him. Such applications will be accepted only where the applicant has filed a bill of entry or shipping bill under the Customs Act, 1962. Only cases where the show cause notice or demand notice for recovery of duty has been received by the applicant will be entertained. The Settlement Commission shall, however, not entertain cases pending with the Appellate Tribunal or any Court and nor will it entertain applications involving interpretation of the classification of goods under the Customs Tariff Act, 1975. Cases where the additional amount of duty accepted to be payable by the applicant approaching the Settlement Commission exceeds two lakh rupees alone will be covered by the proposed Settlement Commission. The Settlement Commission shall, subject to certain provisions, have power to grant immunity from prosecution penalty, fine and interest in respect to the case covered by the settlement. Every order of settlement shall be conclusive as to the matters covered by the order.

The Commission shall be established from a date to be notified by the Central Government in the Official Gazette.

Clause 106 seeks to levy additional duty of customs on imported motor spirit, commonly known as petrol, at the rate of one rupee per litre. The levy is for the purpose of mobilising resources for the development of roads.

Clause 107 seeks to amend the Customs Tariff Act, 1975.

Sub clause (a) seeks to insert a new section 3A in the Customs Tariff Act, 1975 to impose a special additional duty of customs on imported articles, at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on sale and purchase of a like article in India. Until the rate of such duty is specified by the Central Government, the special additional duty will be levied at the rate of eight per cent. of the value of the imported article. It also prescibes the method of computation of the value of the imported articles for the purpose of the said levy;

Sub clause (b) seeks to amend the First Schedule to the Customs Tariff Act, so as to,-

(a) reduce the basic customs duty in respect of articles falling under the following Chapters, heading, and sub-heading Nos.,Chapters 8 (sub-heading No. 0806.20), 13 (sub-heading Nos.1302.19 and 1302.20), 21 (sub-heading No. 2106.90), 22 (sub-heading Nos. 2207.10, 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90), 27 (heading No.27.09), 29 (sub-heading No. 2933.71), 33 (sub-heading No. 3302.10), 38 (heading No. 38.18), 44 (heading No. 44.04, 44.05, 44.06 and 44.07), 51 (heading No. 51.05), 69 (heading No. 69.03), 84 (sub-heading No.8471.70), 85 (heading No. 85.08 and sub-heading Nos. 8501.10, 8532.90, 8533.90 and 8541.90); 91 (heading Nos. 91.08 and 91.10);

(b) increase the basic customs duty in respect of articles falling under the following Chapters, heading, and sub-heading Nos., Chapters 29 (sub-heading Nos. 2905.11 and 2918.14), 37 (heading No. 37.07), 44 (heading Nos. 44.10 and 44.11), 48 (heading Nos.48.02, 48.03, 48.04, 48.05, 48.06, 48.07, 48.08, 48.09, 48.10 and 48.11 and sub-heading No. 4823.20), 74 (except heading Nos.74.01, 74.02, 74.03 and 74.04), 84 (sub-heading Nos. 8407.31, 8407.32, 8407.33, 8407.34, 8408.20, 8409.91 and 8409.99); and

(c) change the mode of levy of duty from ad valorem to ad valorem-cum -specific, in respect of articles falling under sub-heading No. 8483.20.

Excise

Clause 108 seeks to substitute the existing *Explanation 1* in section 4A of the Central Excise Act, 1944 (1 of 1944) so as to explain the scope of retail sale price.

Clause 109 seeks to insert sub-section (5) and sub-section (6) in section 5A of Central Excise Act, 1944 to provide for the effective date of every notification issued under sub-section (1) of section 5(A) unless otherwise specified as the date of its issue by the Central Government for publication in the Official Gazette and requiring such notification to be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi. However, if the notification comes into force on a date later than the date of issue, the notification may be offered for sale on or before the date on which the notification comes into force.

Clause 110 seeks to insert a new clause (bbbb) in sub-section (1) of section 9 of the Central Excise Act, 1944 to provide for punishment under said section 9 in case of contravention of the provisions of the said Act or the rules made thereunder in relation to credit of duty in respect of inputs and capital goods, commonly known as “MODVAT”.

Clause 111 seeks to amend section 11B of the Central Excise Act, 1944, so as to, define “relevant date”, where duty of excise is paid provisionally under the Central Excise Law, the date of adjustment of duty after final assessment thereof.

Clause 112 seeks to insert clause (d) in the first proviso to sub-section (1) of section 35B of the Central Excise Act, 1944 to provide, from a date to be notified, that no appeal shall lie to the Appellate Tribunal and the Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any order relating to credit of duty paid on excisable goods used as inputs or capital goods in the manufacture of or by the manufacturer of final products under the said Act and rules made thereunder.

Clause 113 seeks to insert Chapter V in the Central Excise Act, 1944 to provide for the setting up of a Customs and Central Excise Settlement Commission on the lines of a similar Commission already working under the Income-tax Act, 1961.

The proposed Settlement Commission shall consist of a Chairman and as many Vice-Chairmen and other Members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with Customs and Central Excise matters. The Chairman, Vice-Chairmen and other members of the Settlement Commission shall be appointeed from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, administration of Customs and Central Excise laws. The powers and authority of the Settlement Commission will be exercised by a principal Bench sitting at Delhi and such additional Benches established by the Central Government at the places as it considers necessary. The Chairman of the Settlement Commission may, for the disposal of any particular case, constitute a special Bench. Any applicant under the Central Excise tax laws may make an application in such form and in such manner as may be prescribed stating, *inter alia*, a true and full disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been incurred and the additional amount of excise

duty accepted to be payable by him. Such applications will be accepted only where the applicant has filed the prescribed monthly returns showing production, clearances and Central Excise Duty. Only cases where the show cause notice or demand notice for recovery of duty has been received by the applicant will be entertained. The Settlement Commission shall, however, not entertain cases pending with the Appellate Tribunal or any Court and nor will it entertain applications involving interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985. Cases where the additional amount of duty accepted to be payable by the applicant approaching the Settlement Commission exceeds two lakh rupees alone will be covered by the proposed Settlement Commission. The Settlement Commission shall, subject to certain provisions, have power to grant immunity from prosecution penalty, fine and interest in respect to the case covered by the settlement. Every order of settlement shall be conclusive as to the matters covered by the order.

This Commission shall be established from a date to be notified by the Central Government in the Official Gazette.

Clause 114 seeks to levy additional duty of excise on motor spirit, commonly known as petrol, at the rate of one rupee per litre. The levy is for the purpose of mobilising resources for the development of roads.

Clause 115 seeks to amend the Schedule to the Central Excise Tariff Act, so as to-

(a) reduce the excise duty in respect of articles falling under the following Chapters, heading Nos. and sub-heading Nos., namely:-

"Chapters 38 (sub-heading No. 3824.20), 39 (heading Nos. 39.05, 39.06, 39.07, 39.08, 39.09, 39.10, 39.11, 39.12, 39.13, 39.14 and sub-heading Nos. 3903.20 and 3903.30), 54 (sub-heading Nos.5402.10, 5402.31, 5402.41, 5402.51 and 5402.61), 85 (sub-heading No. 8524.32);";

(b) increase the excise duty in respect of articles falling under Chapters, heading and sub-heading Nos., namely:-

"Chapters 4 (sub-heading No.0401.13), 11 (sub-heading No.1102.00), 21 (sub-heading No.2101.30), 24 (sub-heading Nos.2403.11, 2403.12, 2403.13, 2403.14 and 2403.15), 25 (sub-heading Nos.2504.21 and 2504.31), 27 (sub-heading Nos. 2710.11, 2710.12, 2710.13 and 2710.19), 30 (sub-heading No.3003.20), 32 (sub-heading No. 3215.10), 40 (sub-heading No. 4012.90), 48 (sub-heading No. 4819.19), 51 (sub-heading No. 5106.11), 82 (heading No. 82.15), 84 (sub-heading Nos. 8434.10 and 8434.90), 85 (sub-heading No. 8523.12), 87 (sub-heading Nos. 8701.10, 8702.10, 8706.11 and 8706.21), 90 (sub-heading Nos. 9001.10, 9003.11, 9003.19, 9004.10, 9018.00, 9019.00, 9020.00, 9021.90, 9022.10 and 9032.80), 93 (sub-heading Nos. 9302.00, 9303.00, 9304.00, 9305.00, 9306.00 and 9307.00), 94 (sub-heading No. 9402.10) and 96 (sub-heading No.9607.00);";

(c) amend the Section Notes, Chapter Notes and the tariff descriptions so as to,-

(i) define "manufacture" in relation to products of Chapter 4;

(ii) define "brand name" in relation to products of Chapter 4;

(iii) define the scope of products of heading No. 04.04;

(iv) substitute heading Nos. and sub-heading Nos. 0402.10, 0403.10 and 04.04;

(v) define "manufacture" in relation to products of Chapter 9;

(vi) define "brand name" in relation to products of Chapter 9;

(vii) define the scope of heading No. 09.03;

(viii) substitute heading Nos.09.02 and 09.03;

(ix) define "manufacture" in relation to products of Chapter 16;

(x) define "brand name" in relation to products of Chapter 16;

(xi) substitute heading No.16.01;

(xii) rephrase description of goods in sub-heading Nos.1704.10 and 1704.90;

(xiii) restructure heading No.19.05 so as to rationalize duty on wafers;

(xiv) define the scope of heading No.21.08;

(xv) empower the Central Government to define "newsprint" by notification published in the official gazette for the purposes of Chapter 48;

(xvi) define the term "retail sale price" in Chapter 64;

(xvii) amend the tariff description of sub-heading No.6401.12 so as to change the scope of the entry;

(xviii) define "manufacture" in relation to products of heading Nos.69.06, 69.07, 69.09, 69.10 , 69.11, 70.06, 70.07, 70.08, 70.10, 70.13 and 70.15;

(ix) substitute heading No. 84.52;

(xx) define the term "retail sale price" in Chapter 85;

(xxi) amend the tariff description of heading No. 8524.20 to cover all software;

(xxii) merge the sub-heading Nos. 8524.34 and 8524.35 into a single sub-heading No. 8524.34 covering all video cassettes;

(xxiii) omit sub-heading No.8527.20;

(xxiv) prescribe a specific rate of excise duty on colour television receivers falling under heading No. 85.28 where the retail sale price is not declared on the package at the time of clearance from the factory of production or where the retail sale price declared does not form the sole consideration for sale to the ultimate consumer, and to prescribe a rate of 18% ad valorem in respect of other goods falling under heading No. 85.28;

(xxv) amend the tariff description of heading No. 85.39 so as to change the scope of the entry;

Clause 116 seeks to amend the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, so as to,-

(i) increase duty in respect of articles falling under sub-heading Nos. 2403.11, 2403.12, 2403.13, 2403.14, 2403.15 and 2403.19;

(ii) change the mode of levy from ad valorem to specific rate of duty in respect of articles falling under sub-heading Nos. 5902.10, 5902.20 and 5902.90;

Clause 117 seeks to amend the Schedule to the Additional Duties of Excise (Textile and Textile Articles) Act, so as to exempt duty on woollen fabrics.

Clause 118 seeks to amend the Medicinal and Toilet preparations (Excise Duties) Act, 1955, so as to reduce the rates of duties on toilet preparations containing alcohol or narcotic drug or narcotics.

Service tax

Clause 119 seeks to substitute sections 65, 66 and 68 and amend section 67 of the Finance Act, 1994, relating to service tax so as to levy a tax on services rendered by -

(i) an architect to a client in the field of architecture;

(ii) an interior decorator to a client in relation to planning, design or beautification of spaces;

(iii) a management consultant to a client in connection with the management of any organisation;

(iv) a practising chartered accountant to a client in professional capacity;

(v) a practising cost accountant to a client in professional capacity;

(vi) a practising company secretary to a client in professional capacity;

(vii) a real estate agent to a client in relation to real estate;

(viii) a security agency to a client in relation to the security of any property or person;

(ix) a credit rating agency to a client in relation to the credit rating of any financial obligation, instrument or security;

(x) a market research agency to a client in relation to market research of any product, service or utility;

(xi) an underwriter to a client in relation to underwriting;

(xii) a slaughter house to a client in relation to slaughtering of bovine animals.

Service tax is sought to be levied on the above services at the rate of five per cent. on the gross amount charged to the client by the architect, interior decorator, management consultant, chartered accountant, cost accountant, company secretary, real estate agent, security agency, credit rating agency, market research agency and underwriter and at the rate of one thousand rupees per animal in the case of services rendered by a mechanised slaughter house.

This clause also seeks to delete the levy of service tax on service rendered by goods transport operator, pandal or shamiana contractor and outdoor caterer and accordingly deleting references in respect of these services by amending the provisions of sections 65, 66 and 67.

This clause also seeks to amend the definition of the terms 'assessee', 'rent-a-cab scheme operator', 'service tax' and 'tour operator' and to delete the definition of the term 'person responsible for collecting the service tax'in section 65.

This clause also seeks to substitute section 68 so as to provide that every person providing taxable service to any person shall pay service tax and also to provide that in respect of any taxable service the central government may prescribe the person liable to pay the service tax and the manner of collection and recovery of service tax.

This clause also seeks to amend section 69 to empower the Central Government to prescribe the time, manner and form for making an application for registration by a person liable to pay the service tax.

This clause also seeks to substitute section 70 to provide that the person liable to pay the service tax shall furnish a return in such form, manner and frequency as prescribed in the rules and also to delete the provisions for issue of notice in case the assessee has failed to furnish the return.

This clause also seeks to make consequential amendments in section 71 due to the proposed amendment to section 70..

This clause also seeks to make consequential amendments in section 76 due to the proposed amendments to section 68.

This clause also seeks to amend section 82 so as to empower only the commissioner of central excise to authorise search of any premises.

This clause also seeks to amend section 83 to make applicable sections 11BB and 12A of the Central Excise Act, 1944 in relation to service tax.

This clause also seeks to omit sections 87, 88, 89, 90, 91 and 92 of the Finance Act, 1994.

This clause also seeks to amend section 93 to empower the Central Government to exempt taxable service of any specified description by a special order under circumstances of exceptional nature.

This clause also seeks to amend section 94 so as to empower Central Government to make rules in respect of collection and recovery of service tax, the time, manner and the form in which application for registration may be made under section 69 and the form, manner and frequency of the returns to be furnished under section 70.

Clause 120 seeks to omit section 37 of the Export-Import Bank of India Act, 1981.

Section 37 of the said Act provides that the Export Import Bank of India shall not be liable to pay income-tax, surtax or any other tax, in respect of any income, profits or gains (a) accruing to the Export Development Fund or any amount received to the credit of such Fund established under section 15 of that Act, and (b) in respect of any income, profits or gains derived, or any amount received, by such Bank. It is proposed to omit section 37 of the aforesaid Act to make the said Fund or Bank liable to pay income-tax or any other tax in respect of the income, profits or gains accruing to such Fund or any amount received to the credit of that Fund and any income, profits or gains derived, or any amount received, by aforesaid Bank.

This amendment will take effect from the 1st April, 1999.

Clause 121 seeks to substitute the First Schedule to the Indian Post Office Act, 1898 so as to provide for the revised rates for competition post cards, letter-cards, letters and parcels.

These revised rates will be effective from a date to be notified after the Finance Bill is passed.

Clause 122 seeks to repeal the Finance Act, 1998.