Providing limitation of time for revision of orders by Commissioner of Income-tax under section 264 of Income-tax Act

Under the existing provisions the Commissioner of Income-tax is empowered to revise an order passed by the subordinate authority where no appeal has been filed. The order passed by Commissioner of Income-tax cannot be prejudicial to the interest of assessee. There is limitation of one year for filing the application but there is no time limit for the Commissioner of Income-tax to dispose of the application. The absence of such a provision has contributed to the delay in the disposal of such application.

The Bill proposes to make it obligatory on the Commissioner to pass an order under section 264 within a period of 1 year from the end of the financial year in which the application is made for revision. It is further proposed that where Commissioner fails to pass an order within the prescribed period, the application for revision of the assessee shall be deemed to have been allowed and all the consequences shall follow accordingly.

The Bill also proposes to exclude the period taken to give effect to the order of the Court from the period of limitation.

Corresponding amendments have also been proposed in respect of other direct taxes enactments.

The proposed amendment takes effect from 1st day of October, 1998 for application filed after that date. *[Clause 62]*

Increasing the monetary limit of appeals to be decided by single member bench of Appellate Tribunal

Under the existing provisions a member of the Appellate Tribunal may be empowered sitting singly to dispose of any case where total income does not exceed Rs. 1 lakh.

The Bill proposes to enhance the above limit to Rs. 5 lakhs. This will help in quicker disposal of appeals before the Tribunal.

The proposed amendment takes effect from the 1st day of October, 1998. *[Clause 56]*

Extending the scope of Authority for Advance Rulings to resident applicants

Under the existing provisions, the scope of Authority for Advance Rulings is restricted to the determination of a question of law or fact in relation to a transaction which has been undertaken or proposed to be undertaken by a non-resident applicant.

It is proposed to extend the scope of the definition of advance ruling and also the scope of the Authority to certain categories of resident applicant which may be notified by the Central Government in the Official Gazette. In such cases, the Authority shall give decisions on matters raised in the assessment or in appeal.

The proposed amendment comes into effect from the 1st day of October, 1998. *[Clause 50]*

Changes in the eligibility criteria for appointment as Judicial Member and Accountant Member in Appellate Tribunal

Under the existing provisions a member of the Central Legal Service holding a Grade-I post for 3 years is eligible to become a judicial member. Similarly, a member of Indian Income Tax Service Group-A holding the post of Commissioner for 3 years is eligible to become an Accountant Member.

In view of the above provisions, the members of these two services join Appellate Tribunal at a very late age. On the other hand a Chartered Accountant or a person holding judicial office can become a member of Appellate Tribunal at a younger age as they require to put in only 10 years of service.

The Bill proposes to redress this imbalance by making a Grade-II Officer of Central Legal Service and an Additional Commissioner of Income-tax with 3 years experience in either case to be eligible as Judicial Member and Accountant Member respectively.

The proposed amendment shall take effect from the date on which this Bill receives the assent of the President.

[Clause 53]

MEASURES FOR DEVELOPMENT OF CAPITAL MARKET

Exemption of Capital Gains Tax on stock lending

Under the existing provisions when shares certificates are returned bearing distinctive numbers different from those appearing on shares which were earlier lent, such exchange being a transfer under sub-section (47) of section 2 of Income-tax Act may attract capital gains tax.

The Bill proposes to amend section 47 so as 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 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.

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]*

Extension of period for corporatisation of stock broker's card

Under the existing provisions of Income-tax Act, corporatisation of membership card of recognised stock exchanges is exempt from capital gains if transfer is effected on or before 31.12.97.

In order to encourage more brokers to corporatise, increase their liquidity and consequently their volume of trading, the bill proposes to exempt such corporatisation of membership card of recognised stock exchanges from charge of capital gains tax upto 31.12.1998.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-99. *[Clause 23]*

Amortisation of Preliminary Expenses

It is proposed to amend section 35D of the Income-tax Act 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 21/2 per cent. in accordance with the provisions contained in sub-section (3) of section 35D. The ceiling of the amount of preliminary expenditure is also proposed to be raised from the existing 2 1/2% to 5% of the cost of the project or the capital employed in the business of the company.

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 16]*

MEASURES TO CHECK TAX EVASION AND AVOIDANCE

Income-tax exemption to educational and medical institutions to be subject to fulfillment of conditions

Under the existing provisions of clauses (22) and (22A) of section 10 of the Income-tax Act, educational and medical institutions enjoy exemption from income-tax if they do not exist for purposes of profit. However, in the absence of any monitoring mechanism for checking the genuineness of their activities, these provisions are reported to be widely misused.

The Bill, therefore, seeks to omit the aforesaid clauses (22) and (22A) from the statute. The educational and medical institutions which are of charitable nature will henceforth have to claim income-tax exemption under sections 11 and 12 of the Income-tax Act subject to fulfillment of necessary conditions. In appropriate cases, the Central Government may also grant exemption by issue of a notification under sub-clause (iv) of clause (23C) of section 10.

The Bill also seeks to insert a new sub-clause (iiib) in clause (23C) of section 10 to provide exemption to any income of such university or other educational institution or hospital or medical institution which is established by a Central, State or Provincial Act or by a local authority or any society which is wholly or substantially financed by the Government.

The proposed amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clause 7]*

RATIONALISATION AND SIMPLIFICATION

Certain receipts not to be included for computing the actual cost of an asset

It is proposed to insert two explanations in clause 1 of Section 43 which defines the term “actual cost”.

The proposed Explanation 9 seeks to make it clear that in cases where duty leviable under the Customs Tariff Act, 1975 and duty leviable under Central Excise Rules, 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 Rules, 1944.

The proposed amendment will take effect retrospectively from 1st April, 1993 and will, accordingly apply in relation to the assessment year 1993-94 and subsequent years.

The proposed Explanation 10 provides that where a portion of 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 or grant or reimbursement, then in a case where the subsidy is directly relatable to the asset, such subsidy shall not be included in the actual cost of the asset. In a case where such subsidy or grant or reimbursement is of such a nature that it cannot be directly relatable to any particular asset, the amount so received shall be apportioned in a manner that such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received and such subsidy shall not be included in the actual cost of the asset.

These amendments will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clause 20]*

Computation of value of inventory

The issue relating to whether the value of closing stock of the inputs, work- in-progress and finished goods must necessarily include the element for which MODVAT credit is available has been the matter of considerable litigation.

In order to ensure that the vlaue of opening and closing stock reflect the correct value, it is proposed to insert a new section to clarify that while computing the value of the inventory as per the method of accounting regularly employed by the assessee, the same shall include the amount of any tax, duty, cess or fees paid or liability incurred for the same under any law in force.

The proposed amendment which is clarificatory in nature shall take effect retrospectively from 1st day of April, 1986 and will accordingly apply in relation to assessment year 1986-87 and subsequent years. *[Clause 45]*

Amendment in section 80IA and section 80HHD to prevent double deduction of same profit

Under the provisions of Chapter VIA of the Income-tax Act, various deductions from the profits and gains are allowed to specified assessees, subject to fulfilling certain requirements specified under the relevant sections. The total deductions under Chapter VIA of the Income-tax Act are restricted to the gross total income in respect of the assessee as a whole.

However, in certain cases it was noticed that certain assessees claimed more than 100% deduction on such profits and gains of the same undertaking, when they were entitled to deductions under more than one section of Chapter VIA. With a view to providing suitable statutory safeguard in the Income Tax Act to prevent taxpayer from taking undue advantage of existing provisions of the Act, by claiming repeated deductions in respect of the same amount of eligible income, even in cases where it exceeds such eligible profits of an undertaking or hotel, it is proposed to provide inbuilt restrictions in section 80HHD and 80-IA, so that such unintended benefits are not passed on to assessees.

This amendment is sought to be introduced retrospectively with effect from 1.4.1990. *[Clauses 36 and 37]*

Omission of provision for weighted deduction

Sub-section (2AB) to section 35 was introduced by the Finance Act, 1997. This sub-section allows weighted deduction on 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. Due to difficulties experienced by the prescribed authority in monitoring and auditing such expenses in the case of a large number of such companies, it is proposed to omit the said sub-section (2AB). In any event, the expenses incurred for scientific research would be fully deductible under section 37 of the Income-tax Act while computing the taxable income as a normal business expenditure.

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]*

Provisions relating to insurance business

It is proposed to amend Rule 5 of the First Schedule of the Income-tax Act, 1961 relating to computation of income of insurance business other than life insurance. Income from such insurance business is computed in accordance with provisions of Section 44 of the Income-tax Act and the Rules contained in the First Schedule. As per 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 under the Insurance Act, 1938 and are subject to the adjustments of expenditure or allowance which are not admissible under Sections 30 to 43B.

It is proposed to amend Rule 5 of First Schedule so as to explicitly 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 retrospective effect from 1st April, 1989 and will accordingly apply in relation to the assessment year 1989-1990 and subsequent years. *[Clause 66]*

Providing for issue of refund in assessment under sub-section (3) section 143(3)

Under the existing provisions the Assessing Officer determines the sum payable by the assessee on the basis of assessment in accordance with the provisions of sub-section (3) of section 143 of the Income-tax Act.

The Bill proposes to provide for determination of sum payable by the assessee as well as the refund of any amount due to him by the Assessing Officer while making an order of assessment.

The proposed amendment will take effect from 1st October, 1998. *[Clause 44]*

Rationalisation of provision relating to applying for allotment of permanent account number

According to existing provisions, every person who is carrying on any business or profession and whose total sales, turnover, or gross receipts are likely to exceed Rs. 50,000/- in any previous year is required to apply for the allotment of Permanent Account Number. This provision was inserted by the Taxation Law (Amendment) Act, 1975 w.e.f. 1.4.1976 and has ceased to be a realistic parameter for applying for PAN.

The Bill proposes to enhance the limit of Rs. 50,000/- to Rs. 5,00,000.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years. *[Clause 43]*

Rationalisation of clause (23G) of section 10

Under the existing provisions of clause (23G) of section 10, 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 shares or long-term finance in an enterprise carrying on the business of developing, maintaining and operating any infrastructure facility which fulfills the conditions specified in sub-section (4A) of section 80-IA is exempt from income-tax.

However, certain problems have arisen in the implementation of these provisions. There is no mechanism to ensure that the tax free funds raised by infrastructure enterprises are genuinely invested in the business of infrastructure in a time-bound manner. Certain other loopholes also require to be plugged.

The Bill, therefore, seeks to substitute the existing clause (23G) by a new clause. The definition of “infrastructure capital company” is proposed to be 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 them and which satisfy the prescribed conditions.

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 7]*

Extension of time for investing amount of capital gains under sections 54EA & 54EB in cases of compulsory acquisition under any law

Section 54H caters to the situation where the transfer of the long term 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 transfer. In such cases the period available to the assessee for investing the long term capital gains for the purpose of exemption is reckoned from the date of receipt of compensation and not from the date of transfer. The Bill proposes to insert sections 54EA and 54EB in section 54H whereby extension of time shall be available for investing amount of capital gains under sections 54EA and 54EB in cases of compulsory acquistion.

2.The proposed amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clause 27]*

Disallowance of illegal expenses

It is proposed to insert an explanation after sub-section (i) of section 37 to clarify that no allowance shall be made in respect of expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law. This proposed amendment will result in disallowance of the claim made by certain tax payers of payments on account of protection money, extortion, hafta, bribes, etc. as business expenditure.

This amendment will take effect from 1st April, 1962 and will accordingly apply in relation to the assessment year 1962-1963 and subsequent years. *[Clause 17]*

Provisions for the film industry

In response to the demands from the film industry, it is proposed to liberalise some of the provisions relating to the film industry.

Under section 285B producers of cinematographic films are obliged to furnish within 30 days from the date of completion of the film or the end of the financial year, a statement containing particulars of all payments of over Rs.5,000 in the aggregate made by him or due from him to each person engaged by him. It is now proposed to raise the monetary limit to the Rs.25,000.

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 also proposed to relax the minimum period for amortisation of cost incurred on production/acquisition of distribution rights of feature films. Under the present provisions if a film is released on commercial basis, at least 180 days before the end of the previous year, these costs are allowed to be amortised fully in the year of the release. It is now proposed to reduce this period to 90 days. For this purpose the amended rules will be notified shortly.

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 65]*

Clarificatory amendments in procedure for block assessment

To set at rest the controversy as to whether block assessment subsumes the regular assessments or independent of the latter, the Bill proposes to clarify that block assessment shall be made in addition to the regular assessment of previous years included in the block period. Further it proposes to provide that income assessed in regular assessment shall not be included in the block period and income assessed in the block period shall not be included in the regular assessment. The clarificatory amendment is proposed to be inserted retrospectively from 1st day of July, 1995.

The proposed Bill also seeks to clarify that the deduction of salary, interest, commission, bonus or remuneration by whatever name called in Explanation (b) in sub-section (1) of section 158BB as being in relation to any partner not being a working partner.

To set at rest, the controversy regarding the meaning of the word ‘execution’ while calculating the period of limitation in section 158BE, the Bill proposes to clarify that the execution means conclusion of search as recorded in the last panchanama drawn in relation to any person in whose case the warrant of authorisation has been issued. In the case of requisition under section 132A, it will mean actual receipt of the Books of account or other documents or assets by the authorised officer.

The proposed amendment is retrospective with effect from 1st day of July, 1995. *[Clause 47]*

Prescribing maximum penalty for defaults committed with reference to sections 197A and 203

Under the existing provisions penalty under sub-section (2) of section 272A is imposable for failure to deliver in due time a copy of the declaration under section 197A or for failure by the person deducting tax to furnish a certificate of deduction to the person to whom such payment is made or credit given within the prescribed period. These defaults are continuous in nature and attract penalty at the rate of Rs. 100-200 per day without any maximum limit.

The Bill proposes a maximum limit of penalty imposable in such cases which shall not exceed the amount of tax deductible or collectible, as the case may be.

The proposed amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clause 64]*

Certain expenses to be allowed only on 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 clauses (a) (c) or (d) 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.

To remove undue harship to the assessees and to bring about parity with the interest paid on borrowed funds to public financial institutions, state financial corporations and state industrial investment corporations it is proposed to amend the first proviso to section 43B, so that any sum payable by the assessee as interest on any term loan from scheduled banks referred to in clause (8) of this section is also allowed if the payment is made before the due date of filing the return of income.

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 21]*

Depreciation for power sector

Section 32 of the Income-tax Act was amended by the Income-tax (Amendment) Act, 1998 to provide in the case of assets of an undertaking engaged in generation or generation and distribution of power, depreciation on a straight line method. Assets of other businesses are allowed depreciation on a written down value method or the reducing balance method. Vide notification S.O.No.765(E) dated 6th November, 1997 the Income-tax Rules were amended to provide the undertakings engaged in the generation or generation and distribution of power an option to claim depreciation either under the straight line method or the written down value method. It is now proposed to bring about consequential amendments in sections 32 and 41 and insert section 50A.

It is proposed 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 section 32(1)(i) is sold, discarded, demolished or destroyed in the previous year. The depreciation amount will be the amount by which the monies 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.

It is also proposed to insert sub-section (2) in section 41 so as to provide for the manner of calculation of the amount which shall be chargeable to income-tax as income of the business of the previous year in which the monies 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.

It is further proposed to make special provisions for computation of cost of acquisition in the case of depreciable assets referred to in Section 32(1)(i). The proposed amendment seeks to insert section 50A so as to provide that the provisions of section 48 & 49 shall apply subject to the modification that the written down value as defined in section 43(6) of the asset as adjusted shall be taken as the cost of acquisition of the asset.

These amendments will take effect retrospectively from the 1st day of April, 1998 and will accordingly apply in relation to assessment year 1998-99 and subsequent years. *[Clauses 11, 18 & 26]*

Removal of certain exemptions

Under the existing provisions of clause (5A) of section 10, any remuneration received by a foreign national who comes to India in connection with shooting of a cinematograph film is exempt from tax. This clause was inserted in 1984 and has since outlived its utility. The Bill, therefore, seeks to omit the same.

Clause (6) has several sub-clauses and items which provide income-tax exemption in respect of perquisites of foreigners employed in India. The Bill seeks to omit item (aa) of clause (i) , sub-clause (via), sub-clause (viiia), sub-clause (ix) and sub-clause (x) of this clause. This is a rationalisation measure.

Sub-clause (iv) of clause (15) provides exemption in respect of interest payable by specified Indian entities on borrowings in foreign currency. Since there is no justification for the Government to subsidise the commercial borrowings by corporate assessees, the Bill seeks to omit items (c), (e) and (f) of sub-clause (iv) of clause (15).

Clause (18A) provides exemption in respect of ex-gratia payments made by the Central Government consequent on the abolition of privy purse. Since the clause has outlived its utility, the Bill seeks to omit the same.

The proposed amendments will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clause 7]*

Omission of provisions relating to "not ordinarily resident" status

Clause (6) of section 6 of the Income-tax Act provides for the status of 'not ordinarily resident'. The income accruing or arising outside India to a person 'not ordinarily resident' in India is ordinarily exempt from income-tax.

The status of 'not ordinarily resident' was introduced in the Income-tax Act in 1938 in order to, inter alia, provide relief to the European officials in the initial years of their stay in India. However, the status has far outlived its utility.

The Bill, therefore, seeks to omit clause (6) of section 6. The Bill also seeks to make consequential amendments in section 5 and in other sections of the Income-tax Act, 1961 and the Wealth-tax Act, 1957 to omit reference to this status.

The proposed amendment will take effect from 1st April, 1999 and will, accordingly, apply in relation to assessment year 1999-2000 and subsequent years. *[Clauses 4 & 6]*

Export Import Bank of India liable to pay income-tax and other taxes

The Export Import Bank of India was formed by the Exim Bank Act of 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 and gains

specified therein. The Bill proposes to omit section 37 of the aforesaid Act to make the bank liable of payment of income-tax or any other tax, in respect of profits and gains accruing to the bank on funds, if any, established under section 15 of the Exim Bank Act.

The Amendment will take effect from 1st April, 1999. *[Clause 120]*

WEALTH TAX

Incentives proposed under the Wealth Tax Act

Explanation (b) of Section 2(ea) of the Wealth Tax Act excludes from the meaning of urban land, land held by the assessee as stock-in-trade for a period of five years from the date of its acquisition by him. It is proposed to make an amendment so as to make land held by the assessee as stock-in-trade for a period of seven years from the date of its acquisition by him, not includible in the definition of urban land, and hence not chargeable to wealth tax.

Wealth tax is not levied on productive assets. In view of this logic it is proposed that wealth tax would also not be levied on such residential properties that have been let-out for a period of a minimum of three hundred days in a year.

It is proposed to amend clause (i) of Section 2(ea) of the Wealth Tax Act which provides for exemption from Wealth Tax in respect of any house which is meant exclusively for residential purposes and is allotted by a company to an employee having a gross annual salary of less than Rs. 2 lakhs. In view of inflation, and general rise in salaries, it is proposed to enhance the limit of gross annual salary to Rs. 5 lakhs.

It is also proposed to exempt commercial establishment and complexes from the ambit of Wealth Tax.

At present one self-occupied residential property is exempt from levy of Wealth Tax. It is proposed that this exemption may be allowed in respect of one house property either built-up or a plot of land not exceeding 500 Sq. Metres in area.

The proposed amendments will take effect from 1st April, 1999 and will accordingly apply in relation to assessment year 1999-2000 and subsequent years. *[Clauses 69 & 70]*

Measures to reduce litigation

Amendments identical to those made in the Income-tax Act have been proposed in the Bill. They include prescribing fee of Rs. 250/- for filing appeal before the Commissioner (Appeals), enhancement of appeal fee payable to Appellate Tribunal to Rs. 1,000/- and provide for direct appeal to High Court with a fee of Rs. 5,000/-. A time limit as proposed in Income-tax Act has also been proposed for disposal of revision application by Commissioner.

The proposed amendments take effect from the 1st day of October, 1998. *[Clauses 72,73,74,75,76 and 77]*

EXPENDITURE TAX

Increasing the limit of room charges for attracting the charge of Expenditure-tax

Under the existing provisions of Expenditure tax, 1987, tax is charged on expenditure incurred in a hotel where the room charges for a unit of residential accommodation are twelve hundred rupees per day per individual.

It is proposed to amend the Expenditure tax Act to enhance this limit to two thousand rupees or more per day per individual.

The proposed amendment will take effect from 1st day of October, 1998 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent years. *[Clause 84]*

Measures to reduce litigation

The Bill seeks to provide, as in the case of Income-tax Act, amendments to prescribe fee of Rs. 250/- for filing appeal before the Commissioner (Appeals), enhancing the fee for appeal to the Appellate Tribunal to Rs. 1,000/- and providing a time limit for disposal of revision applications by the Commissioner. *[Clauses 85,86,87 and 88]*

GIFT TAX

Rationalisation of gifts

The Gift Tax Act was introduced in India in 1958 and was levied on the aggregate value of gifts made by a person during a financial year. The revenue yield from this tax has been declining and at present is less than Rupees ten crores. Though the primary rationale for charging Gift Tax was not to raise revenue, but it was levied mainly to deter evasion and avoidance of income-tax. It has been realised that this aim of Gift tax Act has also not been fully met. Hence with a view to simplify and rationalise the direct tax provisions, it is proposed that no Gift Tax shall be levied on any gifts made on or after the 1st day of October, 1998. Instead it is proposed that any amounts received by a person without adequate consideration shall be charged to tax as his income from other sources. This would include receipts from certain transactions that would also be deemed to be income form other sources. It is also proposed that amounts received by a person without adequate consideration shall not be considered as casual and non-recurring receipts that are presently exempt upto a limit of Rs. 5,000 under section 10(3). Certain exemptions are provided so as to exclude receipts at time of marriage (upto a limit of Rupees two lakhs), receipts from non-residents and Non-Resident Indians through banking channels, inheritances and amount received from relatives for meeting educational and medical expenses. In addition to this, an aggregate of receipts upto Rs. 30,000 every year are proposed to be exempt. *[Clauses 78, 4 & 28]*

INTEREST TAX ACT

Measures to reduce litigation

The Bill seeks to provide, as in the case of Income-tax Act, amendments to prescribe fee of Rs. 250/- for filing appeal before the Commissioner (Appeals), enhancing the fee for appeal to the ITAT to Rs. 1,000/- and providing a time limit for disposal of revision applications by the Commissioner. *[Clauses 81,82 and 83]*

KAR VIVAD SAMADHAN SCHEME

Kar Vivad Samadhan Scheme seeks to provide a quick and voluntary settlement of tax dues outstanding as on 31.3.1998, both in various direct tax enactments as well as indirect taxes enactment by offering waiver of a part of the arrear taxes and interest and providing immunity against institution of prosecution and imposition of penalty. The assessee on his part shall seek to withdraw appeals pending before various appellate authorities and Courts. The Scheme comes into force on the first day of September, 1998 and ends on 31st day of December, 1998. It will have following salient features.

2.The Scheme is applicable to tax arrears outstanding as on 31.3.98 under various direct tax enactments and indirect tax enactments. The amount payable by the applicants termed as declarants shall be determined as under:-

(a) Direct taxes

(i) The declarant shall be required to pay tax @ 30% (35% in the case of firms and companies) on the amount of income in dispute (in other than search and seizure cases).

(ii) Where tax arrears include Income-tax, interest payable or penalty levied, the amount payable shall be 30% of the disputed income (35% in the case of firms and companies).

(iii) Where tax arrears comprise only interest payable or penalty levied, the amount payable shall be 50% of the tax arrear.

(iv) Where tax arrears includes the tax, interest or penalty determined in any assessment on the basis of search and seizure proceedings under section 132 or section 132A of Income-tax Act, the amount payable shall be 40% of the disputed income (45% in the case of firms and companies).

(v) In respect of arrears under Wealth-tax Act, the amount payable shall be 1% of disputed wealth where the tax arrears includes Wealth-tax or interest and penalty levied in addition to Wealth-tax. Where tax arrear is only interest payable or penalty levied, 50% of such amount is to be paid.Where the tax arrears are determined on the basis of search and seizure proceedings u/s. 37A or 37B of Wealth-tax Act, the tax payable shall be @ 2% of the disputed wealth.

(vi) In respect of tax arrears payable under the Gift Tax Act the amount payable shall be 30% of the disputed value of the gift where the tax arrears includes Gift-tax or interest payable and penalty levied in addition to Gift tax. Where tax arrears is only interest payable or penalty levied, 50% of such amount shall be paid.

(vii) In respect of tax arrears payable under Expenditure-tax Act, the amount payable shall be 10% of the disputed chargeable expenditure where the tax arrears is Expenditure-tax or includes interest payable and penalty, in addition whre the arrear is only in respect of interest or penalty, only 50% of the arrear shall be payable.

(viii) In respect of tax arrears payable under Interest-tax Act, the amount payable shall be @ 2% of the disputed chargeable interest where tax arrear includes Interest tax or interest payable and penalty levied, in addition. If the tax arrears includes only interest or penalty, the amount payable will be 50% of the tax arrear.

(b) Indirect Taxes

Under Indirect taxes the amount payable shall be 50% of the tax arrear and including interest payable, fine or penalty levied.

3.A person desiring to avail the Scheme is required to file a declaration in the prescribed form before the designated authority notified for this purpose. The designated authority shall pass an order within sixty days of the declaration determining the amount payable in accordance with the provisions of the Scheme and grant a certificate indicating the particulars of tax arrears and the sum payable and intimate the same to the declarant. The declarant will pay the sum payable as determined by designated authority within thirty days of the passing of such order. The order passed by the designated authority shall be conclusive and shall not be reopened in any other proceedings or under any law for the time being in force. Where the declarant has filed an appeal or reference before any authority, tribunal or court, notwithstanding anything contained in any other provision of law for the time being in force, such appeal, reference or reply shall be deemed to have been withdrawn. Where writ petitions have been filed before the High Court or Supreme Court the declarant shall move an application for withdrawing such petitions and furnish the proof of the same along with the intimation. Any amount paid in pursuance of declaration made under the Scheme shall not be refundable under any circumstances.

4.The designated authority shall subject to the conditions provided in the Scheme grant immunity from prosecution or penalty under the relevant Acts in respect of matters covered in the declaration.

5. The Scheme shall not be applicable in respect of tax arrears in following cases.

(a) In respect of direct taxes, -

(i) in a case where prosecution for concealment has been launched under any direct tax enactment;

(ii) in a case where Settlement Commission has passed the order on disputed income;

(iii) in a case where no appeal or reference is pending before any appellate authority or Court or revision application before the Commissioner.

(b) In respect of indirect tax enactments, -

(i) in a case where prosecution has been launched under any indirect tax enactment;

(ii) in a case where show cause notice or notice of demand under Customs Act or the Central Excise Act has not been issued;

(c) In respect of a person against whom prosecution for any offence punishable under Ch. IX and Ch. XVII of the Indian Penal Code, Narcotics Drugs and Psychotrophic Act, 1985, the Terrorist and Disruptive Activities Prevention Act, 1987 or Prevention of Corruption Act, 1988 has been instituted.

(d) In respect of a person against whom a order of detention has been made under Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

(e) In respect of a person notified under sub-section (2) of section 3 of Special Court (Trial of Offences relating to transactions, insecurities) Act, 1992.

6. Where the declarant has filed an appeal or reference or reply to the show cause notice against any order or notice giving rise to tax arrear before any authority or tribunal, such appeal or reference or reply shall be deemed to have been withdrawn. No appellate authority or court shall try in a suit or issue relating to arrear tax specified in the declaration. *[Clauses 89 to 101]*

MISCELLANEOUS PROVISIONS

Re-designation of Income-tax Authorities under Income-tax Act

In accordance with the recommendation of Fifth Central Pay Commission the Bill proposes to change the designation of Assistant Commissioner of Income-tax (Senior Scale) and Assistant Director of Income-tax (Senior Scale) as Deputy Commissioner of Income-tax and Deputy Director of Income-tax respectively. Consequently, the existing Deputy Commissioner of Income-tax and Deputy Director of Income-tax are being re-designated as Joint Commissioner of Income-tax and Joint Directors of Income-tax respectively. The corresponding changes are also being proposed in other direct tax enactments.

The proposed amendment takes effect from 1st day of October, 1998. *[Clauses 3, 41, 68, 69, 79, 80 and 85]*