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 1999-2000. Further, it lays down the rates at which tax is to be deducted at source during the financial year 1999-2000 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 1999-2000.

Rates of income-tax for the assessment year 1999-2000

Part I of the First Schedule to the Bill specifies the rates of income-tax liable to tax for the assessment year 1999-2000. These rates are the same as those specified in Part III of the First Schedule to the Finance (No.2) Act, 1998, 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 1998-99.

Rates for deduction of tax at source during the financial year 1999-2000 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 1999-2000 from incomes other than "Salaries". These rates are broadly the same as those specified in Part II of the First Schedule to the Finance (No.2) Act, 1998, for the purposes of deduction of income-tax at source during the financial year 1998-99. The amount of tax so deducted shall be increased,-

(i) in the case where the payment is made to a person other than a company, resident in India, by a surcharge calculated at the rate of ten per cent. for purposes of the Union,

(ii) in the case of a domestic company, by a surcharge calculated at the rate of ten per cent of such income-tax.

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 1999-2000

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 1999-2000.

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

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for the assessment year 1999-2000.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 1999-2000.

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 1999-2000.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 1999-2000.

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

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

In the case of every domestic company, the amount of income-tax computed in accordance with the provisions of this Part shall be increased by a surcharge calculated at the rate of ten per cent. of such income-tax.

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

Sub-clause (a) seeks to amend the existing provisions contained in clause (1B) of section (2) which define amalgamation in relation to companies and provide for the manner in which the amalgamation will take place. It further provides that in a case of amalgamation, shareholders holding not less than nine-tenths in value of the shares in the amalgamating company shall become shareholders of the amalgamated company.

It is proposed to provide that instead of shareholders holding nine-tenths in value of shares, shareholders holding three-fourths in value of the shares shall be required to become shareholders of the amalgamated company.

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

Sub-clause (b) seeks to insert a new sub-clause (vi) in clause (14) so as to exclude from the definition of 'capital asset', the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.

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

Sub-clause (c) seeks to insert a new clause (19AA) to define demerger. The demerger, in relation to the companies, shall mean transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, by a demerged company of its one or more undertakings to the resulting company in the following manner:—

(i) all the property of the undertaking, being transfered by the demerged company, becomes the property of the resulting company;

(ii) all the liabilities relatable to the undertakings being transferred by the demerged company, become the liabilities of the resulting company;

(iii) the property and liabilities of the undertakings, being demerged, are transferred at book value;

(iv) the resulting company issues shares to the shareholders of the demerged company on a proportionate basis as a consideration for demerger;

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company, other than the shares already held therein, become shareholders of the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A.

It is also proposed to insert a new clause (19AAA) to define the expression "demerged company" as being a company whose undertaking is transferred, pursuant to a demerger, to a resulting company.

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

Sub-clause (d) seeks to insert a new sub-clause (iv) in clause (22) of section 2 so as to provide that dividend does not include any payment made by a company on purchase of its own shares in accordance with the provisions contained in section 77A of the Companies Act, 1956.

It is also proposed to insert a new sub-clause (v) to provide that dividend does not include any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company whether or not there is a reduction of capital in the demerged company.

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

Sub-clause (e) seeks to amend clause (30) of section 2 so as to include in the definition of "non-resident", a person who is not ordinarily resident in India within the meaning of clause (6) of section 6 for the purposes of sections 92, 93 and 168.

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 insert a new clause (41A) to define the expression "resulting company" to mean one or more companies to which the undertaking of the demerged company is transferred in a demerger and as a consideration whereof, the resulting company issues shares to the shareholders of the demerged company. It further provides that the resulting company shall include any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger.

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

The existing provisions contained in clause (42A) define short term capital assets and also the conditions applicable in determining the period for which any capital asset shall be held by the assessee. *Sub-clause* (g) proposes to provide that the period of holding of shares in the demerged company shall be included in the total period of holding of shares in the resulting company by the assessee.

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

Sub-clause (h) seeks to insert a new clause (42C) to define the expression "slump sale". Slump sale means transfer of one or more undertakings for a lump-sum consideration without assigning values for individual assets and liabilities. *Explanation* 1 to the said clause defines the expression "undertakings". *Explanation* 2 clarifies that determination of the value of an asset for the sole purpose of payment of stamp duty, registration fees or other similar taxes shall not be regarded as assignment of values to individual assets or liabilities.

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

Clause 4 seeks to substitute section 3 of the Income-tax Act relating to definition of "previous year".

It is proposed to substitute section 3 so as to omit sub-sections (2) and (3) in that section which are transitory provisions for limited period specified in those sub-sections.

This amendment will take effect from 1st April, 2000.

Clause 5 seeks to amend section 9 relating to income deemed to accrue or arise in India.

Under the existing provisions contained in clause (ii) of sub-section (1), the income, which falls under the head "Salaries" if it is earned in India, is deemed to accrue or arise in India. The *Explanation* in this clause clarifies that salary payable for services rendered in India shall be regarded as income earned in India.

It is proposed to amend the *Explanation* to clarify that any income under the head "Salaries" payable for rest periods or leave periods which is preceded and succeeded by services rendered in India and forms part of the service contract of employment shall be regarded as income earned in India.

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

Clause 6 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Sub-clause (a) seeks to omit reference to sub-clause (viia) of clause (6) of section 10 in clause (5B). This amendment is consequential to the omission of sub-clause (viia) of clause (6) of section 10 by the Finance (No. 2) Act, 1998.

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 (b) seeks to amend clause (6BB). Under the existing provisions of clause (6BB), income-tax exemption is provided in respect of tax paid by an Indian company engaged in the business of operation of an aircraft, on income derived by the Government of a foreign State or a foreign enterprise as a consideration of acquiring an aircraft or aircraft engine under an agreement entered into after 31st March, 1997 and approved by the Central Government. The proposed amendment seeks to make available the above exemption for the agreement entered into by an Indian company between 1st April, 1997 and 31st March, 1999. This amendment is consequential to the amendment proposed *vide* sub-clause (e) of clause 6 of the Bill.

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

Sub-clause (c) seeks to amend clause (10AA). Under the existing provisions contained in sub-clause (ii) of this clause, any payment received by an employee other than an employee of the Central Government or a State Government in respect of the period of earned leave at his credit at the time of retirement, whether on superannuation or otherwise, as does not exceed eight months shall not be included in his income subject to the conditions specified in the said sub-clause. The proposed amendment seeks to enhance the period of earned leave from eight months to ten months for which if any payment by way of cash equivalent of the leave salary is received by an employee, such payment shall not be included in his income.

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.

Sub-clause (d) seeks to insert a new *Explanation* in sub-clause (iv) of clause (15) to define the expression "interest" so that benefit of exemption from withholding of tax under this sub-clause is also extended to hedging transaction charges on account of currency fluctuation.

It is also proposed to insert a new sub-clause (vi) in clause (15) so as to provide that the interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government shall not be included in computing the total income.

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

Sub-clause (e) seeks to amend clause (15A). Under the existing provisions of this clause, income-tax exemption is provided on any payment made by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine on lease from the Government of a foreign State or a foreign enterprise under an agreement entered into before 1st April, 1997 and approved by the Central Government in this behalf. The proposed amendment seeks to allow the aforesaid exemption, provided the agreement is entered into by an Indian company to acquire an aircraft, or an aircraft engine on lease on or after 1st April, 1999 and such agreement is approved by the Central Government.

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

Sub-clause (f) seeks to insert a new clause (18) so as to exempt any income by way of pension received by an individual who has been awarded "Param Vir Chakra" or "Maha Vir Chakra" or "Vir Chakra" or such other gallantry award as the Central Government may, by notification in the Official Gazette, specify in this behalf.

In case of the death of the awardee, any income by way of family pension received by any member of the family of the individual, shall also be exempt under this clause. The expression "family" shall have the meaning assigned to it in the *Explanation* to clause (5) of the said section.

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

Sub-clause (g) seeks to substitute the second proviso of clause (23C). This amendment is of consequential nature.

Under the existing proviso the Central Government before notifying a fund, trust or institution, may call for any documents or information and may hold any inquiry so as to determine the genuineness of such fund, trust or institution before it is being notified under sub-clauses (iv) and (v) of clause (23C). It is proposed to empower the prescribed authority to call for documents or information or to hold such enquiries as it deems fit before the university or other educational institution or a hospital or other medical institution is approved by such prescribed authority under sub-clauses (vi) and (via) of clause (23C).

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 amend clause (23D) so as to provide that exemption in respect of income of a Mutual Fund shall be subject to the provisions of Chapter XII-E, which is proposed to be inserted *vide* clause 61 of the Bill.

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

Sub-clause (i) seeks to amend the provisions relating to income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company not to be included in the total income.

It is proposed to insert a third proviso in clause (23F) of section 10 so as to provide that the provisions of the said clause shall not apply to any investment made after 31st March, 1999.

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

Sub-clause (j) seeks to insert a new clause (23FA), so as to provide income-tax exemption on any income by way of dividends, other than dividends referred to in section 115-O, or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in venture capital undertaking. In order to obtain the income-tax exemption, the venture capital fund or the venture capital company will require the approval of the Central Government in accordance with the rules made in this behalf and also satisfy the prescribed conditions. The approval of the Central Government will, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be prescribed in the order of approval.

The expression "venture capital fund" is being defined to mean a fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for the investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines. The expression "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines. The expression "venture capital undertaking" is being defined to mean a domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of (i) software; (ii) information technology; (iii) production of basic drugs in the pharmaceutical sector; (iv) bio-technology; (v) agriculture and allied sectors; (vi) such other sectors as may be notified by the Central Government in this behalf; or (vii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology.

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

Sub-clause (k) seeks to amend clause (23G), so as to provide that any income referred to in that clause arising from the business of (i) developing, (ii) maintaining and operating, (iii) developing, maintaining and operating will be exempt. It is also proposed to amend sub-clauses (i) and (ii) of clause (c) of the *Explanation* relating to the definition of "infrastructure facility" and power projects. These amendments are consequential to the substitution of section 80-IA by two new sections 80-IA and 80-IB *vide* clause 50 of the Bill.

It is also proposed to substitute sub-clause (iv) of clause (c) in the *Explanation* with two new sub-clauses (iv) and (v), so as to clarify that a project for housing which fulfils the conditions specified in sub-section (10) of section 80-IB and an undertaking or a project for developing, developing and operating or maintaining and operating an industrial park notified by the Central Government under clause (iii) of sub-section (4) of section 80-IA shall fall within the definition of "infrastructure facility".

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

Sub-clause (l) seeks to insert a new clause (29A) to provide for income-tax exemption on any income of certain Boards and Authorities specified in the said clause. The proposed exemption shall be available to the Boards and the Authorities from the dates specified in the aforesaid clause.

This amendment will take effect from the date of Presidential assent to the Bill.

Sub-clause (m) seeks to substitute clause (33), so as to exempt any income of a unit holder received from the Unit Trust of India or from a mutual fund specified under clause (23D) of this section.

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

Clause 7 seeks to insert a new section 10C in the Income-tax Act relating to special provision in respect of certain industrial undertakings in North-Eastern Region.

Sub-section (1) of the proposed section provides that any profits and gains derived by an assessee from an industrial undertaking which has begun or begins to manufacture or produce any article or thing on or after 1st April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region will not be included in the total income of the assessee.

Sub-section (2) provides that the section will apply to an industrial undertaking which fulfils certain conditions, namely, which has not been formed by the splitting up, or the reconstruction of, a business already in existence and it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Sub-section (3) provides that the benefit of the section will be available to the assessee in respect of ten consecutive assessment years in which the undertaking begins to manufacture or produce articles or things.

Sub-section (4) provides that, notwithstanding anything contained in any other provision of the Income-tax Act, in computing the total income of the assessee of the previous year relevant to any subsequent assessment year, the unabsorbed depreciation allowance will not be taken into consideration. Similarly, unabsorbed business losses or loss under the head "Capital gains" relating to the relevant assessment years will not be taken into account. Where the assessee was entitled to a deduction in the relevant assessment year in respect of the profits and gains from the newly established industrial undertakings in backward areas or small-scale industrial undertakings in rural areas or the tax holiday under section 80-IA, no deduction will be admissible in the assessment years subsequent to the relevant assessment years.

Sub-section (5) seeks to apply the provisions of sub-section (8) and sub-section (10) of section 80-IA relating to tax holiday, to the industrial undertakings referred to in sub-section (1).

Sub-section (6) provides that where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139 furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

Explanation to section 10C defines the following expressions for the purposes of that section:

(i) The expression "Integrated Infrastructure Development Centre" means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify for the purposes of this section.

(ii) The expression "Industrial Growth Centre" means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify for the purposes of this section.

(iii) The expression "North-Eastern Region" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.

(iv) The expression "relevant assessment years" means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.

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

Under the existing provisions contained in section 12A, an application for registration of the trust or institution has to be made in the prescribed form and manner to the Chief Commissioner or Commissioner.

The proposed amendment seeks to provide that on and from 1st June, 1999, an application for registration of the trust or institution has to be made only to the Commissioner.

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

Clause 9 seeks to amend section 12AA of the Income-tax Act relating to procedure for registration of trusts, etc.

Under the existing provisions contained in sections 12A and 12AA, the application for registration of a trust or an institution has to be made in the prescribed form and manner to the Chief Commissioner or the Commissioner and the order under section 12AA is passed by the Chief Commissioner or the Commissioner.

Sub-clause (a) proposes to amend sub-section (1) of section 12AA so as to provide that an order on an application for registration of a trust or institution is to be made by the Commissioner only and not by the Chief Commissioner. This amendment is consequential to the amendment proposed *vide* clause 8 of the Bill.

Sub-clause (b) of this clause seeks to insert a new sub-section (1A) in section 12AA of the Income-tax Act so as to provide that all applications pending before the Chief Commissioner on which no order has been made by him before 1st June, 1999 shall stand transferred from 1st June, 1999 to the Commissioner and the Commissioner may proceed with such application under sub-section (1) from the stage at which it was on that day.

These amendments will take effect from 1st June, 1999.

Clause 10 seeks to amend section 17 of the Income-tax Act relating to the definition of "salary", "perquisite" and "profits in lieu of salary".

It is proposed to insert a new sub-clause (iiia) in clause (2) of the said section. The proposed amendment seeks to include in the definition of perquisites the value of any specified security allotted or transferred, directly or indirectly, by any person free of cost or at concessional rate to an individual who is or has been in employment of that person in the year of exercise of option of such shares.

Explanation to the proposed sub-clause (iiia) defines the expression "cost", "specified security", "sweat equity shares" and "value" used in that sub-clause.

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

Clause 11 seeks to amend section 24 of the Income-tax Act relating to deductions from income from house property.

The proposed amendment seeks to insert a new proviso in sub-section (2) 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 thirty thousand rupees to seventy-five thousand rupees where the house property for self-occupation has been acquired or constructed with capital borrowed on or after 1st April, 1999 and the acquisition or construction of the house property is made before 1st April, 2001.

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

Clause 12 seeks to amend section 32 of the Income-tax Act relating to depreciation.

The existing provisions provide that the aggregate depreciation allowable to the predecessor and successor business entities in case of succession or amalgamation shall not exceed in any previous year the deduction allowable at prescribed rates as if the succession or amalgamation had not taken place and such deduction shall be apportioned between the two entities in the ratio of the number of days for which the assets were used by them.

It is proposed to provide for a similar provision in the case of demerged company and the resulting company.

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

Clause 13 seeks to amend section 33ABA of the Income-tax Act relating to Site Restoration Fund.

It is proposed to omit the proviso in sub-section (7) of the said section. The proposed amendment is of consequential nature.

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 33AC of the Income-tax Act relating to deduction from profits and gains of a shipping business.

Under the existing provisions, a shipping company formed and registered in India is allowed a deduction of fifty per cent. of profits from shipping business to be credited to a reserve account. The reserve account is to be utilised in the prescribed manner. It is further provided that there will be write-back of reserve as profits if the ship acquired out of the reserve is transferred within eight years.

It is proposed to provide that the transfer of a ship pursuant to a demerger shall not constitute transfer for the above purpose.

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

Clause 15 seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

The proposed amendment seeks to allow a weighted deduction of one and one-fourth times of any sum paid to a scientifc research association or to a university, college or other institution for the purposes of clause (ii) and clause (iii) of sub-section (1) of the said section. It is also proposed to vest the authority for approval, for the purposes of the above clauses, in the Central Government.

It is further proposed to amend sub-section (2AB) of the said section to provide that the weighted deduction as specified in the said sub-section shall be allowed in respect of the expenditure incurred up to 31st March, 2005.

Under the existing provisions of sub-section (3), if any question arises whether any activity constitutes, or any asset is being used for, scientifc research, it is referred by the Board to the prescribed authority whose decision is final. It is proposed to provide that when the question relates to any activity under clauses (ii) and (iii) of sub-section (1), it shall be referred by the Board to the Central Government, and the decision of the Central Government shall be final. It is also proposed to provide that where such question relates to any activity other than those specified in clauses (ii) and (iii) of sub-section (1), the same shall be referred by the Board to the prescribed authority, and the decision of that authority thereon shall be final.

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

Clause 16 seeks to amend section 35A of the Income-tax Act relating to deduction of expenditure on acquisition of patent rights or copyrights.

Under the existing provisions if the rights specified in the said section either come to an end or such rights are sold and the proceeds of the sale are less than the cost of acquisition thereof remaining unallowed, the amount equivalent to such cost remaining unallowed as reduced by the proceeds of sale, as the case may be, shall be allowed as a deduction in the year in which the rights come to an end or are sold. If the proceeds of sale exceed the cost of acquisition remaining unallowed so much excess as does not exceed the difference between cost of acquisition and amount of cost remaining allowed shall be chargeable to tax.

It is proposed that the said provision shall not be applicable to the demerged company transferring such rights to a resulting company in a case of demerger but to the resulting company as if demerger had not taken place.

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

Clause 17 seeks to amend section 35AB of the Income-tax Act relating to allowance of expenditure on know-how.

Under the existing provisions, any lump-sum consideration paid for acquiring know-how is allowed in six years commencing from the previous year in which the expenditure is incurred, at the rate of one-sixth of the amount.

It is proposed to insert a new sub-section (3) to provide that in the case of transfer of business under the scheme of amalgamation or demerger, the amalgamated company or the resulting company, as the case may be, shall be entitled to claim deduction under this sub-section for the residual period as if the business or the undertaking had continued.

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

Clause 18 seeks to amend section 35ABB of the Income-tax Act relating to expenditure for obtaining licence to operate telecommunication services.

Sub-clause (a) proposes to amend sub-section (1) of section 35ABB so as to provide that any capital expenditure incurred for acquiring any right to operate telecommunication services before the actual commencement of the business shall also be eligible for deduction under sub-section (1).

Sub-clause (b) seeks to amend clause (i) of *Explanation* to sub-section (1). This clause explains the meaning of "relevant previous years". The proposed amendment is consequential to the amendment made by sub-clause (a).

These amendments will take effect retrospectively from 1st April, 1996 and will, accordingly, apply in relation to the assessment year 1996-97 and subsequent years.

Sub-clause (c) seeks to insert a new sub-section (7). Under the existing provisions capital expenditure incurred in obtaining the licence is allowed as deduction in the previous years the licence is in force in appropriate fraction. If the licence to operate telecommunication services is transferred and the proceeds of the transfer are less than expenditure incurred remaining unallowed, a deduction equal to expenditure remaining unallowed as reduced by proceeds of the transfer shall be allowed in the year of transfer. But where the proceeds of the transfer exceed the amount of expenditure incurred remaining unallowed, the difference between expenditure incurred and the amount of such expenditure remaining unallowed shall be chargeable to tax. Where the proceeds of transfer are not less than the expenditure incurred remaining unallowed, no deduction shall be allowed in the previous years subsequent to transfer. The proposed amendment seeks to provide that the said provisions relating to transfer of licence shall not be applicable in the case of demerged company

and the provisions of the section allowing deduction of expenditure incurred for obtaining the licence shall be applicable to the resulting company as it would have applied to demerged company.

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

Sub-clause (d) seeks to insert a new sub-section (8) after sub-section (7) of section 35ABB. Under the newly inserted sub-section, it is proposed to provide that where a deduction is claimed and allowed for any previous year under sub-section (1) of section 35ABB, then, no deduction on the capital expenditure so incurred shall be allowed by way of depreciation under sub-section (1) of section 32 in respect of acquiring any right to operate telecommunication services.

This amendment will take effect retrospectively from 1st April, 1996 and will, accordingly, apply in relation to the assessment year 1996-97 and subsequent years.

Clause 19 seeks to amend section 35D of the Income-tax Act relating to amortisation of certain preliminary expenses.

Under the existing provisions where the undertaking of an Indian company entitled for deduction for amortisation of preliminary expenses is transferred before the expiry of the specified period to another Indian company in a scheme of amalgamation, the deduction shall continue to be available to the amalgamated company as if the amalgamation had not taken place.

It is proposed to insert a new sub-section (5A) to provide similar provisions for the scheme of demerger where the resulting company will be able to claim amortisation of preliminary expenses as if demerger had not taken place.

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

Clause 20 seeks to insert a new section 35DD in the Income-tax Act relating to amortisation of expenditure in case of amalgamation or demerger.

Sub-section (1) provides that where an assessee, being an Indian company, incurs expenditure on or after 1st April, 1999, wholly and exclusively for the purpose of amalgamation or demerger, the assessee shall be allowed a deduction equal to one-fifth of such expenditure for five successive previous years beginning with the previous year in which amalgamation or demerger takes place.

Sub-section (2) provides that no deduction shall be allowed in respect of the above expenditure under any other provisions of the Act.

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

Clause 21 seeks to amend section 35E of the Income-tax Act relating to deduction for expenditure on prospecting, etc. for certain minerals.

Under the existing provisions, an assessee, engaged in any operation relating to prospecting for or extraction or production of any mineral, is allowed deduction for expenditure on prospecting, etc. for certain minerals. It is provided that in the case of amalgamation, such deduction would continue to be admissible to the amalgamated company as if the amalgamation had not taken place.

It is proposed to insert a new sub-section (7A) to provide for similar provisions to cases of demerger where such deduction can be availed of by the resulting company as if the demerger had not taken place.

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

Clause 22 seeks to amend section 36 of the Income-tax Act relating to certain deductions to be made in computing the income under the head “Profits and gains of business or profession”.

Sub-clause (a) seeks to omit clause (iia) of sub-section (1).

Under the existing provisions contained in clause (iia) of sub-section (1) of section 36, a weighted deduction of one and one-third times the amount of expenditure incurred by the assessee on payment of salary for any period of employment before 1st March, 1984 to an employee who at the end of the previous year is totally blind or suffers from a permanent physical disability, shall be allowed. As the provisions of clause (ii) of sub-section (1) are not applicable after 1st March, 1984, it is proposed to omit this clause.

This amendment will take effect from 1st April, 2000.

Sub-clause (b) seeks to insert a proviso in sub-clause (a) of clause (viia) of sub-section (1).

The proposed amendment seeks to provide an option to a scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank to claim a deduction in respect of any provision for assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it. The amount of deduction shall not exceed five per cent. of the amount of doubtful assets or the loss assets shown in the book of account of such bank at the end of the previous year.

This amendment will take effect from 1st April, 2000 and will, accordingly, apply in relation to the assessment years 2000-2001 to 2004-2005.

Sub-clause (c) seeks to amend clause (viii) of sub-section (1).

Under the existing provisions contained in clause (viii) of sub-section (1), a deduction of an amount not exceeding forty per cent. of the profits derived from the business of providing long-term finance by a financial corporation for industrial or agricultural development or development of infrastructure facility in India or by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, is allowed. This deduction is allowable provided that the corporation or the company is approved by the Central Government.

It is proposed to omit the first proviso to the said clause so as to do away with the requirement of approval by the Central Government for the purposes of the said clause.

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

Sub-clause (d) seeks to insert a new clause (xi) in sub-section (1) of section 36 so as to provide for allowing deduction in the computation of profits and gains in respect of any expenditure incurred wholly and exclusively by the assessee on or after the 1st April, 1999 but before the 1st April, 2000 in respect of a non-Y2K compliant system, owned by the assessee and used for the purposes of his business or profession, so as to make such system Y2K compliant computer system.

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

Clause 23 seeks to amend section 40A of the Income-tax Act relating to expenses or payments not deductible in certain circumstances.

The existing provisions of sub-section (7) of section 40A provide that no deduction shall be allowed in respect of any provision made by the assessee for the payment of gratuity to his employees unless the payment of gratuity has become payable during the previous year. Sub-clause (ii) of clause (b) of sub-section (7) of the said

section contains transitory provisions in respect of any provision of gratuity made after 1st April, 1973 but before 1st April, 1976. It is proposed to substitute sub-section (7) so as to omit the said transitory provisions in that sub-section.

This amendment will take effect from 1st April, 2000.

Clause 24 seeks to amend section 41 of the Income-tax Act relating to profits chargeable to tax.

It is proposed to amend *Explanation* 2 of sub-section (1) to provide that the "successor in business" shall include resulting company in the case of a demerger.

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

Clause 25 seeks to amend section 42 of the Income-tax Act relating to special provision for deductions in the case of business for prospecting, etc., for mineral oil.

The existing provisions contained in section 42 provide for allowance of infructuous or abortive exploration expenses prior to the beginning of commercial production and also expenditure in connection with commercial production. It has been provided that in the case of transfer of business in a scheme of amalgamation, the expenditure shall be allowed in the hands of amalgamated company.

It is proposed to amend the proviso to clause (c) of sub-section (2) of the said section to provide for similar provisions in the case of a demerger where the resulting company, being an Indian company, shall claim the deduction under the said section.

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

Clause 26 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.

Clause (1) of the said section contains provisions relating to actual cost.

Sub-clause (a)(i) proposes to insert a new *Explanation* 7A in clause (1) so as to provide that in the case of a demerger where any capital asset is transferred by the demerged company to the resulting company, the actual cost of the transferred asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the asset.

Sub-clause (a)(ii) seeks to insert a new *Explanation* 11 in clause (1) to provide that where an asset is acquired outside India by an assessee, being a non-resident and such asset is brought by him to India and used for the purposes of his business or profession, the actual cost of asset to the assessee shall be the actual cost of the asset to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.

Sub-clause (b) (i) proposes to insert a new sub-item (C) in item (i) of sub-clause (c) of clause (6) so as to provide that in the case of slump sale, the written down value of any block of asset shall be decreased by the amount of actual cost as reduced by the depreciation actually allowed.

Sub-clause (b) (ii) proposes to insert new *Explanations* 2A and 2B in clause (6). *Explanation* 2A provides that where in any previous year any asset forming part of a block of assets is transferred by a demerged company to the resulting company, the written down value of the block of assets of the demerged company for the immediately preceding year shall be reduced by the book value of the assets transferred to the resulting company. *Explanation* 2B provides that where any asset forming part of a block of assets is transferred by a demerged company to the resulting company, the written down value of the block of assets in the case of resulting company shall be the value of the assets as appearing in the books of account of the demerged company immediately before the demerger. However, if the value of assets so appearing in the books of account of the demerged company immediately before the demerger exceeds the written down value of such assets of the demerged company, the amount representing such excess shall be reduced from the written down value of the assets.

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

Clause 27 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be allowed only on actual payment.

The existing provisions contained in clause (aa) of *Explanation* 4 to section 43B of the said Act define scheduled bank as assigned to it in clause (ii) of *Explanation* to clause (viia) of sub-section (1) of section 36 of the Income-tax Act which do not include a co-operative bank.

The proposed amendment seeks to substitute clause (aa) of *Explanation* 4 to section 43B so as to include a co-operative bank within the definition of scheduled bank.

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

Clause 28 seeks to substitute section 43D of the Income-tax Act relating to special provisions in case of income of public financial institutions, etc.

Sub-clause (a) seeks to provide that in the case of a public financial institution or a scheduled bank or a State financial corporation or a State industrial investment corporation, the income by way of interest on such categories of bad and doubtful debts, as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts, shall be chargeable to tax in the previous year in which it is credited to the profit and loss account by the said institutions for that year or in the previous year in which it is actually received by them, whichever is earlier.

Sub-clause (b) seeks to provide that in the case of a public company, the income by way of interest in relation to such categories of bad and doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank established under the National Housing Bank Act, 1987 in relation to such debts shall be chargeable to tax in the previous year in which it is credited to the profit and loss account by the said public company for that year or in the previous year in which it is actually received by it, whichever is earlier.

The *Explanation* to the said section defines the expressions "National Housing Bank", "public company", "public financial institution", "scheduled bank", "State financial corporation" and "State industrial investment corporation".

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

Clause 29 seeks to amend section 44AD of the Income-tax Act relating to special provision for computing profits and gains of business of civil construction, etc.

It is proposed to insert sub-section (6) in section 44AD to enable an assessee to claim lower profits and gains than the deemed profits and gains specified in sub-section (1) of that section subject to the condition that the books of account and other documents are kept and maintained as required under sub-section (2) of section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as required under section 44AB.

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 30 seeks to amend section 44AE of the Income-tax Act relating to special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

It is proposed to insert sub-section (7) in section 44AE to enable an assessee to claim lower profits and gains than the deemed profits and gains specified in sub-sections (1) and (2) of that section subject to the condition that the books of account and other documents are kept and maintained as required under sub-section (2) of section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as required under section 44AB.

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 31 seeks to amend section 44AF of the Income-tax Act relating to special provisions for computing profits and gains of retail business.

It is proposed to insert a new sub-section (5) in section 44AF to enable an assessee to claim lower profits and gains than the deemed profits and gains specified in sub-section (1) of that section subject to the condition that the books of account and other documents are kept and maintained as required under sub-section (2) of section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as required under section 44AB.

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 32 seeks to amend section 45 of the Income-tax Act relating to capital gains.

It is proposed to insert a new sub-section (1A) to provide that where any person receives any money or other assets under any insurance from an insurer on account of damage to or destruction of any capital asset, as a result of flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature, riot or civil disturbance, accidental fire or explosion or because of action by an enemy or action taken in combating an enemy (whether with or without a declaration of war), then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head “Capital gains” and shall be deemed to be the income of such person for the previous year in which such money or other asset was received.

It is also proposed that for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital assets.

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

Clause 33 seeks to insert a new section 46A in the Income-tax Act relating to capital gains on purchase by company of its own shares or other specified securities.

The proposed new section 46A provides that any consideration received by a shareholder or a holder of other specified securities from any company on purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities shall be chargeable to tax on the difference between the cost of acquisition and the value of consideration received by the holder of securities or by the shareholder, as the case may be, as capital gains. The computation of capital gains shall be made in accordance with the provisions of section 48.

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

Clause 34 seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

It is proposed to insert new clauses (vib), (vic) and (vid) in the said section. Clause (vib) seeks to provide that the provisions of section 45 attracting liability for capital gains tax shall not apply to any transfer of a capital asset in a demerger by the demerged company to the resulting company if the resulting company is an Indian company.

New clause (vic) seeks to provide that the provisions of section 45 shall not apply to any transfer in a demerger of a foreign company in respect of capital assets being shares held in an Indian company to the resulting company if at least seventy-five per cent. of the shareholders of the demerged foreign company continue to remain shareholders of the resulting foreign company and such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated. It is further proposed that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in such a case.

New clause (vid) seeks to provide that the provisions of section 45 shall not apply to a transfer or issue of shares in a demerger to the shareholders of the demerged company by the resulting company.

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

Clause 35 seeks to amend section 49 of the Income-tax Act relating to cost with reference to certain modes of acquisition.

It is proposed to insert a new sub-section (2B) in the said section so as to provide that where the capital gain arises from the transfer of specified securities referred to in sub-clause (iiia) of clause (2) of section 17, the cost of acquisition of such specified securities shall be its fair market value on the date of exercise of option.

It is further proposed to insert a new sub-section (2C) so as to provide that the cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

It is also proposed to insert a new sub-section (2D) so as to provide that the cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived under the proposed sub-section (2C).

It is further also proposed to insert an *Explanation* to define the expression “net worth”.

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

Clause 36 seeks to insert a new section 50B in the Income-tax Act relating to a special provision for computation of capital gains in the case of slump sale.

Sub-section (1) of the proposed new section provides that any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place.

Proviso to sub-section (1) provides that any profits and gains arising from such transfer of one or more undertakings held by

the assessee for not more than thirty-six months shall be deemed to be short-term capital gains.

Sub-section (2) provides that the net worth of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purpose of sections 48 and 49 in relation to capital assets of such undertaking or division transferred by way of such sale and the provisions contained in the second proviso to section 48 shall be ignored.

Sub-section (3) provides that every assessee in the case of slump sale shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288 indicating the computation of net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division has been correctly arrived at in accordance with the provisions of this section.

Explanation to the new section defines "net worth" in a case where the undertaking is transferred.

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

Clause 37 seeks to amend section 72 of the Income-tax Act relating to carry forward and set off of business losses.

Under the existing provisions, the loss from profits and gains from business or profession, not being a speculation loss, which cannot be set-off against income under any head of income in that year is allowed to be carried forward to the following assessment year for setting off against the business income for that assessment year. The proviso to clause (i) of sub-section (1) provides that the business or profession for which the loss was originally computed should be continued to be carried on by the assessee in the relevant previous year.

It is proposed to omit the said proviso.

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

Clause 38 seeks to substitute section 72A of the Income-tax Act relating to carry forward and set off of accumulated loss and unabsorbed depreciation in certain cases of amalgamation.

Under the existing provisions, the set-off of carry forward loss and unabsorbed depreciation are subject to the following conditions, namely:—

(i) the amalgamation is in respect of a company owning an industrial undertaking or a ship with another company and the specified authority recommends to the Central Government that the amalgamating company was not financially viable by reason of liabilities, losses, etc., immediately before amalgamation;

(ii) the amalgamation was in public interest.

The Central Government have power to ensure that amalgamation would facilitate the rehabilitation or revival of the amalgamating company. The loss or unabsorbed depreciation is not allowed to be set off unless the business of the amalgamating company is carried on by the amalgamated company without any modification or reorganisation or with such modification or reorganisation as approved by the Central Government. The amalgamated company is also required to furnish a certificate from a specified authority about adequate steps having been taken to rehabilitate the business of amalgamating company. The company is also required to submit a proposed scheme of amalgamation to the specified authority for the satisfaction of the latter in regard to various conditions laid down in the section.

It is proposed to amend the said provisions relating to carry forward of loss or unabsorbed depreciation in cases of amalgamation. The new provisions, *inter alia,* provide for the following:—

(a) the amalgamated company holds at least three-fourths in value of assets of the amalgamating company acquired as a result of amalgamation for five years from the effective date of amalgamation;

(b) the amalgamated company continues the business of the amalgamating company for at least five years. The Central Government may notify such other conditions as may be necessary. It is further proposed to provide that in case the above specified conditions are not fulfilled that part of carry forward of loss and unabsorbed depreciation remaining to be utilised by the amalgamated company shall lapse and such loss or depreciation as has been set off shall be treated as the income in the year in which the failure to fulfil the conditions occurs.

It is further proposed that where there has been a demerger of an undertaking, the accumulated loss and the unabsorbed depreciation directly relatable to the undertaking transferred by the demerged company to the resulting company shall be allowed to be carried forward and set off in the hands of the resulting company. If the accumulated loss or unabsorbed depreciation is not directly relatable to the undertaking, the same will be apportioned between the demerged company and the resulting company in the same proportion in which the value of the assets have been transferred.

It is also proposed to confer powers upon the Central Government to notify such conditions as it considers necessary to ensure that the demerger or amalgamation is for genuine business purpose.

The existing conditions regarding carry forward and set-off of accumulated loss and unabsorbed depreciation in the case of a reorganisation of business whereby a firm or a proprietary concern is succeeded by the company will continue along with the definition of accumulated loss and unabsorbed depreciation.

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

Clause 39 seeks to amend section 79 of the Income-tax Act relating to carry forward and set-off of losses in the case of certain companies.

Under the existing provisions, where there is a change in the shareholding in the case of a company not being a company in which the public is substantially interested, no loss shall be carried forward to be set off against the income of the previous year unless on the last day of the previous year there is continuation of at least fifty-one per cent. of the voting power beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year in which the loss was incurred. The above provision did not apply to a case where the change in the voting power took place consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative.

It is proposed to provide that the above provisions shall not apply to any change in the shareholding of an Indian company which is subsidiary of a foreign company arising as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent. of the shareholders of the amalgamating or demerged foreign company continue to remain the shareholders of the amalgamated or the resulting foreign company.

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

Clause 40 seeks to amend section 80D relating to deduction in respect of medical insurance premia.

Under the existing provisions, a deduction of a sum not exceeding ten thousand rupees is allowed for payment to effect or

to keep in force an insurance on the health of the assessee or his wife or her husband, dependant parents or any member of the family in case the assessee is a Hindu undivided family.

It is proposed to enhance the limit of deduction under the said section from ten thousand rupees to fifteen thousand rupees where the assessee or his wife or her husband, or dependant parents or any member of the family is a senior citizen and the medical insurance premium is paid to effect or keep in force an insurance in relation to him or her.

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

Clause 41 seeks to amend section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of handicapped dependants.

Under the existing provisions contained in sub-section (1) of the said section, an amount of expenditure incurred for the medical treatment of a handicapped dependant or for payment or deposit made for the maintenance of such dependant, will together qualify for deduction. The deduction is available for an amount not exceeding forty thousand rupees.

It is proposed to amend sub-section (1) so as to allow the deduction of rupees forty thousand where any expenditure has been incurred for the medical treatment (including nursing), training and rehabilitation of a handicapped dependant or paid or deposited under any scheme framed in this behalf by the Life Insurance Corporation or the Unit Trust of India.

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

Clause 42 seeks to amend section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

Under the existing provisions contained in section 80DDB, a separate deduction to an assessee, being an individual or a Hindu undivided family, for expenditure incurred for the medical treatment for the individual himself or for his dependant relative or for any member of a Hindu undivided family in respect of diseases or ailments as may be specified in the rules, is allowed. The assessee has to submit a certificate in the prescribed form from a prescribed authority. The deduction at present is limited to fifteen thousand rupees.

It is proposed to enhance the limit of deduction under the said section from fifteen thousand rupees to forty thousand rupees, where any expenditure is incurred for the medical treatment of an assessee or his dependant relative or any member of a Hindu undivided family. However, in case the assessee or his dependant relative or any member of a Hindu undivided family is a senior citizen and the expenditure is in relation to them, a deduction of rupees sixty thousand will be available for the medical treatment.

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

Clause 43 seeks to amend section 80G of the Income-tax Act relating to deduction in respect of donations to certain funds, charitable institutions, etc.

It is proposed by clauses (a) and (b) to provide hundred per cent. deductions in respect of donations to the Fund for Technology Development and Application set up by the Central Government.

It is also proposed to insert a new sub-section (5B) in the said section to provide that where an institution or fund which incurs expenditure of a religious nature for an amount not exceeding five per cent. of its total income during any previous year, such institution or fund shall be deemed to be the fund or institution to which the provisions of this section apply.

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

Clause 44 seeks to amend section 80HHA of the Income-tax Act relating to deduction in respect of profits and gains from newly established small-scale industrial undertakings in certain areas.

Under the existing provisions, an assessee is entitled to a deduction of twenty per cent. of the profits and gains derived by him from a small-scale industrial undertaking set up in a rural area for the initial period of ten years. For this purpose, in a case where the previous year ends before the 1st August, 1980, the small-scale industrial undertaking means an industrial undertaking in which the aggregate value of the machinery and plant installed as on the last day of the relevant previous year does not exceed rupees ten lakhs. In a case where the previous year ends after the 31st July, 1980 but before the 18th March, 1985, this limit is rupees twenty lakhs. In a case where the previous year ends after the 17th March, 1985, this limit is rupees thirty-five lakhs.

The proposed amendment seeks to amend the definition of "small-scale industrial undertaking" to cover only those small-scale industrial undertakings which are regarded as such undertakings under section 11B of the Industries (Development and Regulation) Act, 1951.

This amendment will take effect retrospectively from 1st April, 1978 and will, accordingly, apply in relation to the assessment year 1978-79 and subsequent years.

Clause 45 seeks to amend section 80HHB of the Income-tax Act relating to deduction in respect of profits and gains from projects outside India.

It is proposed to amend the said section so as to provide that the deduction under the section shall be allowed only if the assessee furnishes a certificate from the accountant that the deduction has been correctly claimed in accordance with the provisions of the section.

Under the existing provisions, the deductions under clause (iii) of sub-section (3) are allowed if an amount equal to fifty per cent. of the profits and gains referred to in sub-section (1) of the said section is brought by the assessee in convertible foreign exchange into India, in accordance with the provisions of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder, within a period of six months from the end of the previous year referred to in clause (ii) of that sub-section. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

Clause 46 seeks to amend section 80HHC of the Income-tax Act relating to deduction in respect of profits retained for export business.

Under the existing provisions, the section applies to all goods or merchandise other than those specified in clause (b) of sub-section (2) if the sale proceeds of such goods or merchandise exported out of India are brought by the assessee in convertible foreign exchange into India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder within a period of six months from the end of the previous year. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed in sub-clause (a) that in a case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

The proposed amendment in this sub-clause will take effect from 1st June, 1999.

It is proposed in sub-clause (b) to insert a new sub-section (4B) so as to clarify beyond doubt that the amount of income not charged to tax under the Act, shall be excluded from the total income for deduction under this section.

The proposed amendment will take effect retrospectively from 1st April, 1992 and will, accordingly, apply in relation to the assessment year 1992-93 and subsequent years.

Clause 47 seeks to amend section 80HHD of the Income-tax Act relating to deduction in respect of earnings in convertible foreign exchange.

Under the existing provisions of sub-section (2), the deductions under the said section are allowed if the receipts for the services provided to foreign tourists are brought by the assessee in convertible foreign exchange in India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder within a period of six months from the end of the previous year. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange. It is proposed to define the expression "competent authority" by way of an *Explanation*.

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

Under the existing provisions contained in sub-section (4) of section 80HHD, an assessee being an Indian company or a person other than a company engaged in the business of a hotel or of a tour operator or of a travel agent is allowed a deduction, in computing his total income, of an amount equal to fifty per cent. of the profits derived by him from services provided to foreign tourists, and so much out of the remaining profits as are credited to a reserve fund to be utilised in the manner prescribed in that sub-section.

It is proposed that the profits credited to the reserve may also be utilised for subscription of equity shares of an eligible issue of capital of a public company. However if either whole or any part of such equity shares are transferred or converted into money within a period of three years, the amount earlier utilised for subscription of the transferred or converted equity shares will be regarded as income of the previous year in which such shares are transferred or converted into money and would be taxed accordingly.

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

Clause 48 seeks to amend section 80HHE of the Income-tax Act relating to deduction in respect of profits from export of computer software, etc.

Under the existing provisions, the deductions under sub-section (2) of the said section are allowed only if the consideration in respect of computer software referred to in sub-section (1) is brought by the assessee in convertible foreign exchange into India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder within a period of six months from the end of the previous year referred to in sub-section (2). However, the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

Clause 49 seeks to insert a new section 80HHF in the Income-tax Act relating to deduction in respect of profits and gains from export or transfer of film software, etc.

Sub-section (1) of the proposed new section seeks to provide that where the assessee, being an Indian company, is engaged in the business of export or transfer by any means out of India, of any film software, television software, music software, television news software, including telecast rights (hereafter referred to as software or software rights), there shall, in accordance with and subject to the provisions of the proposed new section be allowed, in computing the total income of the assessee, a deduction of the profits derived by the assessee from such business.

Sub-section (2) seeks to provide that the deduction specified in sub-section (1) shall be allowed only if the consideration in respect of the software or software rights is received in, or brought into India, by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

Sub-section (3) seeks to provide that for the purposes of sub-section (1), profits derived from the business referred to in that sub-section shall be the amount which bears to the profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

Sub-section (4) seeks to provide that deduction under sub-section (1) shall not be admissible unless the assessee furnishes in the prescribed form, alongwith the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

Sub-section (5) seeks to provide that where a deduction under this section is claimed and allowed in respect of profits of the business under the proposed section for any assessment year, no deduction shall be allowed in relation to such profits under any other provision of this Act for the same or any other assessment year.

Sub-section (6) seeks to provide that notwithstanding anything contained in the section, no deduction shall be allowed in respect of software or software rights referred to in sub-section (1), if such business is prohibited by any law for the time being in force.

In the *Explanation* to the proposed new section, the expressions "competent authority", "convertible foreign exchange", "film software", "music software", "telecast rights", "television news software", "television software", "export turnover", "profits of the business" and "total turnover" have been defined.

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

Clause 50 seeks to substitute section 80-IA relating to deduction in respect of profits and gains from industrial undertakings, etc. in certain cases.

It is proposed to substitute the said section by two new sections namely, section 80-IA relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development and section 80-IB relating to deductions in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Sections 80-IA and 80-IB contain provisions on the lines of existing section 80-IA with the following modifications.

The new section 80-IA seeks to allow the benefit of fiscal concession in any ten consecutive assessment years out of fifteen years beginning from the year the enterprise or the undertaking begins to develop any infrastructure facility or start providing telecommunication services or develop industrial park or generate power. The new provision seeks to extend the benefit available for generation and distribution of power to undertakings deriving profits from laying network of new transmission and distribution lines for transmission on or after the 1st day of April, 1999 or from generation of power. It further seeks to provide that when an enterprise develops infrastructure facility and subject to the agreement with the Central or State Government, local authority or statutory body, as the case may be, the operation and maintenance of such facility is carried on its behalf by some other undertaking, the provisions of this section shall continue to apply to such other enterprise for the unexpired period of the prescribed time. It is also proposed to provide that where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger, (a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and (b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or demerged company as if the amalgamation or demerger had not taken place.

The new section 80-IB contains provision for deduction in respect of profits and gains from industrial undertakings in certain cases. Section 80-IB seeks also to allow benefit of ten year tax holiday to industries as may be specified by the Central Government in the North-Eastern Region. The section also seeks to extend the benefit of hundred per cent. deduction of profits for initial five years and twenty-five per cent. of the profit in subsequent years for undertakings which derive profits from operating cold chains. The provision also seeks to provide that for approved housing projects the profits of which are fully deductible, the built-up area in regions other than outside twenty-five kms. of municipal limits of Delhi and Mumbai, the built-up area of the residential units does not exceed one thousand five hundred square feet. It is also proposed to provide that where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger (a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and (b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or demerged company as if the amalgamation or demerger had not taken place. It is also proposed to define the expressions “hilly area”, “initial assessment year”, “place of pilgrimage”, “rural area”, “small scale industrial undertaking”, “North-Eastern Region” and “cold chain facility”.

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

Clause 51seeks to amend section 80JJA of the Income-tax Act relating to deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste.

Under the existing provisions of section 80JJA, where the income of an assessee includes any profits and gains derived from the business of collecting and processing or treating any bio-degradable waste for generating power, producing bio-gas, making pellets or briquettes for fuel or organic manure, a deduction of profits and gains equal to the whole of such income or five lakh rupees whichever is less is allowed. It is proposed to amend the section so as to allow the benefit to the business of production of bio-fertilizers, bio-pesticides or other biological agents also.

It is also proposed to allow the deduction of an amount equal to the whole of such profits and gains for a period of five assessment years beginning with the assessment year relevant to the previous year in which the business commences.

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

Clause 52 seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

The proposed amendment excludes the income received in respect of units from Unit Trust of India and the mutual funds specified under clause (23D) of section 10 from the purview of deduction under section 80L. The amendment is consequential to the insertion of a new Chapter XII-E *vide* clause 61 of the Bill.

It is also proposed to omit the proviso in clause (x) of sub-section (1) of the said section which refers to the approval of the Central Government for the purpose of clause (viii) of sub-section (1) of section 36. This amendment is consequential to the omission of the first proviso to clause (viii) of sub-section (1) of section 36.

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

Clause 53 seeks to amend section 80-O of the Income-tax Act relating to deduction in respect of royalties, etc. from certain foreign enterprises.

Under the existing provisions, deductions are allowed if an amount equal to fifty per cent. of the income received by the assessee from the government of a foreign State or foreign enterprise in consideration for the use outside India of any patent, invention, design or registered trademark is brought by the assessee in convertible foreign exchange in India in accordance with the provisions of the Foreign Exchange Regulation Act, 1973, and any rules made thereunder within a period of six months from the end of the previous year. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

It is also proposed to provide that no deduction under this section shall be allowed unless the assessee furnishes a certificate, in the prescribed form, along with the return of income, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

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

Clause 54 seeks to amend section 80R of the Income-tax Act relating to deduction in respect of remuneration from certain foreign sources in the case of professors, teachers, etc.

Under the existing provisions, where the gross total income of an individual, who is a citizen of India, includes any remuneration received by him outside India or from any university or other educational institution established outside India, or any other association or body established outside India, for services rendered by him during his stay outside India in the capacity mentioned in the said section, there is allowed a deduction of the amount mentioned in the aforesaid section subject to the condition that

such remuneration is brought into India in convertible foreign exchange within a period of six months from the end of the previous year or within such further period as the Chief Commissioner or the Commissioner may allow in this behalf.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

Clause 55 seeks to amend section 80RR of the Income-tax Act relating to deduction in respect of professional income from foreign sources in certain cases.

Under the existing provisions, a deduction equal to seventy-five per cent. of the income of an individual resident in India being an author, playwright, artist, musician, actor or sportsman (including an athlete) is allowed, subject to the condition that such income is brought into India by or on behalf of the assessee in convertible foreign exchange within a period of six months from the end of the previous year. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

Clause 56 seeks to amend section 80RRA of the Income-tax Act relating to deduction in respect of remuneration received for services rendered outside India.

Under the existing provisions, deduction in respect of remuneration received by an individual who is a citizen of India for service rendered outside India is allowed under the said section subject to the condition that an amount equal to seventy-five per cent. of the remuneration referred to in the said section is brought into India by or on behalf of the assessee in convertible foreign exchange within a period of six months from the end of the previous year. However, the Chief Commissioner or the Commissioner can extend the said period of six months.

It is proposed that in case where the convertible foreign exchange is brought into India beyond the aforesaid period of six months, it would be sufficient to obtain the approval of the Reserve Bank of India or such other competent authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

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

Clause 57 seeks to amend section 112 of the Income-tax Act relating to tax on long-term capital gains.

It is proposed to insert a proviso in sub-section (1) so as to provide that where the tax payable in respect of any income arising from the transfer of a long-term capital asset, being listed securities exceeds ten per cent. of the amount of capital gains, before giving effect to the provisions of the second proviso to section 48, then, the amount of such excess shall be ignored for the purpose of computing the tax payable by the assessee. The proposed *Explanation* defines the expression "listed securities".

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

Clause 58 seeks to amend section 115AC of the Income-tax Act relating to tax on income from bonds or shares purchased in foreign currency or capital gains arising from their transfer.

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

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

Clause 59 seeks to insert a new section 115ACA in the Income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Sub-section (1) of the new section seeks to provide that in the case of a resident employee, the income-tax payable shall be the aggregate of (i) ten per cent. of the income by way of dividends in respect of Global Depository Receipts of an Indian company purchased in foreign currency in accordance with such employees' stock option scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, if any, (ii) ten per cent. in case of long-term capital gains arising from the transfer of the aforesaid Global Depository Receipts, if any, and (iii) the amount of income-tax on the total income as reduced by the income from the said Global Depository Receipts.

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

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

The *Explanation* to the new section defines the expressions "Global Depository Receipts", "information technology software", "information technology service" and "Overseas Depository Bank".

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

Clause 60 seeks to amend section 115AD of the Income-tax Act relating to tax on income of Foreign Institutional Investors from securities or capital gain arising from their transfer.

It is proposed to amend clause (a) of sub-section (1) of section 115AD, so as to exclude the income by way of dividends referred to in section 115-O from the income mentioned in this clause in order to restore the provision as it stood prior to amendment by the Finance (No.2) Act, 1998.

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 61 proposes to insert a new Chapter XII-E of the Income-tax Act relating to special provisions with regard to the tax on the income distributed by the Unit Trust of India and Mutual Funds.

Under the provisions of the newly inserted section 115-R, it is proposed that the income distributed to a unit holder of the Unit Trust of India or a Mutual fund shall be charged to tax at a flat rate of ten per cent. to be payable by the Unit Trust of India or the Mutual Fund, as the case may be. This tax liability of the Unit Trust of India or Mutual Funds is notwithstanding the existing provisions of

the Unit Trust of India Act, 1963, which states that the Unit Trust of India is not liable to tax on its income, profits or gains; or clause 10(23D) of the Income-tax Act which exempts the income of a Mutual Fund from income-tax.

It is further proposed that the tax under this section shall not be chargeable in respect of any income distributed to the unit holders of the Unit Scheme, 1964 of the Unit Trust of India or any other open-ended equity oriented Fund in respect of income distributed under such schemes for a period of three financial years commencing from the Ist day of April, 1999.

Sub-section (3) of the proposed new section seeks to provide that the person responsible for making the payment of income distributed by the UTI or a Mutual Fund and the UTI or the Mutual Fund itself, as the case may be, shall be liable to pay the tax under this provision to the credit of the Central Government within fourteen days from the date of distribution of payment of such income, whichever is earlier.

The proposed new section 115-S seeks to provide that if the person or UTI or Mutual Fund liable to make the payment fails to so pay the income-tax to the credit of the Central Government, he or it shall be liable to pay simple interest at the rate of two per cent. every month or part thereof on such amount of tax which has not been paid or was not paid in time.

The proposed new section 115-T seeks to provide that if the person or UTI or Fund liable to make the payment fails to so pay the income-tax to the credit of the Central Government, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable and all the provisions of this Act for the collection and recovery of income-tax shall apply.

It is also proposed to define the expressions “Mutual Fund”, “open-ended equity oriented fund” and “Unit Trust of India” for the purposes of the newly inserted Chapter XII-E of the Income-tax Act,.

The proposed amendments will take effect from Ist June, 1999, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years.

Clause 62 seeks to amend section 139 of the Income-tax Act relating to return of income.

Under the existing provisions contained in sub-section (1), a person who fulfils certain conditions specified in that sub-section is required to furnish his return of income and one of such conditions is that he is the owner or lessee of a motor vehicle as defined in *Explanation* 3.

It is proposed to exclude two-wheeled motor vehicles whether having any detachable side car having extra wheel attached to such vehicles or not from the purview of “motor vehicle” .

Under the existing provisions contained in sub-section (6), the return of income in the prescribed form requires the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value and belonging to him, expenditure exceeding prescribed limits incurred by him under prescribed heads and such other outgoings. It is proposed to provide that the return of income as prescribed shall also require the assessee to furnish particulars of his bank account and credit card held by him.

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

Clause 63 seeks to amend section 140A of the Income-tax Act relating to self-assessment.

Under the existing provisions, if any tax is payable on the basis of any return required to be furnished under section 139 or section 142 or section 148, the assessee shall be liable to pay such tax along with interest payable under the Act before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

It is proposed to provide that any person before filing of the return under section 158BC shall also be liable to pay tax and interest in accordance with the provisions contained in sub-section (1) of section 140A.

It is further proposed to provide that after a block assessment under section 158BC has been made, any amount paid under sub-section (1) of section 140A shall be deemed to have been paid towards the block assessment under section 158BC.

These amendments will take effect from 1st June, 1999.

Clause 64 seeks to amend section 143 of the Income-tax Act relating to assessment.

Under the existing provisions, there is a procedure for processing the return, making *prima facie* adjustments and raising additional tax, wherever necessary and sending intimation to the assessee in all cases.

It is proposed to provide that if any tax or interest is found due on the basis of return filed under section 139 or in response to a notice under sub-section (1) of section 142, after adjustment of any tax deducted at source, any advance tax paid, any tax paid on self assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of the Income-tax Act shall apply accordingly. If any refund is due on the basis of such return, it shall be granted to the assessee. It is also proposed to substitute the existing provisos by new provisos to provide that the acknowledgement of the return shall be deemed to be the intimation under sub-section (1) where either no sum is payable or no refund is due. The intimation under this sub-section shall not be sent after the expiry of two years from the end of the relevant assessment year.

It is also proposed to omit the provisions in respect of levy of additional income-tax on account of *prima facie* adjustment.

It is also proposed to omit the provisions relating to applicability of sub-sections (1) and (1A) to revised returns filed under sub-section (5) of section 139 after intimation is sent or refund is granted. Sub-section (5) and the *Explanation* to the section are also proposed to be omitted.

These amendments will take effect from 1st June, 1999.

Clause 65 seeks to amend section 154 of the Income-tax Act relating to rectification of mistake.

It is proposed to provide that an income-tax authority may amend any intimation or deemed intimation under sub-section (1) of section 143.

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

Clause 66 seeks to amend section 155 of the Income-tax Act relating to other amendments.

It is proposed to insert a new sub-section (13) in section 155 so as to provide that where any deduction under sections 80HHB or 80HHC or 80HHD or 80HHE or 80-O or 80R or 80RR or 80RRA has been denied only on the ground that the income otherwise qualifying the deduction had not been received in, or brought into, India in convertible foreign exchange by or on behalf of the assessee in accordance with the law regulating dealings in foreign exchange and such income is so received in, or brought into, India at subsequent date, the Assessing Officer shall amend the order of assessment at any time within a period of four years from the end of previous year in which the qualifying amount is received in, or brought into, India in convertible foreign exchange with the approval of the Reserve Bank of India or in accordance with the law at the time in force for regulating payments and dealings in foreign exchange.

The proposed amendments shall enable the Assessing Officer to modify the amount of such deduction by giving effect to the proposed amendment in the year to which such amount otherwise relates.

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

Clause 67 seeks to amend section 180 of the Income-tax Act relating to royalties or copyright fees for literary or artistic work.

It is proposed to insert a proviso before *Explanation* in the said section so as to provide that the provisions of the aforesaid section shall not apply in relation to the previous year relevant to the assessment year commencing on or after 1st April, 2000.

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

Clause 68 seeks to amend section 180A of the Income-tax Act relating to consideration for know-how.

Section 180A provides that where the time taken by an individual, who is resident in India, for developing any know-how is more than twelve months, he may elect that the gross amount of any lump sum consideration received or receivable by him during the previous year for allowing use of such know-how shall be charged to tax by spreading such amount equally over three years, namely, the year in which such amount was received or receivable and the two immediately preceding years.

The proposed amendment seeks to provide that the provisions contained in section 180A shall not apply after the assessment year commencing on 1st April, 2000 and subsequent years.

Clause 69 seeks to amend section 194A of the Income-tax Act relating to interest other than "Interest on securities".

It is proposed to amend the section so as to do away with the requirement of approval by the Central Government from clause (c) of the proviso to clause (i) of sub-section (3) of the said section. This amendment is consequential to the amendment *vide* clause 22 of the Bill.

The existing provisions of clause (ii) of sub-section (3) of section 194A provide that the provisions of sub-section (1) of section 194A relating to deduction of tax at source shall not apply in case of incomes credited or paid before 1st April, 1967. As the provisions of clause (ii) of sub-section (3) of section 194A are not applicable after 1st October, 1967, it is proposed to omit this clause.

These amendments will take effect from 1st April, 2000.

Clause 70 seeks to amend section 194B of the Income-tax Act relating to deduction of tax at source from any payment made on account of winnings from lottery or crossword puzzle.

The existing first proviso of section 194B provides that no deduction at source shall be made under this section from any payment made before 1st June, 1972.

As the provisions of first proviso are not applicable since 1972, it is proposed to omit the said proviso.

This amendment will take effect from 1st April, 2000.

Clause 71 seeks to amend section 194BB of the Income-tax Act relating to tax deduction at source from any payment made on account of winnings from horse race.

The existing proviso of section 194BB provides that no deduction at source shall be made under this section from any payment made before 1st June, 1978. As the provisions of the proviso are not applicable in respect of any payment made before 1st June, 1978, it is proposed to omit the said proviso.

This amendment will take effect from 1st April, 2000.

Clause 72 seeks to amend section 194H of the Income-tax Act relating to deduction on tax at source from any payment made on account of commission, brokerage, etc.

Section 194H provides for deduction of tax at source in respect of any income by way of commission, brokerage, etc. paid after 1st April, 1991 but before 1st June, 1992. As the provisions of section 194H are not applicable after 1st June, 1992, it is proposed to omit section 194H.

This amendment will take effect from 1st April, 2000.

Clause 73 seeks to amend section 194K of the Income-tax Act relating to income in respect of units.

It is proposed to insert a proviso in sub-section (1) of the said section so as to provide that the provisions of the sub-section shall not apply to any income of unit holders of the Unit Trust of India and other Mutual Funds on or after 1st June, 1999.

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

Clause 74 seeks to insert a new section 194L in the Income-tax Act relating to payment of compensation on acquisition of capital asset.

The new section 194L provides that any person responsible for paying to a resident any sum being in the nature of compensation or enhanced compensation or consideration or enhanced consideration on account of compulsory acquisition under any law for the time being in force of any capital asset shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax on income comprised therein. However, no deduction shall be made where the amount of such payments or aggregate of such payments during the financial year does not exceed one hundred thousand rupees.

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

Clause 75 seeks to amend section 196A of the Income-tax Act relating to income in respect of units of non-residents.

It is proposed to insert a proviso in sub-section (1) of the said section so as to provide that the provisions of the sub-section shall not apply to any income of unit holders of the Unit Trust of India and other Mutual Funds on or after 1st June, 1999.

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

Clause 76 seeks to amend section 197 of the Income-tax Act relating to certificate for deduction of income-tax at lower rate.

The proposed amendment seeks to include the payment, being in the nature of compensation or enhanced compensation or consideration or enhanced consideration referred to in section 194L, within the scope of section 197.

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

Clause 77 seeks to amend section 197A of the Income-tax Act relating to non-deduction of tax in certain cases.

It is proposed to provide that no deduction of tax at source in respect of interest on securities shall be made in accordance with the provisions contained in section 197A. The proposed amendment seeks to omit the reference of section 193 in sub-section (1) of section 197A and insert such reference in sub-section (1A) of section 197A. With the insertion of the reference of section 193 in sub-section (1A) of section 197A, the effect would be that the tax exempt entities such as trusts, superannuation fund, provident fund and gratuity fund can receive income by way of interest on securities without deduction of tax at source.

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

Clause 78 seeks to amend sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act relating to deduction of income-tax.

These amendments are consequential to the insertion of new section 194L in the Act vide clause 74 of the Bill.

These amendments will take effect from 1st June, 1999.

Clause 79 seeks to amend section 201 of the Income-tax Act relating to consequences of failure to deduct or pay the tax.

Under the existing provisions contained in section 201, in case the persons referred to in the said section do not deduct or after deducting fail to pay the tax as required by or under the Income-tax Act, they are liable to pay simple interest at the rate of fifteen per cent. per annum on the amount specified in the aforesaid section.

It is proposed to amend sub-section (1A) of section 201 so as to increase the rate of interest from fifteen per cent. to eighteen per cent. per annum.

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

Clause 80 seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scraps, etc.

Sub-clause (a) proposes to insert new sub-sections (5B) and (5C) in section 206C to provide that the returns of tax collection at source may be filed on computer media such as floppies, diskettes, magnetic cartridge tapes, CD-ROMs or any other computer readable media as may be specified by the Board. It is also proposed that the information in such returns shall be admitted as evidence in any other proceedings under the Act.

Sub-clause (b) proposes to insert new sub-sections (9), (10) and (11) in the said section. Sub-section (9) provides for issue of certificate by the Assessing Officer for collection of tax at a lower rate than those specified in sub-section (1). Such certificate shall be issued on an application made by the buyer in this behalf. Sub-section (10) provides that the person responsible for collecting the tax shall collect the same at the rates specified in such certificate until such certificate is cancelled by the Assessing Officer. Sub-section (11) confers upon the Board, power to make rules specifying the cases in which, and the circumstances under which, an application may be made for the grant of such certificate and the conditions subject to which such certificate may be granted.

These amendments will take effect from 1st June, 1999.

Clause 81 seeks to amend section 234A of the Income-tax Act relating to interest for defaults in furnishing return of income.

Under the existing provision, the assessee is liable to pay simple interest at the rate of two per cent. for every month or part of a month for default in furnishing the return of income specified in the said section.

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

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

Clause 82 seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

Under the existing provisions, the assessee is liable to pay simple interest at the rate of two per cent. for every month or part of a month for default in payment of advance tax specified in the said section.

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

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

Clause 83 seeks to amend section 249 of the Income-tax Act relating to form of appeal and limitation.

It is proposed to insert a new clause (iv) in sub-section (1) of section 249 so as to provide for a fee of two hundred fifty rupees in case of appeals relating to matters not specified in clauses (i) to (iii) in that sub-section.

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

Clause 84 seeks to amend section 250 of the Income-tax Act relating to procedure in appeal.

It is proposed to insert a new sub-section (6A) so as to provide that in every appeal the Commissioner (Appeals), where it is possible, may hear and decide such appeal within a period of one year from the end of the financial year in which such appeal is filed under sub-section (1) of section 246A.

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

Clause 85 seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

The existing provisions contained in section 253, do not provide for an appeal to the Appellate Tribunal against an order passed under section 12AA relating to registration of a trust or institution.

It is proposed to amend section 253 so as to insert a reference to section 12AA in the aforesaid section so that appeal may be filed against an order passed under section 12AA.

It is also proposed to insert a new clause (d) in sub-section (6) of section 253 so as to provide for a fee of five hundred rupees in respect of matters not covered under clauses (a) to (c) of that sub-section.

These amendments will take effect from 1st June, 1999.

Clause 86 seeks to amend section 254 of the Income-tax Act relating to orders of Appellate Tribunal.

It is proposed to insert a new sub-section (2A) so as to provide that in every appeal, the Appellate Tribunal, where it is possible, may hear and decide such appeal within a period of four years from the end of the financial year in which such appeal is filed under sub-section (1) of section 253.

It is also proposed to insert a new sub-section (2B) so as to provide that the cost of any appeal to the Appellate Tribunal shall be at the discretion of that Tribunal.

Sub-section (4) of section 254 provides that the orders passed by the Appellate Tribunal, except as provided in section 256, on an appeal, shall be final. Section 260A contains provisions relating to appeal to High Court. It is proposed to amend sub-section (4) of section 254 so as to provide that the orders passed by the Appellate Tribunal on an appeal shall be final except as provided in sections 256 and 260A. The proposed amendments are of consequential nature.

These amendments will take effect from 1st June, 1999.

Clause 87 seeks to amend section 260A of the Income-tax Act relating to appeal to High Court.

Sub-clause (a) proposes to amend sub-section (2) of section 260A so as to provide that an appeal to the High Court may also be filed by the Chief Commissioner or the Commissioner in addition to the assessee. Clause (b) of sub-section (2) of the said section provides for a levy of fee of ten thousand rupees for filing the appeal to the High Court. It is proposed to omit clause (b) of sub-section (2) of section 260A and after its omission the fee for filing the appeal to the High Court shall be such fee as may be specified in the relevant law relating to court fees for filing the appeal to the High Court.

Sub-clause (b) proposes to insert a new sub-section (7) in section 260A so as to provide that the provisions of the Code of Civil Procedure, 1908 relating to appeals to the High Court, shall, as far as possible, apply in case of appeals under that section unless specifically provided for in the provisions of the Income-tax Act.

These amendments will take effect from 1st June, 1999.

Clause 88 seeks to amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

Under the existing provisions contained in sub-section (2) of section 272A, a person who fails to comply with any of the specific provisions referred to therein is liable to pay a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

It is proposed to provide for a penalty of one hundred rupees for every day of failure on the part of assessee under sub-section (2) of section 272A.

This amendments will take effect from 1st June, 1999.

Clause 89 seeks to omit the Tenth Schedule to the Income-tax Act.

The existing provisions of the Tenth Schedule provide for the modification of the Income-tax Act in cases where the previous year in relation to the assessment year commencing on 1st April, 1989 exceeds twelve months.

The definition of "previous year" has been substituted *vide* clause 4 of the Bill so as to do away with the transitory provisions in section 3 of the Income-tax Act. As a consequence to the substitution of section 3, the Tenth Schedule is being omitted.

This amendment will take effect from 1st April, 2000.

Clause 90 seeks to make amendments which are consequential to the substitution of section 80-IA by new sections 80-IA and 80-IB vide clause 50 of the Bill.

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