WELFARE MEASURES

Extension of date of utilisation for donations received for Gujarat earthquake relief

As per the existing provisions of section 80G of the Income-tax Act, 1961, an assessee is allowed a deduction from his total income in respect of donations made to specified charitable funds and institutions. The amount of deduction is 100% of donation, in respect of donations to certain funds of national importance, while deduction in respect of donations to other approved funds/institutions is available at 50%. In view of the enormity of the earthquake in Gujarat, donations to trusts, funds and institutions received up to 30th September, 2001, to be utilized for relief of victims of the earthquake were allowed 100% deduction, by the Taxation Laws (Amendment) Act, 2001. Such donations were to be utilized for relief of earthquake victims in Gujarat, by 31st March, 2002. The unutilized amount was to be transferred to the Prime Minister's National Relief Fund by 31st March, 2002. Failing this, the amount of donations to the extent unutilized or not transferred to the Prime Minister's National Relief Fund were to be taxed in the hands of such funds, institutions, or trusts, in terms of provisions of clause (23C) of section 10 or section 12 of the Income-tax Act, 1961. Further, such trusts, funds and institutions, had to maintain separate accounts in respect of such funds and had to render the same to the prescribed authority by 30th June, 2002.

In view of the large-scale extent of the damage, it may not be possible to complete the relief work in the limited time of one year. It is, therefore, proposed to extend the time limit for utilization of eligible donations and transfer of unutilized funds to the Prime Minister's National Relief Fund from 31st March 2002 to 31st March, 2003. It is also proposed to extend the date of submission of separate accounts to the prescribed authority to 30th June, 2003. Further, in order to ensure fiscal discipline, it is also proposed that if no accounts are submitted to the prescribed authority within the prescribed time, the amount of donations received by the trusts, funds or institutions for relief of earthquake victims, would be treated as the income of such trusts, funds or institutions and charged to tax accordingly.

The proposed amendment shall be effective retrospectively from 3rd February, 2001. [*Clauses 4(i), 8 and 29*]

Relief under section 89 for recipients of family pension

Under the existing provisions of section 89 of the Income-tax Act, tax relief is provided to the assessee, if his tax liability is increased on account of receipt of salary, profits in lieu of salary, etc. being paid in arrears or in advance, in the year of such receipt. The tax relief is computed by working out the extent to which the tax liability would have been lower, had such income been received in the years it relates to. The proposed amendments seek to provide similar relief to family pension received in arrears by family members of the deceased employee.

The proposed amendments will take effect retrospectively from 1st April, 1996 and will, accordingly, apply in relation to the assessment year 1996-1997 and subsequent years. [*Clause 36*]

Scheme for taxation of perquisites simplified with employer given option to pay tax on behalf of employees

Under the existing provisions of section 192 of the Income-tax Act, 1961, an employer is required to deduct tax at source on income under the head 'Salaries', inclusive of the value of perquisites. In case, such tax is paid by an employer on behalf of an employee, the same being in the nature of an obligation which, but for such payment, would have been payable by the employee, is considered a perquisite, and is chargeable to tax.

Under the proposed new scheme of taxation of perquisites, an employer has been given an option to pay tax on the whole or part value of perquisite (not provided for by way of monetary payments), on behalf of an employee, without making any deduction from the income of the employee.

It is proposed to insert a new clause (10CC) in section 10, to exempt the amount of tax actually paid by an employer, at his option, on the income in the nature of a perquisite, (not provided for by way of monetary payment) on behalf of an employee, from being included in perquisites. It is also proposed that such tax paid by the employer shall not be treated as an allowable expenditure in the hands of the employer under section 40 of the Income-tax Act, 1961.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

It is also proposed to make necessary changes in various provisions of Chapter-XVII relating to collection and recovery of taxes. It is proposed to amend section 192 of the Income-tax Act, 1961, so as to provide that an employer shall have an option to pay tax on behalf of an employee, without making any deduction from his income, on the income in the nature of perquisites, (not provided for by way of monetary payment). The employer shall also continue to have the option to deduct the tax on whole or part of such income.

It is also proposed to amend section 200 of the Income-tax Act, 1961, to provide that such tax shall be paid within the prescribed time, to the credit of the Central Government or as the Board directs. It is also proposed to amend section 203 of the Income-tax Act, 1961, to provide that where any such tax has been paid by an employer, on behalf of an employee, the employer shall provide to the employee, a certificate in the prescribed form, giving details of the amount of tax paid, the rate at which the tax has been paid and other particulars, within the prescribed time.

It is also proposed to amend section 199 of the Income-tax Act, 1961, in order to give credit to the employee in respect of tax paid by the employer on behalf of the employee, on the income in the nature of perquisites, (not provided for by way of monetary payment).

It is also proposed to amend section 195A of the Income-tax Act, 1961, so as to exclude the tax paid by the employer on behalf of the employee, on the income in the nature of perquisites, (not provided for by way of monetary payment) for calculating the income of the employee for the purpose of deducting tax at source.

It is proposed to amend section 198 of the Income-tax Act, 1961, so as to provide that the tax paid by the employer on behalf of the employee on the income in the nature of perquisites, (not provided for by way of monetary payment), shall not be added in the income of the employee.

Consequential and clarificatory amendments are also proposed in sections 190 and 201 of the Income-tax Act.

These amendments will take effect from 1st June, 2002. [*Clauses 4(i),20,67,68,78,83,84,85,86 and 87*]

Perquisites not to be taxed in the case of low-paid salaried employees

As per the existing provisions of section 17, perquisites (not provided for by way of monetary payment) other than in the nature of rent free accommodation or concessional rent in respect of accommodation, are not included in the salary income in case of employees whose income under the head “Salaries” does not exceed rupees fifty thousand.

Since the option of payment of tax by the employer on behalf of the employees on such perquisites is proposed to be operative from the assessment year 2003-2004, in the transitional year where there is no such option is available, it is proposed to exempt from tax all perquisites in case of employees whose income under the head "Salaries" does not exceed rupees one lakh for the assessment year 2002-2003 only.

This amendment shall be effective from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 only. [*Clause 11*]

Exemption of amount received under VRS extended to employees of institutions having importance throughout India or throughout a State

Under the existing provision contained in clause (10C) of section 10, any amount received by an employee of companies, authorities etc., at the time of voluntary retirement, or termination of his service in accordance with any scheme or schemes of voluntary retirement; or a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees, is not included in the total income of such employee.

It is proposed to amend clause (10C) of section 10 so as to enlarge the scope of the exemption by extending it to an employee of an institution, having its importance throughout India or any State of States, as may be specified by the Central Government by notification in the Official Gazette for the purposes of the said clause.

This proposed amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years. [*Clause 4 (h)*]

RESOURCE MOBILIZATION

Rationalization of tax rebate under section 88

Section 88 of the Income-tax Act provides for a deduction from income-tax payable by individuals or Hindu undivided families, on contribution to life insurance premia, provident fund, etc. The deduction is equal to 20% of the aggregate amount invested in specified instruments. In the case of an author, playwright, artist, musician or sportsman, the deduction is equal to 25% of the amounts invested in such instruments. For tax payers having gross salary income not exceeding rupees 1 lakh (before allowing deduction under section 16) and in whose case, gross salary income is not less than 90% of the gross total income from all other sources, the deduction is available at the rate of 30%.

The cost of mobilizing small savings is very high and in the case of certain specified small savings, due to the tax rebate under section 88, the effective cost of such savings becomes exorbitantly high and uneconomic. In view of this, the amendment proposes to rationalize the rate of tax rebate under section 88. It is proposed that for persons having gross total income (before deduction under Chapter-VIA) above Rs. 1, 50, 000/- but not more than Rs.5 lakh, the rate of rebate shall be 10%. However, as an incentive for savings for the low income group, the Bill proposes to continue with the rebate of 20% for tax payers having gross total income, (before deduction under Chapter-VIA) not exceeding Rs.1,50,000/-. Further, keeping in account the needs of the salaried class, the rebate shall be higher at the rate of 30% for salaried tax payers having gross salary income not exceeding rupees 1 lakh (before allowing deduction under section 16) and where gross salary income is not less than 90% of the gross total income from all other sources. The rebate shall not be available in case of persons having gross total income (before deduction under Chapter-VIA) more than Rs.5 lakhs.

It is also proposed to provide that the sums paid or deposited need not be out of income chargeable to tax of the previous year. It is also proposed that sums may be paid or deposited any time during the previous year, but the deduction shall be available on so much of the aggregate of sums as do not exceed the total income chargeable to tax during the previous year.

It is also proposed to withdraw the special rate of 25% for sports persons, artists, etc. for the sake of rationalization.

It is proposed to continue with the existing limit of qualifying investment at eighty thousand rupees.

The proposed amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clause 35*]

Deduction to units in Free Trade Zones, etc. and 100% export oriented units restricted to 90% for assessment year 2003-2004

Under the existing provisions of Section 10A, profit and gains from export earnings of new undertakings established in free trade zones, software technology parks, electronic hardware technology parks or Special Economic Zones (SEZs), which are engaged in manufacture or production of articles or things or computer software, are provided with a deduction equal to 100% of such profits.

Section 10B provides for a similar deduction in respect of export earnings of 100% Export Oriented Units. Such deduction is available for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be. For computing the deduction, the profits derived from export of articles or things or computer software are worked out by taking the amount, which bears to the net profits of the business, the same proportion as the export turnover bears to the total turnover of the business carried on by the assessee.

In view of the need for resource mobilization in the short run, the amendment seeks to restrict the deduction to 90% of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for the assessment year 2003-2004 only. [*Clauses 5 and 6*]

STRENGTHENING TAX ADMINISTRATION

Expenditure by way of payment to associations and institutions for carrying out programmes of conservation of natural resources

Under the existing provisions of section 35CCB, sums paid by an assessee carrying on business or profession to any association or institution which has as its object the undertaking of programmes of conservation of natural resources or of afforestation to be used for such programmes or to such fund for afforestation, as may be notified by the Central Government, are allowed as deduction in the computation of taxable profits. The deduction under this provision is not allowed unless the association or institution, as also the programme of conservation of natural resources for which sums are paid, have been approved by the prescribed authority.

Under the existing provisions of section 80GGA, sums paid to any association or institution which is approved by the prescribed authority for the purposes of section 35CCB, to be used for carrying out any approved programmes of conservation of natural resources or of afforestation, qualify for deduction in computation of taxable income of an assessee not carrying on business or profession. Similar deduction is also available in case the sums are paid to a fund notified by the Central Government for the purposes of afforestation.

The Bill proposes to amend the said sections to provide that no deduction shall be allowed in cases where sums are paid after 31st March, 2002 since there are no monitoring provisions in the section to ensure that payments made by the assessees to approved institutions or associations for carrying out approved programmes of conservation of natural resources and of afforestation are utilised for the said purposes. However, programmes of conservation of natural resources and of afforesation are proposed to be included in the guidelines for recommending projects or schemes for the purpose of section 35AC read with rule 11K.

The proposed amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clauses 17 and 30*]

Amounts/donations received to be taxed as income in cases of withdrawal of approval to associations/institutions or withdrawal of notification in respect of eligible projects or schemes

Under the existing provisions of section 35AC a deduction of the amount of expenditure incurred during the previous year by way of payment of any sum to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme is allowed. Eligible project or scheme means a project or a scheme for promoting the social and economic welfare of, or upliftment of, the public as the Central Government may, by notification in the Official Gazette, specify in this behalf on the recommendations of the National Committee. Correspondingly, section 80GGA provides for a deduction in the case of assessees not carrying on any business or profession. Sub-section (4) of the said section provides that where National Committee is satisfied that the project or scheme is not being carried on in accordance with all or any of the conditions, it may withdraw the approval earlier granted to the association or institution. Sub-section (5) also provides for withdrawal of the notification where the project or scheme is not being carried out in accordance with all or any of the conditions on the basis of which such project or scheme was notified.

It is proposed to amend section 35AC to provide that in cases where the National Committee withdraws the approval granted by it to an association or institution on the ground that the project or scheme is not being carried out in accordance with all or any of the conditions subject to which the approval was granted or the notification through which a project or scheme was notified is withdrawn, the entire amount of contribution or donation received by the company or authority or association or institution, as the case may be, or the deduction claimed by a company in respect of any expenditure incurred directly on the eligible project or scheme, the approval for which is withdrawn by the National Committee, shall be deemed to be the income of the company or authority or association or institution, as the case may be, of the year in which such approval or notification is withdrawn. Such income will be taxed at the maximum marginal rate as if such income was not exempt under any provision of the Income-tax Act. This will be notwithstanding to the exemption otherwise available to such company or authority or association or institution under any provision of this Act

The proposed amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clause 16*]

Clarification of definition of persons

Under the existing provision contained in clause (31) of section 2, the expression “person” includes an individual, a Hindu undivided family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not, a local authority and every artificial juridical person not falling within anything aforesaid.

Although, the definition of “person” is inclusive and starts with the qualifying words “unless the context otherwise requires”, in some cases a claim has been made that certain bodies do not fall within any of the definition of “person” provided in clause (31) of section 2 due to sole reason that they are not supposed to have any income or profits and gains.

To avoid ambiguity in this regard and also to avoid a situation where no taxes are paid or deducted on payments made by such bodies, it is proposed to insert an Explanation in clause (31) of section 2 so as to provide that an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not, such person or body or authority or juridical person, was formed or established or incorporated with the object of deriving income, profits or gains.

This amendment is clarificatory in nature.

The proposed amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years. [*Clause 3(b)*]

Special provision for early assessment of bodies formed for short duration

At present, there is no provision in the Income-tax Act for making assessment in the cases of such persons, which are formed for a short duration and are dissolved in the same assessment year or shortly thereafter.

A new section 174A is, therefore, proposed to be inserted to provide that where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person formed or established or incorporated for a particular event or purpose, is likely to be dissolved in the same assessment year in which it was formed or established or incorporated, or immediately after such assessment year, the total income of such person or body or juridical person, for the period from the expiry of the previous year for that assessment year up to the date of its dissolution, shall be chargeable to tax in that assessment year. The provisions of sub-section (2) to (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.

The proposed amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years. [*Clause 66*]

Providing for power to impound books during survey under section 133A

Under the existing provisions of section 133A of the Income-tax Act, the powers of an income-tax authority conducting a survey are limited to the inspection of books of accounts and other documents available at the place of business or profession of the assessee, placing of marks of identification thereon, taking copies or extracts therefrom, making an inventory of any cash, stock or valuable article or thing checked or verified by him and recording the statement of any person which may be useful for, or relevant to any proceedings under the Act.

With a view to prevent the destruction or misappropriation of any evidence found during survey, it is proposed to empower the income-tax authority to impound and retain in his custody books of account or other documents inspected by him during survey, after recording his reasons for doing so. Such books of account or other documents shall not be retained for more than fifteen days without obtaining the approval of the Chief Commissioner or Director General or Commissioner or Director therefor.

This amendment will take effect from 1st June, 2002. [*Clause 55*]

Modification of provisions relating to penalty for late filing of return, and defaults relating to PAN

Section 271F of the Income-tax Act provides for penalty of five thousand rupees for failure to furnish return of income under section 139(1) before the end of the relevant assessment year, or to furnish a return as required by the first proviso to section 139(1) before the due date.

In order to remove the disparity between the penalties relating to returns filed under section 139(1) and under the proviso to that section, it is proposed to substitute the section to provide that the penalty of five thousand rupees for failure to furnish a return under the first proviso to that section shall also be levied only if the return is not filed by the end of the relevant assessment year.

Under the existing provision contained in clause (d) of sub-section (1) of section 272A of the Income-tax Act a penalty of ten thousand rupees is leviable for failure to comply with the provisions of section 139A of the Income-tax Act relating to permanent account number (PAN).

In view of the importance of complying with the provisions relating to PAN, it is proposed to omit the said clause from section 272A and to insert a new section 272B in the said Act, to provide for penalty of ten thousand rupees for failure to comply with the provisions of section 139A or for quoting or intimating a PAN which is false. An opportunity of being heard shall be given to the assessee before the imposition of such penalty.

It is further proposed to insert a reference to section 272B in section 273B of the Income-tax Act to provide that such penalty shall not be imposed if it is proved that there was reasonable cause for the failure. The proposed amendment is consequential in nature.

These amendments will take effect from 1st June, 2002 [*Clauses 98,99,100 and 102*]

Providing for assessment of income on limited issues under section 143

Under the existing procedure of assessment laid down in section 143 of the Income-tax Act, the Assessing Officer if he considers it necessary or expedient, issues a notice under sub-section (2) of section 143 of the Income-tax Act, requiring the assessee to produce any evidence which he may rely on in support of the return. Sub-section (3) provides that after hearing such evidence and after taking into account all relevant material which he has gathered, the Assessing Officer shall pass an order of assessment determining the total income or loss, and the sum payable or refundable to the assessee.

Since a miniscule percentage of returns filed are taken up for scrutiny under the existing procedure, there is a need to evolve a mechanism which can check patently wrong claims of deductions, allowances etc. and prevent leakage of revenue. It is therefore proposed to introduce a concept of limited scrutiny in which, if an Assessing Officer has reason to believe that an assessee has made

a claim of any loss, exemption, deduction, allowance or relief which is inadmissible, he will issue a notice under the proposed new clause (i) of subsection (2) of section 143 specifying the claim and calling upon the assessee to produce evidence and particulars in support thereof. After hearing such evidence and considering such particulars, he will make an assessment of total income or loss under the proposed new clause (i) in sub-section (3) of section 143, limiting himself to the claims he had set out to verify. If he feels that the case requires further scrutiny on other issues, he will be free to issue a notice initiating comprehensive scrutiny of the return, as is being done presently.

These amendments will take effect from 1st June, 2002. [*Clause 57*]

Notice in respect of payment of Advance-tax

Under the existing provisions contained in sub-section (3) of section 210, the Assessing Officer is empowered to issue a notice to the assessee who has not paid any advance tax under sub-section (1) of the said section.

The Bill proposes to rationalize the provisions of sub-section (3) of section 210 to provide that the Assessing Officer by an order in writing may require any person liable to pay advance tax if he is of the opinion that such person has not paid any of the specified instalments of advance tax by the dates specified under section 211.

This amendment will take effect from 1st June, 2002. [*Clause 89*]

Strengthening of provisions relating to search and seizure

Under the existing provision contained in sub-section (1) of section 132 of the Income-tax Act, the authorised officer is empowered inter alia, to enter and search any building, place, vessel, vehicle, or aircraft and seize any books of account or other documents found as a result of search.

With a view to make search operations more effective, it is proposed to amend sub-section (1) to provide that in addition to the powers specified therein, the Authorised Officer shall also have the power to require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic records, to afford the necessary facility to the authorised officer to inspect all such books of account or other documents.

It is further proposed to insert a new section 275B in the Income-tax Act to provide that if any person who is required to afford such facility to the authorised officer, fails to do so, he shall be punishable with rigorous imprisonment for a term, which may extend to two years and shall also be liable to fine.

It is also proposed to insert a reference to section 275B in sub-section (1) of section 279 of the Income-tax Act, so as to provide that a person shall not be proceeded against for an offence under section 275B except with the previous sanction of any of the authorities specified in section 279.

These amendments will take effect from 1st June, 2002 and will, accordingly, apply in relation to a search initiated or requisition made on or after that date. [*Clauses 53, 103 and 104*]

Power to withdraw approval or rescind notification issued in the cases of scientific research association, news agency, notified trust or institution, educational and medical institution etc.

Under the existing provisions, there is no explicit power with the Central Government or the prescribed authority to withdraw approval or rescind the notification issued in cases of a scientific research association referred to in clause (21), news agency referred to in clause (22B), association or institution referred to in clause (23A), institution referred to in clause (23B), or fund, trust, institution, university or other educational institution, hospital or other medical institution referred to in sub-clauses (iv), (v), (vi) and (via) of clause (23C) of section 10.

It is proposed to amend these clauses of section 10, by inserting a proviso in respective clauses, so as to provide explicit powers to the Central Government and the prescribed authority to rescind the notification or withdraw the approval, if the Central Government or the prescribed authority is satisfied that all or any of the specified conditions have been contravened. A copy of such order, rescinding the notification or withdrawing the approval shall be sent to such association, institution etc., and also to the Assessing Officer.

The proposed amendment will take effect from 1st April, 2003 and will, accordingly , apply in relation to the assessment year 2003-2004 and subsequent years. [*Clauses 4(n), 4(o), 4(q), 4(r) and 4(s)*]

Filing of returns by scientific research institution, news agency, trade union,notified trust or institution, educational and medical institution etc.

Under the existing provisions, scientific research association referred to in clause (21), news agency referred to in clause (22B), association or institution referred to in clause (23A), institution referred to in clause (23B), fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other institution referred to in sub-clause (via) of clause (23C), trade union referred to in sub-clause (a) or association of trade unions referred to in sub-clause (b) of clause (24) of section 10 are not obliged to file return of income in respect of which they are assessable. It is, therefore, not possible to ascertain as to whether these bodies are complying with the conditions specified in those clauses.

It is proposed to insert a new sub-section (4C) in section 139 to provide that every such person mentioned above, shall, if the total income in respect of which person, is assessable without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year.

It is also proposed to amend section 272A so as to provide that a delay in the filing of returns may result in levy of penalty under this section.

The proposed amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clauses 56 and 100*]

Procedure for making assessments in the cases of scientific research association, news agency, notified trust or institution, educational and medical institution etc.

Under the existing provisions, the entities mentioned in clauses (21), (22B), (23A), (23B) and (23C)(iv), (v), (vi) and (via) of section 10 are not obliged to file their return as their income is not to be included in the total income. Hence, it is not possible to ascertain as to whether these entities are complying with the conditions, subject to which their income is exempted under section 10. These entities are either approved or notified and would now be required to file return of their income.

It is proposed to amend section 143 so as to provide that in the case of every scientific research association referred to in clause (21), news agency referred to in clause (22B), association or institution referred to in clause (23A), institution referred to in clause (23B), fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) or any university or other educational institution referred to in sub-clause (vi) or any hospital or other institution referred to in sub-clause (via) of clause (23C) of section 10, which is required to file the return of income under sub-section (4C) of section 139, the Assessing Officer shall not make an assessment order of the total income or loss of such scientific research association, news agency, association or institution or fund or trust or university or other educational institution or any hospital or other medical institution (without giving effect to the provisions of section 10), unless he has intimated to the Central Government or the prescribed authority, the contravention of the provisions contained in such clauses, where in his view such contravention has taken place and the notification issued by the Central Government has been rescinded or approval by the prescribed authority has been withdrawn, in pursuance of the said intimation.

Since there would be a time-lag in the process of sending the intimation to the Central Government and receipt of the order rescinding the notification or withdrawing the approval, it is also proposed to amend section 153 so as to provide that the period commencing from the date on which the Assessing Officer intimates to the Central Government or the prescribed authority the contravention, of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) or sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, under clause (a) of the proviso of sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer, shall be excluded in computing the period of limitation under this section.

These amendments will take effect from 1st April, 2003 and will, accordingly apply in relation to the assessment year 2003-2004 and subsequent years. [*Clauses 57 and 58*]

Modified conditions for accumulation of income of any fund, trust or institution, university or other educational institution and hospital or other medical institution and restriction on payment or credit out of such accumulation

The existing provisions contained in sub-clauses (iv) or (v) or (vi) or (via) of clause (23C) of section 10, inter-alia, permit accumulation of twenty-five per cent. of the income for an unlimited period, without any conditions.

It is proposed to amend clause (23C) of section 10 by omitting the provisions permitting accumulation of twenty-five per cent. of the income for an unlimited period and to provide that where the income is accumulated on or after the 1st day of April, 2002, the period of the whole of such accumulation shall, in no case exceed five years.

It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clauses (iv) or (v) or (vi) or (via) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clauses (iv) or (v) or (vi) or (via) shall not be treated as application of income to the objects for which such entity is established.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clause 4(s)*]

Modified conditions for accumulation of income of the charitable or religious trust

Under the existing provisions contained in clauses (a) and (b) of sub-section (1) of section 11, twenty-five per cent. of the income of a trust can be accumulated for an indefinite period, without any condition.

It is now proposed to provide that if the whole of the income derived from property held under trust which is not applied to charitable or religious purposes, but is

(i) accumulated or set apart or ;

(ii) finally set apart,

for application for such purposes, it can be accumulated, subject to the conditions laid down in sub-section (2) of section 11.

Consequent to the above amendment, it is also proposed to substitute the existing *Explanation* of sub-section (1) of section 11.

It is also proposed to substitute a new sub-section for sub-section (1B) of section 11 to provide that where any income in respect of which an option is exercised under the Explanation to the said sub-section, is not applied to charitable or religious purposes in India during the previous year in which the income was received, or during the previous year immediately following, then, such income shall be deemed to be the income of the previous year immediately following the previous year in which the income was received.

It is also proposed to omit the words “seventy-five per cent. of” in the said sub-section (2) so as to provide that if the whole of the income derived from property held under trust is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, income so accumulated or set apart will not be included in the total income of the previous year of the person in receipt of the income provided the conditions specified in this sub-section are complied with.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clause 7*]

Restriction on the application of accumulated income of the charitable or religious trusts

It is proposed to insert an Explanation below sub-section (2) of section 11 so as to provide that any amount paid or credited out of income from property held under trust referred to in clause (a) or clause (b) of sub-section (1), read with the Explanation to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, either during the period of accumulation or thereafter, shall not be treated as application of income for charitable or religious purposes.

Thus, payment to other trusts and institutions out of income from property held under trust in the year of receipt will continue to be treated as application of income. However, any such payment out of the accumulated income shall not be treated as application of income and will be taxed accordingly.

It is also proposed to insert a new clause (d) in sub-section (3) of section 11 so as to provide that if any income referred to in sub-section (2) of the said section, is paid or credited to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clauses (iv) or (v) or (vi) or (via) of clause (23C) of section 10, such payment or credit shall be deemed to be the income of the person in receipt of the income from property held under trust, of the previous year in which such payment or credit is made.

It is further proposed to insert a proviso in sub-section (3A) so as to provide that the Assessing Officer shall not allow application of accumulated income by way of payment or credit made for the purposes referred to in the proposed clause (d) of sub-section (3) of section 11. This takes away the discretion of the Assessing Officer provided in sub-section (3A) to allow the trusts to apply the accumulated income for payment or credit to other charitable or religious trusts and institutions.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years. [*Clause 7*]