FINANCE BILL, 1999

PROVISIONS RELATING TO DIRECT TAXES

The provisions in the Finance Bill, 1999, in the sphere of direct taxes, relate to the following matters:–

(i) Prescribing the rates of income-tax on incomes liable to tax for the assessment year 1999-2000; the rates at which tax including the surcharge will be deductible at source during the financial year 1999-2000 from interest (including interest on securities), winnings from lotteries or crossword puzzles, winnings from horse races, and other categories of income liable to deduction of tax at source under the Income-tax Act, rates for computation of "advance tax", deduction of income-tax from "Salaries" and charging of income-tax on current incomes in certain cases for the financial year 1999-2000.

(ii) Amendment of the Income-tax Act, 1961, inter-alia with a view to promoting housing, providing incentives for infrastructure development, industrialisation, rationalization of certain provisions, giving impetus to business reorganisations for the revival and growth of Indian industry, expanding the tax base and providing for assessee friendly and welfare measures.

(iii) Amendment of Wealth-tax Act

(iv) Amendment of the Expenditure-tax Act.

(v) Amendment of Finance (No.2) Act, 1998

2. Subject to certain exceptions, which have been indicated while dealing with the relevant provisions, the Bill follows the principle that changes in the provisions of the tax laws should ordinarily be made operative prospectively in relation to current incomes and not in relation to incomes of past years. The substance of the main provisions in the Bill relating to direct taxes is explained in the following paragraphs:-

Income-tax

I. Rates of income-tax in respect of incomes liable to tax for the assessment year 1999-2000.

In respect of incomes of all categories of tax payers (corporate as well as non-corporate) liable to tax for the assessment year 1999-2000, the rates of income-tax have been specified in Part I of the First Schedule to the Bill and are the same as those laid down in Part III of the First Schedule of the Finance (No.2) Act, 1998, for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases during the financial year 1998-1999.

II. Rates for deduction of income-tax at source during the financial year 1999-2000 from income other than "Salaries".

The rates for deduction of income-tax at source during the financial year 1999-2000 from incomes other than "Salaries", have been specified in Part II of the First Schedule to the Bill. These rates apply to income by way of interest on securities, interest other than "interest on securities," insurance commission, winnings from lotteries or cross word puzzles, winnings from horse races and income of non-residents (including non-resident Indians). 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. It is also specified that the tax so computed for deduction at source in the case of all assessees (except non-residents and foreign companies) will be enhanced by a surcharge of ten per cent. In the case of individuals, Hindu undivided families, association of persons and body of individuals, the surcharge would be payable only by persons having total income above Rs. 60,000/-.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 1999-2000.

The rates for deduction of income-tax at source from "Salaries" during the financial year 1999-2000 and also for computation of "advance tax" payable during that year in the case of all categories of tax payers have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 1999-2000 on current incomes in cases where accelerated assessments have to be made, e.g., provisional assessment of shipping profits arising in India to non -residents, assessment of persons leaving India for good during that financial year or assessment of persons who are likely to transfer property to avoid tax, etc. The salient features of the rates specified in the said Part III are indicated in the following paragraphs :-

A. Individuals, Hindu undivided families, etc.

Paragraph A of Part III of the First Schedule specifies the rates of income-tax in the case of individuals, Hindu undivided families, association of persons, etc.

No change is proposed in the rate structure. However, the tax payable would be enhanced by a surcharge for the purposes of the Union at the rate of ten per cent. of the tax payable (after allowing rebate under Chapter VIII-A). No surcharge would be payable by non-residents and persons having incomes of Rs.60,000/- or less. Marginal relief would also be provided to ensure that the additional amount of income-tax payable, including surcharge, on the excess of income over Rs.60,000/- is limited to the amount by which the income is more than Rs.60,000/-.

The Table below gives the income slabs and the rates of income-tax. Column (a) specifies the rates given in Paragraph A of Part I of the First Schedule to the Bill; and column (b) specifies the rates given in Paragraph A of Part III of the First Schedule to the Bill.

TABLE

(a)		(b)	
Income slab	**Rates as specified in Part I of First Schedule to the Bill (i.e., existing rates)**	**Income slab**	**Rates as specified in Part III of First Schedule to the Bill (i.e., proposed rates)**
Upto Rs. 50,000/-	Nil	Upto Rs. 50,000/-	Nil
Rs.50,001/- to Rs.60,000/-	10 %	Rs.50,001/- to Rs.60,000/-	10 %
Rs.60,001/- to Rs.1,50,000/-	20 %	Rs.60,001/- to Rs.1,50,000/-	20 % *
Above Rs.1,50,000/-	30 %	Above Rs.1,50,000/-	30 % *

* Persons (other than non-residents) in this slab would be required to pay ten per cent. surcharge on the total tax payable after rebate under Chapter VIII-A.

The impact of levy of surcharge in the case of individuals, HUFs, etc. at different income levels would be as under :-

Total income (Rs.)	Existing Tax liability (Rs.)	New Tax liability (Rs.)	Additional liability (Rs.)	Percentage increase (%)
50,000	Nil	Nil	Nil	Nil
55,000	500	500	Nil	Nil
60,000	1,000	1,000	Nil	Nil
60,100	1,020	1,100 **	80	7.8
60,120	1,024	1,120 **	96	9.37
60,130	1,026	1,129	103	10
60,150	1,030	1,133	103	10
60,200	1,040	1,144	104	10
60,500	1,100	1,110	110	10
61,000	1,200	1,320	120	10
65,000	2,000	2,200	200	10
70,000	3,000	3,300	300	10
75,000	4,000	4,400	400	10
1,00,000	9,000	9,900	900	10
1,50,000	19,000	20,900	1,900	10
1,75,000	26,500	29,150	2,650	10
2,00,000	34,000	37,400	3,400	10
2,50,000	49,000	53,900	4,900	10
3,00,000	64,000	70,400	6,400	10
4,00,000	94,000	1,03,400	9,400	10
5,00,000	1,24,000	1,36,400	12,400	10

**Marginal relief would be provided to ensure that the additional amount of income-tax payable, including surcharge, on the excess of income over Rs.60,000/- is limited to the amount by which the income is more than Rs.60,000/-.

B. Co-operative societies

In the case of co-operative societies the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates are the same as those specified in the corresponding Paragraph of Part I of the First Schedule to the Bill. However, the tax payable would be enhanced by a surcharge for the purposes of the Union at the rate of ten per cent. of the tax payable.

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate remains at 35 per cent. However, the tax payable by resident firms would be enhanced by a surcharge for the purposes of the Union at the rate of ten per cent. of the tax payable.

D. Local authorities

In the case of local authorities, the rate of income-tax has been specified in Paragraph D of Part III of the First Schedule to the Bill. This rate is the same as that specified in the corresponding Paragraph of Part I of the First Schedule to the Bill. However, the tax payable would be enhanced by a surcharge for the purposes of the Union at the rate of ten per cent. of the tax payable.

E. Companies

In the case of companies, the rate of income-tax has been specified in Paragraph E of Part III of the First Schedule to the Bill. There is no change in the existing rates of 35 per cent for domestic companies and 48 per cent. for foreign companies. However, in the case of domestic companies, the tax payable would be enhanced by a surcharge at the rate of ten per cent. of the tax payable.

[*Clause 2 & First Schedule*]

MEASURES TO PROMOTE INFRASTRUCTURE DEVELOPMENT, INDUSTRIALISATION AND ENCOURAGE ECONOMIC GROWTH

Business re-organisation made tax neutral

The business and economic environment of the country has thrown up the need for rationalisation of laws relating to business re-organisation for restructuring of production system and better utilisation of resources which have become necessary with a view to enable the Indian industry to rearrange itself to become globally competitive. It was in this background that tax concessions to conversion of firms into companies or proprietory concerns into companies were provided for in Finance (No.2) Act, 1998 which were widely welcomed. With the same end in view, a number of provisions have been conceived for the entire gamut of business reorganisation. These include rationalisation of the existing provisions relating to amalgamation of companies and new provisions relating to demerger of companies and sale or transfer of business as a going concern through slump sale.

2. There are a number of provisions in the Income-tax Act having bearing on amalgamations. Demerger is relatively a new phenomenon in the Indian corporate sector. While there are no specific provisions under the Companies Act governing demergers, some transactions of this nature do take place through schemes of compromise or arrangement under sections 391 to 394 of the Companies Act. In a slump sale, an undertaking is transferred from one person to another for a lumpsum consideration without values being assigned to the individual assets and liabilities transferred.

3. With a view to recognise demergers, slump sales and to rationalise the existing provisions of amalgamation, a number of amendments have been proposed on the basis of the following broad principles:-

(a) Demergers should be tax neutral and should not attract any additional liability to tax.

(b) In demergers, tax benefits and concessions available to any undertaking should be available to the said undertaking on its transfer to the resulting company.

(c) Tax benefits to such business reorganisations should be limited to the transfer of business as a going concern and not to the transfer of specific assets which would amount to sale of assets and not a business reorganisation.

(d) The accumulated losses and unabsorbed depreciation, in a demerger, should be allowed to be carried forward by the resulting company if these are directly relatable to the undertaking proposed to be transferred. Where it is not possible to relate these to the undertaking, such losses and depreciation shall be apportioned between the demerged company and the resulting company in proportion of the assets coming to the share of each as a result of demerger.

(e) The Central Government, if it considers necessary, may prescribe certain guidelines or conditions to ensure that demergers are made for genuine business purposes.

(f) In amalgamation, the existing conditions under section 72A for the carry forward and set off of accumulated losses and unabsorbed depreciation are too stringent to really offer any meaningful incentive for the revival of business. These are, therefore, proposed to be relaxed to provide that such benefits would be available to the amalgamated company if seventy five percent in value of the assets are retained by the amalgamated company for a period of at least five years and further that the amalgamated company carries on the business of the amalgamating company for at least five years from the date of amalgamation. The Central Government may prescribe such other conditions as it considers necessary to ensure the revival of business or to prevent the misuse of the concession.

(g) In the cases of slump sales, law should have clarity that the gains arising from such sales would be taxed under the head “capital gains” and there should be no ambiguity with regard to the mode of computation of such profits and gains.

4. The benefits available for demergers are also proposed to be extended to Authorties or Boards set up by Central or State Governments. This may help unbundling of State Electricity Boards and such other authorities and help them in corporatisation.

5. The condition regarding continuity of the same business for the allowability of loss to an assessee under section 72 of the Act is proposed to be dispensed with.

6. The amendments giving effect to various proposals outlined above will take effect from the 1st day of April, 2000 and will accordingly apply to assessment year 2000-2001 and subsequent years.

[*Clauses 3,12,14,16,17,18,19,20,21,24,25,26,34,35,36,37,38,39,50 and 58*]

Tax holiday benefits to cold chains

Under the existing provisions of section 80-IA, a five year tax holiday in respect of profits and gains of an assessee operating a cold storage in an industrially backward State or in an industrially backward district, if it begins to operate the cold storage plant before the 31st March, 2000, is allowed with a further deduction of 25% of profits of such business (30% in the case of companies) for the next five years.

The complex food chain from the producer to the consumer, involves various intermediaries for handling and processing. The loss and wastage of perishable agricultural produce, vegetables and similar commodities continues to be high. In order to minimise such loss and to ensure smooth and uniform distribution of agricultural and processed products, it is proposed to provide 100% tax holiday for a period of five years and 25% (30% in case of companies) deduction from profits derived from operating a cold chain facility which starts operating after the 1st day of April, 1999 is proposed to be allowed for a further period of five years.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 50*]

Liberalisation of tax holiday provisions for infrastructure

Under the existing provisions of section 80-IA, roads, highways, bridges, airports, ports and rail systems are regarded as infrastructure facilities and the undertakings engaged in providing or maintaining such infrastructure facilities are entitled to a tax holiday for five years and a deduction of 30% of profits for the next five years. These companies have the choice of availing such benefits in any ten consecutive years out of initial twelve years from the year in which these commence operation.

Keeping in view the capital intensive nature and higher allowances of depreciation in the initial years in such enterprise, it is proposed to make the exisiting fiscal concessions more meaningful, by providing that such undertakings may avail of the benefits in any ten consecutive years out of initial fifteen years from the year in which these commence operation.

Under the existing provisions of section 80-IA, undertakings generating or generating and distributing power, undertakings developing and operating industrial parks and undertakings engaged in providing telecom services are entitled to a five year tax holiday and a deduction of 25% (30% in the case of companies) of profit in the subsequent five years. As such undertakings are capital intensive and get delayed returns on investments, it is proposed to similarly allow them to avail of the benefits in any ten consecutive years out of first fifteen years from the year in which such undertakings start operating or commence production.

The proposed amendment will take effect from the 1st April, 2000 and will, accordingly apply in relation to the assessment year 2000-2001. [*Clause 50]*

Tax holiday for power generation extended to new transmission networks

Under the provisions of section 80-IA, a five year tax holiday and a deduction of 25% (30% in the case of companies) of profits in the subsequent five years is allowed, inter-alia, to an undertaking engaged in the business of generation, or generation and distribution of power, which commences generation of power on or before 31.3.2003.

To augment the transmission and distribution of power, it is proposed to extend similar benefits for undertakings setting up new transmission lines on or after 1.4.1999, to profits derived therefrom, as are available for generation or generation and distribution of

power. The profits thereof shall also be eligible for deduction if the undertaking sets up new transmission or distribution lines on or after 1.4.1999 but before 31.3.2003

The proposed amendment will take effect from 1st April, 2000 and will, accordingly apply in relation to the assessment year 2000-2001. [*Clause 50*]

Tax holiday for industries in North-East

In order to promote industrialisation and encourage economic growth in the North-Eastern Region, the industrial undertakings set up in Integrated Infrastructure Development Centres and Industrial Growth Centres to be notified by the Central Government are proposed to be exempt from income-tax for ten consecutive assessment years.

A similar benefit is also proposed to be given to such other industries in the North-Eastern region as are notified by the Central Government.

The proposed amendment will take effect from 1st April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clauses 7 & 50*]

Concession for Infrastructure facility and industrial parks may be availed by persons operating and maintaining it.

At present, the provisions of section 80-IA provide that an infrastructure facility developed by an enterprise has to be transferred to the Central, State Government, local authority or statutory body within the stipulated period. To further encourage private sector participation, it is proposed to provide that any person, other than a developer, may also undertake operation and maintenance, if the terms of agreement so provide. The benefits and concession under section 80-IA in such cases, for the remaining period out of the period of ten consecutive years, may be availed by the undertaking operating and maintaining such facility. The new provision also provides that in the case of industrial parks, the developer and operator or the developer or the operator may avail of the benefit in a similar manner. [*Clause 50*]

Modification in the provisions of section 10 (23G)

Clause (23G) of section 10 provides that any income of an infrastructure capital fund or an infrastructure capital company by way of interest, dividends (other than dividends referred to in section 115-O) and long term capital gains from investments made by way of equity or long term finance in an approved enterprise wholly engaged in the business of developing, maintaining and operating an infrastructure facility shall not be included in computing the total income.

The proposed amendment seeks to provide that enterprises wholly engaged in either (i) developing, maintaining and operating or (ii) developing, or (iii) maintaining and operating an infrastructure facility would now be eligible for the benefit. The exemption for investments in infrastructure facilities engaged in projects for generation or generation and distribution of power would now also be extended to enterprises engaged in starting transmission or distribution of power by laying a network of new transmission or distribution lines at any time between 1st April, 1999 and 31st March, 2003.

The scope of the exemption in this clause is proposed to be expanded so as to include within the definition of an infrastructure facility, an undertaking or a project for (i) developing, (ii) developing and operating or (iii) maintaining and operating an industrial park which has been notified by the Central Government under clause (iii) of sub-section (4) of section 80-IA.

In consequence to the amendment in clause (50) of this Bill, which substitutes the existing section 80-IA by two new sections namely, 80-IA and 80-IB, it is proposed to amend clause (23G) of section 10 so that it is in conformity with the provisions of the newly inserted sections.

The proposed amendment will take effect from 1st April, 2000, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 6*]

Weighted deduction for scientific research and development expenditure.

Under the existing provisions of clause(ii) and (iii) of sub-section (1) of section 35, in computing the profits and gains of business or profession, full deduction is allowed for any sum paid to any university, college or an institution or a scientific research association for the purposes of scientific, social or statistical research. With a view to induce more investment for research and development activities, the Bill proposes to provide for a weighted deduction of 125% for such sums paid. The Bill also proposes to extend the weighted deduction allowable under sub-section (2AB) for expenditure on in-house research & development, upto 31st March, 2005.

The proposed amendments will take effect from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years. [*Clause 15*]

Full deductions to donations to the Fund for Technology Development and Application

Under the existing provisions of section 80G of the Income-tax Act, a deduction of 50% of the donations is allowed in the computation of the income of a donor. However, in respect of donations to certain funds 100% deduction is allowed.

To bring together Research and Development Institutions and industry for overall development of technology and its commercial applications, it is proposed to provide hundred percent deduction for donations made to the Fund for Technology Development and Application being operated by the Technology Development Board.

The proposed amendment will take effect from 1st April, 2000 and will, accordingly apply in relation to the assessment year 2000-2001. [*Clause 43*]

Incentives for film industry

The Bill proposes to insert a new provision to provide for deduction to an Indian company from profits and gains in convertible foreign exchange from export or transfer by any means out of India of any film software, TV software, music software and TV news software etc. together with telecast rights.

The deduction under this provision shall be hundred percent of the profits from such earning from exports.

The amendment shall apply with effect from 1.4.2000 and shall apply to assessment year 2000-2001 and subsequent years accordingly. [*Clause 49*]

External commercial borrowings of undertakings to be exempt in certain cases

Clause (15) of section 10 exempts interest payable in certain cases. It is proposed to insert a new Explanation in sub-clause (iv) of this clause so as to extend the exemption available on interest paid by industrial undertakings on specified foreign borrowings to also include hedging transaction charges on account of currency fluctuation.

The amendment shall apply with effect from 1.4.2000 and shall apply to assessment year 2000-2001 and subsequent years accordingly. [*Clause 6*]

Incentives for Investment in Tourism Sector

Under the existing provisions, the income from the business of a hotel, tour operation and travel agency is allowed a deduction, in computing its total income, of an amount equal to:-

(i) 50 per cent of the profits derived from services provided to foreign tourists; and

(ii) so much of the remaining profits as are credited to a reserve fund to be utilised in the manner prescribed.

With a view to further facilitate investment in the tourism sector, it is proposed that the amount credited to the reserve fund can also be invested in equity shares of a public company carrying on the business of new hotels or setting up a new facility, as may be notified by the Central Government.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 47*]

Incentives for civil aviation

Under clause (15A) of Section 10, income-tax exemption is provided on any payment made by an Indian company engaged in the business of operation of aircrafts, 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. It is proposed to allow this exemption for agreements entered into on or after 01.04.1999 also.

As a consequence to this amendment, it is proposed to amend clause (6BB) of section 10 of the income-tax Act, so as to restrict the income-tax exemption 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 for acquiring an aircraft or aircraft engine under an agreement entered between 1st April, 1997 and 31st March, 1999.

The proposed amendments will take effect from 1st April, 2000, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 6*]

Tax holiday for processing of bio-degradable waste

Under the existing provisions, deduction in respect of profits and gains derived from business of collecting and processing of biodegradable waste was allowed upto a limit of rupees five lakhs. To facilitate and give further impetus to the entry of the non-government sector in waste management, it is proposed that such units irrespective of location, which are collecting, processing or treating biodegradable waste for generating power or producing biofertilizers, biopesticides, biological agents or for producing or making pellets or briquettes for fuel or organic manure be allowed a hundred percent deduction of profits and gains derived from such activities for a period of five years.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 51*]

Measures for Development of Capital Market

It is proposed to exempt the income of a unit holder received from UTI or from Mutual Fund. This exemption would be similar to the exemption in respect of dividends received from domestic companies.

It is also proposed to introduce a levy at the flat rate of tax at ten per cent. on the income distributed by the Unit Trust of India and Mutual Funds by inserting a new Chapter XII-E. However, incomes distributed under the US-64 scheme, and other open-ended equity oriented schemes of UTI and Mutual Funds would be exempt from the levy of this tax for a period of three financial years starting from 1.4.1999. This tax would be payable by the UTI or Mutual Funds.

Consequential amendments are also proposed in certain other provisions of the Income-tax Act. These include proposals to amend,–

(i) section 10(23D) of the Income-tax Act so as to provide that the exemption in respect of income of a Mutual Fund shall be subject to the provisions of the newly inserted Chapter XII-E of the Income-tax Act,;

(ii) Section 80-L of the Income-tax Act relating to deduction in respect of investment on certain securities, dividends, etc. is proposed to be amended so as to exclude the income received in respect of Units from Unit Trust of India and Mutual Funds.

(iii) The provisions for deduction of tax at source are also proposed to be suitably amended.

The proposed amendments will take effect from 1st June, 1999, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clauses 6, 52, 61,73 and 75*]

Reduction of tax rate on long term capital gains in regard to shares and securities

Under the existing provisions, long term capital gains are taxed at the rate of 20% after giving the benefit of cost inflation index. However, certain categories of non-residents and non resident Indians are required to pay tax at the rate of 10% on long term capital gains on securities and specified assets respectively. However, the benefit of cost inflation index is not available to them. Nonetheless this has led to a widespread demand for level playing field between non-residents and resident investors in share market, notwithstanding the availability of cost inflation index to the latter.

Therefore, it is proposed to limit the tax on long term capital gains at 10% of the capital gain on securities as defined in section 2(h) of Securities Contracts (Regulation) Act, 1956 and listed in recognised stock exchanges in India before allowing adjustment for cost inflation index for all assessees. In other words, the benefit of cost inflation index shall continue as before but where the tax on

long term capital gains exceeds 10%of capital gains, such excess shall be ignored.

The amendment will take effect from 1st day of April, 2000 and will accordingly apply to 2000-2001 and subsequent years.

[*Clause 57*]

Clarification of tax issues relating to buy-back of shares

The promulgation of the Companies (Amendment) Ordinance, 1998 has inserted section 77A in the Companies Act, 1956 which allows a company to purchase its own shares subject to certain conditions. The shares bought back have to be extinguished and physically destroyed and the company is precluded from making any further issue of securities within a period of 24 months from such buy-back.

The above newly introduced provisions of buy-back of shares has thrown open certain issues in relation to the existing provisions of Income-tax Act. The two principal issues are whether it would give rise to deemed dividend under section 2(22) of the Income-tax Act and whether any capital gains would arise in the hands of the shareholder. The legal position on both the issues are far from clear and settled and there is apprehension that there will be unnecessary litigation unless the issues are clarified with finality.

It is, therefore, proposed to amend clause (22) of section 2 of the Income-tax Act by inserting a new clause 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 77 of the Companies Act, 1956. It is also proposed to insert a new section, namely, section 46A to provide 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 to the extent of the difference between the cost of acquisition and value of consideration so received, subject to provisions of section 48, shall be deemed to be the capital gains.

4.The proposed amendment will take effect from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years. [*Clauses 3 and 33*]

MEASURES TO ACCELERATE ECONOMIC DEVELOPMENT

Incentives to Venture Capital

It is proposed to insert a new clause (23FA) in Section 10 to provide that any income by way of dividends or long term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking will not be included in computing the total income.

The venture capital fund or the venture capital company would require the approval of the Central Government in accordance with the rules made in this behalf and would also be required to satisfy the prescribed conditions before being able to avail this exemption. Such approval of the Central Government will have effect for the number of assessment years prescribed in the order of approval. However, at one time the approval can be for a maximum number of three assessment years.

The expressions “venture capital fund” has been defined to mean a fund operating under a registered trust deed established to raise moneys 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” has been defined to mean 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. The businesses in which the undertakings may be engaged are software; Information Technology; production of basic drugs in the pharmaceutical sector; bio-technology; agriculture and allied sectors; such other sectors as may be notified by the Central Government in this behalf or production and 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.

As a consequence to the above amendment, it is proposed to insert a sunset clause in the existing section 10(23F) so that the provisions of this clause which provide exemption in respect of any income by way of dividends or long term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking, shall not apply to any investment made after 31st March, 1999. Such investment will qualify for exemption under the newly inserted clause (23FA) in section 10.

The proposed amendment will take effect from 1st April, 2000, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 6*]

TAX INCENTIVES FOR PROMOTION OF HOUSING

Liberalisation of tax holiday to approved housing projects

Under section 80-IA of the Income-tax Act, profits of approved housing projects where the development and construction commences on or after 1.10.1998 and is completed by 31.3.2001, are fully deductible. The conditions necessary for claiming the benefit are that the approved housing project should be on minimum area of one acre and should have dwelling units with a maximum built up area of 1000 sq. ft.

It is proposed to modify the existing benefits to provide that in areas other than falling in and within 25 kms. from the municipal limits of Delhi and Mumbai, the built up area of dwelling units may be upto a maximum limit of 1500 sq. ft. instead of 1000 sq. ft. at present to make them entitled for the benefit. The built up area for areas falling in Delhi and Mumbai and within 25 kms. of the municipal limits of both, however, shall remain the same.

The proposed 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*]

Enhancement of deduction of interest allowable on borrowed capital in respect of self-occupied residential house

The deduction of interest on account of borrowed capital invested in the acquisition or construction of a house is prescribed in the

proviso to sub-section (2) of section 24 in regard to self-occupied residential houses. The ceiling of deduction presently stands at Rs. 30,000. To give a boost to the house building activity and encourage construction of more residential units to meet the increasing housing needs, it is proposed to enhance the deduction of interest available at present. If the loan has been taken for constructing or acquiring a residential unit on or after 1.4.99 and the construction of the residential unit out of such loan has been completed before 01.4.2001, the deduction on account of interest on such loans can be availed up to a limit of Rs. 75,000.

The amendment will take effect from 1st day of April, 2000 and will accordingly apply to assessment year 2000-2001 and subsequent years.

[*Clause 11*]

Extension of provisions of section 43D to Housing Finance Companies

Under the existing provisions of section 43D, income by way of interest in relation to the bad and doubtful debts of a public financial institution or a scheduled bank or a state financial corporation or a state industrial investment corporation is chargeable to tax in the previous year in which it is credited to the profit and loss account or, as the case may be, in which it is actually received, whichever is earlier. With a view to improving the viability of the Housing Finance companies, and to provide a boost to the housing sector the Bill proposes to extend the above provisions to such companies registered with National Housing Bank.

The proposed amendment will take effect from 1st April, 2000 and will, accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 28*]

BENEFITS TO TELECOMMUNICATIONS AND INFORMATION TECHNOLOGY

Rationalisation of the provisions relating to allowance for telecommunication licence fees.

In computation of the profits and gains of business or profession, a deduction is allowable under section 35ABB, in respect of any capital expenditure incurred for acquiring any right to operate telecommunication services and for which the payment has actually been made to obtain a licence. This deduction is allowable in equal installments during the relevant previous years. Under the existing provisions, the expression “relevant previous years” means the previous years beginning with the previous year in which the licence fee is actually paid and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force.

With a view to clarifying that the deduction is allowable in respect of the entire capital expenditure incurred and actually paid by the assessee, whether before the commencement of the business or thereafter, the Bill proposes to provide that in a case where the licence fee is actually paid before the commencement of the business, the relevant previous years would mean the previous years beginning with the previous year in which such business commenced and the subsequent previous year or years during which the licence is in force. It is also proposed that no deduction under sub-section (1) of section 32 shall be available for such expenditure for the same year or any subsequent previous year.

The proposed amendment will take effect retrospectively from the 1st of April, 1996 and will, accordingly, apply in relation to the assessment year 1996-97 and subsequent years. [*Clause 18*]

Concessional rate of tax for income from certain Global Depository Receipts

It is proposed to insert a new section 115ACA in the Income-tax Act relating to tax on income from Global Depository Receipts (GDRs) purchased in foreign currency or capital gains arising from their transfer.

The new section seeks to provide that on income by way of dividends or long term capital gains in respect of Global Depository Receipts of an Indian company purchased by a resident employee of such company in accordance with a notified employees' stock option scheme, the income-tax payable shall be the at the rate of ten per cent. This concessional rate would only apply to the income from investments in Global Depository Receipts of a resident employee of a domestic company engaged in information technology software and information technology services.

It further seeks to provide that in the case of the aforesaid resident employee, no deduction shall be allowed under any other provision of the Income-tax Act in respect of such dividend income and long term capital gains.

It is also proposed to provide that while computing such long term capital gains, the first and second provisos of sub-section (1) of section 48 will not apply.

In the Explanation to the new section the expressions “Global Depository Receipts”, “Information Technology Software”, “Information Technology Service” and “Overseas Depository Receipts” have been defined.

The proposed amendment will take effect from 1st April, 2000, and will accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 59*]

Deduction of Y2K expenses

The change in the millennium is expected to create a major software problem in respect of the computer systems which are not Y2K compliant, that is, which are not programmed to correctly reckon dates within and between the 20th and 21st century. The Bill proposes to insert a special provision to provide for deduction in computing the profits and gains of business or profession, of any expenditure incurred, wholly and exclusively to make the existing computer system Y2K compliant, on or after 1st April, 1999, but before 1st April, 2000.

The proposed amendment will take effect from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 only. [*Clause 22*]

WELFARE MEASURES FOR SENIOR CITIZENS AND OTHERS

Limits under section 80DDB revised

Under the existing provisions of section 80DDB, a deduction of Rs.15,000/- is allowed in the computation of total income of an individual suffering from chronic and protracted diseases and terminal ailments or to any individual or HUF, on whom such individual is dependant. Considering the expensive nature of treatment involved in diseases specified in the provision, this limit is proposed to be raised to Rs.40,000/- with effect from 1st day of April, 2000. The amount of deduction under the amended provision shall be worked out after reducing the amount, if any, received under any scheme by way of medical insurance.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 42*]

Deduction for medical treatment and insurance premia etc. raised

Certain measures have been introduced to provide relief to senior citizens. The limit of Rs.40,000/- under section 80DDB is proposed to be raised to Rs.60,000/- in case the assessee or the dependent happens to be a senior citizen. Similarly, under the existing provisions of section 80D, a deduction upto Rs.10,000/- is available for payment to effect or keep in force an insurance on the health of the assessee or his family members. In case the payment is to effect or keep in force an insurance on the health of such assessee or other eligible family members who are senior citizens, the deduction is proposed to be raised to Rs.15,000/-.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clauses 40 and 42*]

Exemption of leave salary of non-government employees revised to the limit of salary of ten months

Under the existing provisions the amount of encashment of earned leave upto a period of eight months is exempt under section 10 (10AA) of the Income-tax Act. Pursuant to recommendations of the Fifth Pay Commission, the limit has been raised to ten months in cases of employees of the Central or a State Government.

The limit applicable to non-government employees is also required to be raised as a result of the higher amount being exempt in the case of Central Government employees in consequence to the recommendation of the Fifth Pay Commission.

Since the amendment to Clause (10AA) was necessitated as a result of the recommendations of the Fifth Pay Commission in the case of Central Government employees, which became effective from 1.7.1997, this amendment is also proposed to be retrospectively applicable with effect from 1.7.1997. [*Clause 6*]

Provision under section 80DD modified

Under the existing provision of section 80DD, a deduction for the amount incurred on maintenance of handicapped dependant or payment made for such person under a specified scheme of LIC or UTI is allowed subject to an overall limit of Rs.40,000/-. Reservations have been expressed that the provision in its present form may create difficulties for such assessees as it may lead to a situation where evidence for such expenditure may be insisted upon by the Assessing Officers. In order to mitigate any such hardship of the guardians of a handicapped person, it is proposed to allow a deduction of the amount of Rs.40,000/- in such cases.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [*Clause 41*]

Pension of gallantry award winners exempt in certain cases

To recognise the services rendered by the members of defence forces who have been awarded the Param Vir Chakra, the Maha Vir Chakra and the Vir Chakra, for demonstration of exceptional courage and valour during a war, the pension and family pension of such gallantry award winners is proposed to be exempted from income-tax. Similar exemption would also be available to other gallantry award winners, to be notified by the Central Government.

The proposed amendment will take effect from the 1st day of April, 2000 and will accordingly apply in relation to assessment year 2000-2001 and subsequent years. [Clause 6]

TAX-PAYER FRIENDLY MEASURES

Filing of TCS returns on magnetic media

Under the existing provisions of sub-section (5A) of section 206C, the persons collecting tax in accordance with the provisions of section 206C are required to file returns of tax collection at source.

The returns of tax collection contain voluminous data, and preparing these returns and then processing the data contained therein for checking its correctness requires substantial manual effort. The Bill proposes to provide for filing of these returns on magnetic media such as floppies, diskettes etc. as may be specified by the Board. It is also proposed that the information in such returns shall be admitted in evidence in any proceedings under the Act.

The proposed amendments will take effect from 1st June, 1999. [*Clause 80*]

Simplification of procedure of processing of return under sub-section (1) of section 143 and doing away of prima-facie adjustment

Under the existing provisions of Income-tax Act all the returns filed are processed under sub-section (1) for payment of tax and issue of refund. Certain powers are available with the Assessing Officer to rectify arithmetical mistakes and make prima-facie adjustments regarding allowable and disallowable claims and deduction. These are known as prima-facie adjustments. In addition to tax on income as a result of prima-facie adjustment, 20% of the tax is also levied as additional tax for making incorrect claims.

It is seen that the present system of prima-facie adjustment has become some sort of assessment in itself where every return is examined minutely and such adjustments are also open to appellate remedy. Most of the time of the Assessing Officer is utilised in processing the returns in the above manner leaving very little time for other important works. The ever-increasing number of returns also will make such processing of returns more time consuming. In view of the above it is proposed that the present provisions contained in sections 143(1) or 143(1A) or 143(1B) are to be modified to do away with prima-facie adjustments, additional tax and issue of intimations in all cases. Filing the return by itself would complete the process of assessment limiting its scope to raise demand and issue refund on the basis of the return filed. Except for issuing intimations where any sum is payable by the assessee or refund is due to him, the acknowledgement shall be deemed to be an intimation. It is also proposed to amend section 154 of the Income-tax Act to provide for rectification of intimation or deemed intimation referred to in the proposed sub-section (1) of section 143. Similar amendments have also been proposed in the Wealth-tax Act.

The proposed amendment shall take effect from 1st day of June, 1999. [*Clauses 64, 65, 92 & 97*]