MEASURES TO WIDEN THE TAX BASE

Tax deduction at source on payment of compensation relating to compulsory acquisition of a capital asset.

An effective method of widening the tax base is to enlarge the scope of deduction of income -tax at source. An item which needs to be covered within the scope of deduction of income-tax at source is the compensation received on account of compulsory acquisition of capital asset under any law. The Bill proposes to insert a new section 194L, to provide for deduction of tax at source at 10% on payments, exceeding rupees one lakh during the financial year, made on account of compensation on compulsory acquisition of capital assets under any law.

The Bill also seeks to amend section 197 of the Income-tax Act, relating to certificate for deduction of income-tax at a lower rate so as to include the new section 194L within the scope of the said section.

The Bill also seeks to amend sections 198 to 200 and 202 to 205 of the Income-tax Act, relating to provisions in respect of deduction of income-tax at source. This amendment is consequential to the proposed insertion of new section 194-L in the Act.

The proposed amendment will take effect from 1st June, 1999. [*Clauses 74,76 and 78*]

INCENTIVES FOR THE BANKING SECTOR

Amendment of provisions relating to deduction for provision for bad and doubtful debts in the case of Banks.

Under the existing provisions of section 36(1)(viia), in computing the business income of a scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank, deduction is allowable in respect of any provision for bad and doubtful debts made by such bank at an aggregate of the amount not exceeding 5% of the total income and 10% of the aggregate average advances made by its rural branches.

In order to strengthen the financial position of the banks, the Bill proposes to give an option to such banks, for a period of five years to claim a deduction for any provision made by it in respect of doubtful or loss assets in accordance with the guidelines issued by the Reserve Bank of India for an amount not exceeding 5% of such loss or doubtful assets.

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 up to the assessment year 2004-2005. [*Clause 22*]

Deduction for interest payable to co-operative banks to be allowed on actual payment basis

The existing provisions of section 43B interalia, allows deduction in respect of interest payable on any term loan from a scheduled bank on actual payment basis and not on accrual basis. The Bill proposes to include a co-operative bank within the meaning of a scheduled bank for the purposes of allowing deduction in respect of interest on such term loans.

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 27*]

MEASURES TO CHECK EVASION AND TAX AVOIDANCE

Computation of actual cost of assets in the case of Non-Residents

Under the existing provisions of section 43(6), in computing the written down value of an asset or a block of assets, interalia, only the depreciation actually allowed under the Indian Income tax Act, either existing or repealed, is reduced from the actual cost of such asset. The Bill proposes to provide that in the case of an asset, which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost 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.

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 26*]

Taxing profits and gains arising from insurance claim received for damage or destruction of a capital asset as capital gains

Various courts have held that there is no transfer when the asset is destroyed as the asset has to exist in the process of transfer. The money received under insurance policy is compensation by virtue of contract of insurance and not consideration for transfer.

It is proposed to provide that the profits and gains arising from the receipts of an insurance claim on account of destruction or damage of a capital asset as a result of fire, flood, earthquake, civil disturbance and war, etc. shall be deemed to be capital gains for the purposes of section 48 and taxed in the year of receipt.

The proposed amendment will take effect from 1st day of April 2000 and will accordingly apply to assessment year 2000-2001 and subsequent years. [*Clause 32*]

Modification in respect of provisions regarding non-residents

Section 9 of the Income-tax Act details the income which is deemed to accrue or arise in India. Under the existing provisions, it is stated that income which falls under the Head “Salaries”, if it is earned in India will be deemed to accrue or arise in India. It is proposed to expand the existing Explanation which states that salary paid for services rendered in India shall be regarded as income earned in India, so as to specifically provide that any salary payable for rest period or leave period which is both preceded and succeeded by service in India, will also be regarded as salary earned in India.

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 5*]

RATIONALISATION AND SIMPLIFICATION

Provisions to tax perquisites in case of stock option and sweat equity plans

Many corporate bodies are offering stock option plans to their employees. In such plans, the stock is offered to the employee at a value less than market value. In such a situation a benefit accrues to the employee. To remove any uncertainty with regard to the taxability of such benefits, it is proposed to provide that when any such share, security is directly or indirectly, offered to any assessee by the company or any other person, the difference between the market value of the stock and the cost at which it is being offered to the employee shall be taxed as perquisite. This benefit shall be taxed in the year in which the right of such option is exercised or is exercised and transferred in the name of any other person. It is further proposed that the difference between the market value on the date of exercise of option and the sale consideration in the event of sale by the employee would be taxed as capital gains in his hands.

Section 79 introduced by Companies (Amendment) Ordinance, 1998 provides that a company may issue sweat equity shares of a class of shares already issued to a class of employees. These shares may be issued at a discount or for consideration other than cash for providing know-how or making available rights in nature of intellectual property rights by whatever name called. It is proposed to treat the value of such shares as perquisite in the year in which such option is exercised by the employee or director as the case may be. Where the amount paid for such securities is 'nil', the perquisite value shall be the market value of such shares.

A consequential amendment is also made to 'define' the cost of acquisition of such shares. In case such shares are ultimately sold, the fair market value of these shares at the time of exercise of option would be their cost of acquisition for the purposes of capital gain.

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

[*Clauses 10 and 35*]

Removal of approval by the Central Government

The existing provisions of section 36(1)(viii) provide for deduction of an amount not exceeding 40% of the profits derived by a financial corporation engaged in providing long-term finance for industrial or agricultural development or development of infrastructure facility in India or 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, provided the amount is carried to a special reserve account. The deduction is, however, allowable only if the financial corporation or the company is approved by the Central Government.

As a measure of simplification, the Bill proposes to remove the requirement of approval by the Central Government for the purposes of the said section.

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 22*]

Amendments of sections 44AD, 44AE and 44AF to provide for claiming lower profits

Under the existing provisions of sections 44AD, 44AE and 44AF, presumptive tax schemes are provided for computing the profits and gains of the business of civil construction, the business of plying, hiring or leasing goods carriages and retail trade in any goods or merchandise, respectively. There is no requirement for the assessee to maintain books of account for such business and to get them audited, if the deemed profits and gains are taken as taxable profits of such business.

The Bill proposes to provide an enabling clause for an assessee to claim his income to be lower than the deemed profits and gains, subject to the condition that the books of account and other documents are kept and maintained as required under section 44AA and the assessee gets his accounts audited and furnishes a report of such audit as prescribed under section 44AB.

The proposed amendments will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-99 and subsequent years. [*Clauses 29,30 and 31*]

Receipts of money in convertible foreign exchange to be considered for deduction when received beyond the period of six months with the approval of the Reserve Bank of India.

Under the existing provisions of sections 80HHB, 80HHC, 80HHD, 80HHE, 80-O, 80R, 80RR, and 80RRA, when the receipts in convertible foreign exchange are received after a period of six months from the end of the previous year, the approval of the Chief Commissioner or Commissioner is required to avail of the deduction. As obtaining such approval from the Chief Commissioner or Commissioner often results in delay, it is proposed to do away with such approval, as the Reserve Bank of India in any case monitors such remittances and accords approval in case of delay. As a result where remittances are brought after the period of six months, the approval of the Reserve Bank of India or any such authority authorised to deal with any law governing such receipts shall suffice. However, the requirement of a furnishing a certificate shall continue in the provisions. It is also proposed to amend section 155 to enable the assessing officer to amend the assessment order within a period of four years in such cases.

These amendments will take effect from the 1st day of June, 1999. [*Clauses 45,46,47,48,53,54,55,56 and 66*]

Amendment of section 80HHC

Forty percent of income derived from the sale of tea grown and manufactured by the sellers in India is chargeable to tax as the rest is regarded as agricultural income. In some cases where the tea is being exported, the deductions under section 80HHC are being computed with reference to the composite income, including the income not chargeable to income-tax. To clarify doubts, it is proposed to provide that for the purposes of computing deduction under section 80HHC, the amount of income not being charged to tax under the Act shall in no case be eligible for deduction under the section.

This amendment shall be effective retrospectively from the 1st day of April 1992 . [*Clause 46*]

Provisions relating to registration of Trusts

It is proposed to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal. The existing provisions 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 this section so as to insert a reference to Section 12AA so that appeal may be filed against an order passed under section 12AA.

It is proposed to amend section 12A so as to provide that an application for registration of the Trust or institution which is required to be made in the prescribed form and manner to the Chief Commissioner or Commissioner, shall from 1st June, 1998 be made only to the Commissioner.

In consequence to the above proposed amendment, it is further proposed to amend section 12AA of the Income-tax Act so as to provide that the 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.

It is also proposed to insert a new sub-section (1A) in section 12AA 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 applications from the stage at which it was on that day.

The proposed amendment will take effect from 1st June, 1999. [*Clauses 8, 9 and 85*]

Deduction for donations made to funds or institutions for charitable purposes

Under the existing provision of section 80G of the Income tax Act, 1961, a deduction in respect of donations to certain funds, institutions etc. is provided. However, if such fund or institution has in its instrument any provision for the transfer or application at any time of the whole or any part of the income or asset for any purpose other than a charitable purpose, it cannot avail of the benefit under this section. It has also been provided that for the purpose of this section, 'charitable purpose' does not include any purpose, the whole or substantially the whole of which, is of a religious nature.

Many institutions which are carrying out charitable work are often inspired by the tenets of religion. In order to allow them to show respect to this aspect without depriving them of the benefit of this section, it is proposed to amend the provisions of section 80G so as to provide that in case such institution or fund spend not more than five per cent of its income during the relevant previous year for religious purpose, the benefit of this section will not be denied to them.

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

[*Clause 43*]

Modification of the definition of small scale industry

Under the existing provisions of the section 80HHA, a deduction of 20% for a period of ten years is available to small scale industrial undertakings which commenced manufacture or production in the period between 30th September, 1977 to 31st March, 1990,. The definition of small scale industry based on value of investment in plant and machinery is different for different periods. This definition is proposed to be modified by bringing it in consonance with the definition prescribed under section 11B of Industries (Development and Regulation) Act, 1951.

The proposed amendment will be effective retrospectively from the 1st day of April, 1978. [*Clause 44*]

No deduction of tax from interest on securities in certain cases.

Under the existing provisions of section 197A, an individual can receive the income from interest on securities without deduction of tax at source, on furnishing to the payer of such income a declaration to the effect that tax on his estimated total income will be 'Nil'. With a view to mitigate the hardship faced by the tax exempt entities like trusts, provident funds, gratuity funds, superannuation funds etc., the Bill proposes to amend the said section so as to allow any person (other than a company or a firm) to receive such income from interest on securities without any deduction of tax at source on furnishing such declaration.

The proposed amendments will take effect from 1st June, 1999. [*Clause* 77]

Certificate for collection of tax at a lower rate.

Under the existing provisions, the seller is required to collect tax at source at the prescribed rate from the buyer of the goods specified in sub-section (1) of section 206C. To mitigate the genuine hardship faced by the buyers, the Bill proposes to provide for issue of certificate by the Assessing Officer for collection of tax at a lower rate than specified, in appropriate cases.

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

Omissions of transitory provisions and certain modifications

It is proposed 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. This amendment will restore the earlier provision as it stood before its amendment by the Finance (No.2) Act, 1998.

The proposed amendment will take effect from 1st April, 1999, and will accordingly, apply in relation to assessment year 1999-2000 and subsequent years. [*Clause 3*]

Reference of 10(6)(viia) in clause 10(5B) is omitted consequent to omission of this sub-clause by Finance (No.2) Act, 1998.

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

It is proposed to rationalise the two provisos to clause (23C) of section 10 so that the Central Government before notifying a fund, trust or institution may call for any information and may hold any enquiry so as to determine the genuineness of such fund, trust or institution. It is also proposed to empower the prescribed authority to call for information or to hold such enquiry as it deems fit before the University or other educational institution or a hospital is approved under clause (23C) of section 10.

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

It is proposed to amend section 33ABA which relates to Site Restoration Fund so as to omit the proviso in sub-section (7). This amendment is consequential to the omission of clauses of sub-section (3) of this section by Finance (No.2) Act, 1998.

The proposed amendment will take effect from 1st April, 1999, and will accordingly, apply in relation to assessment year 1999-2000 and subsequent years. [*Clause 13*]

Section 115AD of the Income-tax Act relates to tax on income of the Foreign Institutional Investors from securities or capital gains 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, so as to restore the provision as it stood prior to amendment by the Finance (No.2) Act, 1998.

The proposed amendment will take effect from 1st April, 1999, and will accordingly, apply in relation to assessment year 1999-2000 and subsequent years. [*Clause 60*]

It is proposed to substitute the existing section 3 which defines the term “previous year”. The proposed substitution will result in omission of transitory provisions which were applicable only for a limited period when the definition of “previous year” was amended to mean a uniform period of financial year immediately preceding the assessment year. As these provisions are no longer applicable, it is proposed to delete them.

The Tenth Schedule of the Income-tax Act provides for modification of the provisions of the Income-tax Act in cases where the previous year in relation to the assessment year commencing on the 1st April, 1989 exceeds 12 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 and deletion of the provisions relating to extended previous year, the Tenth Schedule is being omitted.

The proposed amendment will take effect from 1st April, 2000. [*Clauses 4 and 89*]

Section 36 of the Income-tax Act relates to certain deductions made in computing the income under the head “Profits and gains of business or profession”.

Under the existing provisions contained in clause (iia) of sub-section (1) of section 36, a weighted deduction is allowed in respect of the expenditure incurred by the assessee on payment of salary to an employee who is totally blind or suffers from a permanent physical disability for any period of employment before 1st March, 1984. As these provisions are not applicable after 1st March, 1984, it is proposed to omit them.

The proposed amendment will take effect from 1st April, 2000. [*Clause 22*]

Section 40A of the Income-tax Act relates to expenses or payments that are not deductible in certain circumstances. Under the provisions of sub-section (7) of this section no deduction is to be allowed in respect of any provision made by the assessee for 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 this sub-section contained a transitory provision in respect of any provision of gratuity made after 1st April, 1973 but before 1st April, 1976. As these transitory provisions are no longer in operation, it is proposed to substitute sub-section (7) so as to omit these provisions.

The proposed amendment will take effect from 1st April, 2000. [*Clause 23*]

Section 194A of the Income-tax Act relates to deduction of tax at source from interest other than interest on securities. It is proposed to omit clause (ii) of sub-section (3) of section 194A which provides that the provisions of sub-section (1) of section 194A relates to deduction of tax at source shall not apply in case of incomes credited or paid before 1st April, 1967.

The proposed amendment will take effect from 1st April, 2000. [*Clause 69*]

It is proposed 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. It is proposed to omit the existing first proviso of this section which provides that no deduction at source shall be made under this section from any payment made before 1st June, 1972. Consequential changes are also proposed in the second proviso.

The proposed amendment will take effect from 1st April, 2000. [*Clause 70*]

It is proposed to amend section 194BB of the Income-tax Act relating to deduction of tax at source from any payment made on account of winnings from horse races. It is proposed to omit the existing proviso of this section which provides that no deduction at source shall be made under this section from any payment made before 1st June, 1978.

The proposed amendment will take effect from 1st April, 2000. [*Clause 71*]

It is proposed to amend section 194H of the Income-tax Act relating to deduction of tax at source from any payment made on account of commission, brokerage, etc. It is proposed to omit this section which provides that no deduction at source shall be made under this section from any payment made before 1st June, 1992.

The proposed amendment will take effect from 1st April, 2000. [*Clause 72*]

Rationalisation of interest chargeable from the assessees.

Under the existing provisions, the rates of interest chargeable from the assessees for various defaults vary from 15% to 18% per annum. In order to rationalise these rates the Bill proposes to prescribe a uniform rate of 18% per annum for various defaults. Accordingly, it is proposed to decrease the rate from 2% for every month or part of a month to 1.5% for every month or part of a month, in respect of interest chargeable under section 234A for defaults in furnishing return of Income and under section 234B for defaults in payment of advance tax. It is further proposed to increase the rate from 15% per annum to 18% per annum in respect of interest chargeable under sub-section (1A) of section 201 for failure to deduct and pay tax at source.

The proposed amendment will take effect from 1st June, 1999. [*Clauses 79,81 and 82*]

Replacement of scale of amounts by a definite amount as penalty imposable under 272A(2)

Section 272A(2) of the Income-tax Act contains provision for levy of penalty for defaults of miscellaneous and continuous nature such as failure to answer questions, sign statements, furnish information, returns or statements and allow inspection etc. The amount of penalty in all these cases is provided at Rs. 100 to 200 for every day during which the delay or the default continues. However, maximum ceiling of not exceeding the tax payable has been provided in respect of defaults relatable to sections 203, 206 and 206C.

The prescription of a scale of penalty does not have any practical value. In almost all cases, it is the minimum penalty which gets imposed at the appellate stage if not at the stage of Assessing Officer. Therefore, it is desirable to replace the scale of penalty from

Rs. 100-200 to a definite amount of Rs. 100 for every day of default. This is also in keeping with the policy to reduce the area of discretion.

The proposed amendment will take effect from 1st June, 1999. [*Clause 88*]

Rationalisation of provisions relating to reduction of litigation and other allied issues

Finance (No.2) Act, 1998 introduced a number of measures to reduce mounting litigation and delay in disposal of appeals under direct tax enactments. The major amendments included direct appeal to High Court, introduction of a scale of fee for the Commissioner (Appeals) and enhancement of scale of fee payable before the Appellate Tribunal. These provisions have come into effect from 1st day of October, 1998. A number of suggestions have been received on the implementational aspects of these measures. Some of these measures require legal changes to rationalise and streamline the provisions. Keeping the above in view, following amendments have been proposed:-

(i) Under the existing provisions brought about by the Finance (No.2) Act, 1998 an appeal filed by an assessee before the High Court is to be accompanied by a fee of Rs. 10,000 in Income-tax appeals. A similar fee of Rs. 5,000 is payable for filing appeal in Wealth-tax cases. The fee payable in other direct tax enactments are consequential to the similar provisions in the Income-tax Act and the Wealth-tax Act. A debatable issue has arisen about the nature of above payment as to whether it is a tax on litigation or a Court fee. Therefore, it is proposed to amend section 260A(2)(b) of the Income-tax Act and section 27A(3) of the Wealth-tax Act to omit the requirement to pay any fee 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 appeals to the High Court.
[*Clauses 87 and 96*]

(ii) It is proposed to provide that the Chief Commissioner or the Commissioner shall file the appeal before High Court within 120 days from the date of the receipt of the order of the Appellate Tribunal. [*Clause 87*]

(iii) As the procedure for filing appeals before the High Court is prescribed in the Code of Civil Procedure, it is proposed to provide the necessary reference that the relevant provisions of Code of Civil Procedure shall apply mutatis mutandis to section 260A of the Income-tax Act and section 27A of the Wealth-tax Act. [*Clauses 87 and 96*]

(iv) Subject to the provisions of section 256 of the Income-tax Act and section 27 of the Wealth-tax Act relating to reference to High Court, the orders passed by the Appellate Tribunal are final. With the provision for direct appeal coming into force in section 260A of the Income-tax Act and section 27A of the Wealth-tax Act, the orders of Appellate Tribunal shall be subject to these provisions as well. [*Clauses 86 and 94*]

(v) Section 27A of the Wealth-tax Act introduced by the Finance (No.2) Act, 1998 provides for direct appeal to the High Court. Earlier provisions regarding making a reference to the High Court were contained in section 27. It is proposed to insert a sun-set clause in section 27 whereby the provisions of the section would be applicable to appeals filed before 1.6.99.[*Clause 95*]

(vi) Section 76 of the Finance (No.2) Act, 1998 made certain amended and new provisions of Wealth-tax Act applicable to Gift-tax Act. It is proposed to amend the Finance (No.2) Act, 1998 to include a reference to section 23A of the Wealth-tax Act relating to appealable orders before Commissioner (Appeals) to the Gift Tax Act. [*Clause 139*]

(vii) Finance (No.2) Act, 1998 introduced a scale of fees for filing appeals before the Commissioner (Appeals) and also enhanced the existing scale of fee payable before the Appellate Tribunal under various direct tax Acts. The fee payable under Income-tax Act both before the Commissioner (Appeals) and the Appellate Tribunal is relatable to the assessed income. However appeals are also filed on issues such as TDS defaults, non-filing of returns, etc. which may not have any nexus with the assessed income. It is, therefore, proposed to provide a fee of Rs. 250 for appeals before the Commissioner (Appeals) and Rs. 500 for appeals before the Appellate Tribunal for the residuary group of appeals which cannot be linked with assessed income or assessed net wealth.

The proposed amendments shall take effect on the 1st day of June, 1999. [*Clauses 83,85 and 94*]

Time limit for disposal of appeals by the Commissioner (Appeals) and the Appellate Tribunal and empowering the latter to award costs

Presently, there is no time limit for disposal of appeals filed before the Commissioner (Appeals) or the Appellate Tribunal under the Income-tax Act or the other direct tax enactments. In the absence of any statutory provision, there is considerable delay in the disposal of appeals. It is also seen that there is disinclination to take up the old appeals for disposal by the Commissioner (Appeals). To ensure accountability as well as to ensure disposal of appeals within a reasonable time-frame, it is proposed to provide that the Commissioner (Appeals), where it is possible, may hear and decide every appeal within a period of one year from the end of the financial year in which the appeal is filed. The Appellate Tribunal where it is possible may hear and decide every appeal within a period of four years from the end of the financial year in which the appeal is filed. Similar provisions have also been provided for the Wealth-tax Act and the Expenditure-tax Act.

To discourage filing of frivolous appeals it is also proposed to empower the Appellate Tribunal to award costs in suitable cases under the Income-tax Act, and the Wealth Tax Act

The proposed provisions shall take effect from 1st June, 1999. [*Clauses 84,86,93,94 and 99*]

Exclusion of two-wheelers from the purview of the motor vehicle for the purpose of filing return under proviso to section 139(1)

Proviso to section 139(1) casts obligation on a person to file return of income on the basis of six specified economic criteria. One such criteria is the ownership or lease of a motor vehicle. The definition of 'motor vehicle' in this section follows the definition given in clause (28) of section 2 of the Motor Vehicles Act, 1988. This definition includes vehicles less than four wheels having engine capacity of more than 25 cubic centimeters.

It is, therefore, proposed that two wheelers should be kept out of the relevant economic criteria of motor vehicle requiring filing of return under the proviso.

The proposed amendment will take effect from 1st June, 1999. [*Clause 62*]

Amendment of section 139(6) to provide for particulars of bank account and credit card in prescribed form of return

The details and information to be furnished in the return of income and the statements and annexures to accompany the return of income are guided by the provisions of sub-sections (6), (6A) and (9) of section 139.

Under the existing provisions contained in sub-section (6), the form of return requires the assessee to furnish the particulars of income exempt from tax, assets of the prescribed nature and value and prescribed expenditure and outgoings.

The existing provisions of sub-section (6) may not allow to prescribe the requirement of furnishing particulars of bank account or credit card in the form of return. This is a handicap for the Department which requires the information regarding bank accounts for incorporating the bank account number in the refund voucher while issuing refund.

Therefore, it is proposed to amend section 139(6) to require the assessee to give the details of bank account and credit card in the prescribed form of return.

The proposed amendment will take effect from 1st day of June, 1999. [*Clause 62*]

Self-assessment tax to be paid while filing returns for the block period in search cases

Under section 140A of the Income-tax Act, the assessee is required to pay tax on the basis of income declared in the return and such tax is required to be paid before the return is furnished and the return is accompanied by the proof of such payment. The existing provisions of section 140A are not applicable to Chapter XIV-B relating to the assessment of the income of the block period in search and seizure cases. There is also no corresponding provision in Chapter XIV-B for payment of self-assessment tax at the time of filing the return. Therefore, the tax on the admitted income declared in the return cannot be collected till the assessment is completed. In view of the above, it is proposed to amend section 140A of Income-tax Act to provide for the requirement of payment of self-assessment tax at the time of filing the return under 158BC relating to block assessment of search cases.

The amendment will take effect from 1st day of June, 1999. [*Clause 63*]

Sunset provisions to sections 180 and 180A relating to assessment of income from royalties and copyright fees and consideration for know-how

Section 180 of the Income-tax Act is applicable for assessment of income or receipts of a lumpsum consideration received by an author or an artist for assigning away his interest in the copyright or royalty, where the literary or the artistic work has taken more than 12 months to be completed. The lumpsum consideration is allowed to be allocated amongst the previous years as per the prescribed rule. Section 180A provides that the assessment of consideration received or receivable by the resident individual for allowing the use of know-how developed by him is to be spread over to the year of receipt or receivable and two immediately preceding previous years in equal instalments.

These provisions have a narrow applicability and have outlived their utility in recent years after rationalisation of structure of income-slabs for rate purposes and significant reduction of tax rates. The Expert Group set up for simplification and rationalisation of Income tax law also recommended the omission of these sections. Therefore, it is proposed to provide that these two sections shall cease to apply from the assessment year 2000-2001 onwards. [*Clauses 67 and 68*]

Consequential amendments

In view of the substitution of new sections 80-IA and 80-IB, it is proposed to make consequential amendments to sections 10A, 10B, 80A, 88 and 115-JA of the Income-tax Act and section 4 of the Expenditure-tax Act, 1987.

The proposed amendments shall come into effect from the 1st day of April, 1999, and shall apply to assessment year 2000-2001 and subsequent years. [*Clauses 90 and 98*]

GOLD DEPOSIT SCHEME

It is proposed to exclude the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 from the definition of capital assets so as to exempt the capital gains arising from their transfer or redemption.

It is proposed to amend clause (15) of section 10 so as to provide that the interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 shall not be included in computing the total income.

It is proposed to amend section 2 of the Wealth-tax Act by inserting an Explanation to clause (ea). This is to clarify that jewellery does not include the Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 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 3,6 and 91*]

Exemption of Commodity Boards and Authorities from income-tax

It is proposed to insert a new clause (29A) in section 10 so as to provide that the income of certain Commodity Boards and Export Development authorities would be exempt from income-tax. The Commodity Boards and Export Development Authorities which are set up under various statutes and are under the administrative control of the Commerce Ministry, namely, the Coffee Board, the Rubber Board, the Tea Board, the Tobacco Board, the Marine Products Export Development Authority, the Agricultural and Processed Food Products Export Development Authority and the Spices Board, are proposed to be exempted with effect from 1st April, 1962 or the previous year in which these Boards or authorities were constituted, whichever is later.

The proposed amendment will take effect from the date of Presidential assent to the Act. [*Clause 6*]