Notes on clauses

Income-tax

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2007-2008. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2007-2008 from income subject to such deduction under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from, or paid on, income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2007-2008.

Rates of income-tax for the assessment year 2007-2008

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2007-2008. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2006, for the purposes of deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2006-2007.

Rates for deduction of tax at source in certain cases during the financial year 2007-2008 from income other than "Salaries"

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 2007-2008 from certain income other than "Salaries". The rates are the same as those specified in Part II of the First Schedule to the Finance Act, 2006, for the purposes of deduction of income-tax at source during the financial year 2006-2007.

The amount of tax so deducted shall be increased by a surcharge:—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent., of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(ii) in case of every artificial juridical person referred to sub-clause (vii) of clause (31) of section 2 of the income-tax Act, at the rate of ten per cent. of such tax;

(iii) in the case of every firm and domestic company, at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(iv) in the case of every company other than a domestic company at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

No surcharge shall be levied in the case of any co-operative society or local authority.

Rates for deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in certain cases during the financial year 2007-2008

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from, or paid on, income under the head "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in certain cases for the financial year 2007-2008.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. In such cases, the rates of income-tax on total income shall continue to be as under—

Up to Rs.1,10,000	Nil.
Rs.1,10,001 to Rs.1,50,000	10 per cent.
Rs.1,50,001 to Rs.2,50,000	20 per cent.
Above Rs.2,50,000	30 per cent.

In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year, the exemption limit is proposed to be raised from Rs.1,35,000/- to Rs.1,45,000/-. The rates of income-tax on total income in such cases will be as under—

Up to Rs.1,45,000/-	Nil.
Rs.1,45,001/- to Rs.1,50,000/-	10 per cent.
Rs.1,50,001/- to Rs.2,50,000/-	20 per cent.
Above Rs.2,50,000/-	30 per cent.

In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, the exemption limit is proposed to be raised from Rs.1,85,000/- to Rs.1,95,000/-. The rates of income-tax on total income in such cases will be as under—

Up to Rs.1,95,000/-	Nil.
Rs.1,95,001/- to Rs.2,50,000/-	20 per cent.
Above Rs.2,50,000/-	30 per cent.

Paragraph A further provides that the amount of income-tax computed shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, having total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten percent of such income-tax. However, the total amount payable as income-tax and surcharge on total income exceeding ten lakh rupees shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph A also provides that the amount of income-tax computed shall, in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

No change is proposed in the rates of surcharge levied in Paragraph A.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2007-2008. No surcharge will be levied.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2007-2008.

Paragraph C further provides the rate of surcharge for every firm. It is proposed to provide in Paragraph C that the amount of

income-tax computed shall, in the case of every firm having total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income tax. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 2007-2008. No surcharge will be levied.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In the case of every domestic company, the rate of tax will continue to be the same as that specified for assessment year 2007-08.

Paragraph E further provides that in the case of every company other than a domestic company, the rates of tax will continue to be the same as those specified for the assessment year 2007-2008.

Paragraph E also provides the rate of surcharge in the case of companies. It is proposed to provide in Paragraph E that the amount of income-tax computed shall, in the case of every domestic company having total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income tax. It is also proposed to provide in Paragraph E that the amount of income-tax computed shall, in the case of every company, other than a domestic company, having total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income tax. However, in case of companies, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

It is also proposed that the additional surcharge, called the "Education Cess on income-tax" for purposes of the Union shall continue to be levied at the rate of two per cent. of income-tax and surcharge in all cases so as to fulfil the commitment of the Government to provide and finance universalised quality basic education.

It is also proposed to levy an additional surcharge, called the "Secondary and Higher Education Cess", for purposes of the Union at the rate of one per cent. of income-tax and surcharge (not including the Education Cess on income-tax) so as to fulfil the commitment of the Government to provide and finance secondary and higher education. This additional surcharge is to be levied in cases where tax has to be deducted at source, “advance tax” is to be computed or income-tax is to be charged in certain cases during financial year 2007-2008.

Clause 3 of the Bill seeks to amend section 2 of the Income-tax Act which relates to the definitions.

Under the said section, the definition of "Additional Commissioner" and "Additional Director" has not been provided directly. Presently, they are included in the definition of Joint Commissioner and Joint Director under clauses (28C) and (28D) respectively. Now, the proposal is to define these two terms separately for clarificatory purposes.

It is proposed to insert clause (1C) in the said section so as to provide that "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under sub-section (1) of section 117. It is further proposed to insert clause (1D) in the said section so as to define "Additional Director" to mean a person appointed to be an Additional Director of Income-tax under sub-section (1) of section 117.

This amendment will take effect retrospectively from 1st June, 1994.

Under the existing provisions of clause (7A) of the said section 2, it has been provided that "Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act.

It is proposed to amend said clause (7A) so as to include Additional Commissioner in the definition of "Assessing Officer". The proposed amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st June, 1994.

It is further proposed to amend said clause (7A) so as to include Additional Director in the definition of "Assessing Officer". The proposed amendment is also clarificatory in nature.

This amendment will take effect retrospectively from 1st October, 1996.

It is also proposed to insert clause (9B) in the said section so as to define "Assistant Director" to mean a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117.

This amendment will take effect retrospectively from 1st April, 1988.

Clause (14) of the said section provides for definition of the term "capital asset" which means property of any kind held by an assessee, but excluding, *inter alia*, the personal effects. Sub-clause (ii) of the said clause refers to personal effects (including wearing apparel and furniture, but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him.

It is proposed to substitute the said clause so as to exclude, from the expression of "personal effects", jewellery, archaeological collections, drawings, paintings, sculptures and any work of art so as to bring the same within the purview of the definition of "capital assets".

This amendment will take effect from the 1st day of April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

A new sub-clause (vi) was inserted in sub-section (2) of section 56 of the Act with effect from the 1st day of April, 2007 so as to provide that where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006, the whole of the aggregate value of such sum is chargeable to income-tax under the head 'income from other sources' except the sum of money received from such persons and under such circumstances as provided in the proviso to that sub-clause.

In view of the fact that the sum so received is treated as income from other sources but the same has not been included in the definition of 'income' under clause (24) of section 2, it is now proposed to insert a new sub-clause (xiv) to the said clause (24) so as to include income received under clause (vi) of sub-section (2) of section 56, in the definition of income.

This amendment will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-2008 and subsequent years.

Clause (25A) of the said section provides that India shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry. The said definition is as respects any period for the purposes of section 6 and as respects any period included in the previous year, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent assessment year.

The proposed amendment is to substitute the said clause with a new clause so as to provide that "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.

This amendment will take effect retrospectively from 25th August, 1976.

Clause 4 of the Bill seeks to amend section 7 of the Income-tax Act which relates to income deemed to be received.

Under the provisions contained in clause (iii) of the said section, the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD shall be deemed to be income received in the previous year.

It is proposed to amend the said clause (iii) so as to provide that the contribution made by any other employer in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD shall also be deemed to be income received in the previous year.

This amendment will take effect retrospectively from the 1st April, 2004 and shall, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 5 of the Bill seeks to amend section 9 of the Income-tax Act which relates to income deemed to accrue or arise in India.

The provisions contained in section 9 provide for the situations where incomes are deemed to accrue or arise in India.

It is proposed to amend the said section by inserting therein an Explanation stating that for the removal of doubts, for the purposes of the said section, where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of sub-section (1), such income shall be included in the total income of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India.

This amendment will take effect retrospectively from 1st June, 1976.

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

It is proposed to insert a new sub-clause (10BC) in section 10 so as to provide that any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster shall not be included in the total income except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster. It is also proposed to define the expression “disaster” therein.

This amendment will take effect retrospectively from 1st April, 2005 and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

The Explanation to item (fa) of sub-clause (iv) of clause (15) of section 10, provides for the expression "scheduled bank" which has been defined to have the meaning assigned to it in clause (ii) of the Explanation to clause (viia) of sub-section (1) of section 36. As a result, interest payable by a co-operative bank to a non-resident or to a person who is not ordinarily resident within the meaning of clause (6) of section 6 on deposits in foreign currency is not exempt from income-tax.

It is proposed to amend the Explanation to the said item (fa) in view of the amendment to the definition of "scheduled bank" as given in the Explanation to clause (viia) of sub-section (1) of section 36 which excludes co-operative bank from the purview of the said definition. This amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-2008 and subsequent years.

The provisions contained in sub-clause (vii) of clause (15) of the said section provide that the interest on bonds issued by a local authority and specified by the Central Government by notification in the Official Gazette shall not be included in the total income.

It is proposed to amend the said sub-clause (vii) so as to provide that interest on bonds issued by a State Pooled Finance Entity and specified by the Central Government by notification in the Official Gazette shall also not be included in the total income.

It is further proposed to insert an Explanation to define the expression "State Pooled Finance Entity".

This amendment will take effect from the 1st April, 2008, and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause (23BBD) of the said section provides that any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 for seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008, shall not be included in the total income.

It is proposed to amend the said clause so as to extend the said exemption for a further period of three assessment years beginning on 1st day of April, 2008 and ending on 31st day of March, 2011.

This amendment will take effect from the 1st day of April, 2008 and will, accordingly, apply in relation to the assessment years 2008-2009 to 2010-2011.

It is proposed to insert a new clause (23BBG) in the said section with a view to exempt any income of the Central Electricity Regulatory Commission.

This amendment will take effect from 1st April, 2008, and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

The provisions of sub-clause (iv) of clause (23C) of the said section provide that the income of any fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States, shall be exempt.

The provisions contained in sub-clause (v) of clause (23C) of section 10, provide that the income of any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, shall be exempt.

It is proposed to amend the said sub-clauses (iv) and (v) so as to allow the said exemption to such entities referred to therein, as may be approved by the prescribed authority.

These amendments will take effect from the 1st June, 2007.

The second proviso to clause (23C) of section 10 provides that the Central Government before notifying the fund or trust or institution, or the prescribed authority, before approving 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), may call for necessary documents or information from the above referred entities as well as make inquiries to satisfy itself about the genuineness of the activities of such entities.

It is proposed to substitute the said second proviso with a new proviso so as to remove the reference to Central Government and to provide that the prescribed authority may call for such documents or information and make such inquiries before approving any fund or institution 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).

The ninth proviso to clause (23C) of section 10, *inter alia*, provides that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 received the assent of the President, every notification under sub-clause (iv) or sub-clause (v) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which the application was received.

It is proposed to amend the said ninth proviso in order to include a reference to approval granted under sub-clause (iv) or sub-clause (v) of the said clause in addition to the notification issued under the said sub-clauses.

The existing thirteenth proviso to clause (23C) of section 10, *inter alia*, provides for rescinding of any notification issued under sub-clause (iv) or sub-clause (v) by the Central Government under certain circumstances as specified therein.

It is proposed to amend the said thirteenth proviso so as to include a reference to the withdrawal of approval granted by the prescribed authority to any fund or trust or institution referred to in sub-clause (iv) or sub-clause (v).

It is also proposed to insert a new proviso after the fifteenth proviso so as to provide that all pending applications in respect of which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day.

These amendments are consequential in nature and will take effect from the 1st day of June, 2007.

It is proposed to insert a new clause (23EC) in the said section to exempt any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund, set up by commodity exchanges in India either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

It is also proposed to provide that where any amount standing to the credit of the Investor Protection Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

This amendment will take effect from the 1st day of April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause (23FB) of the said section provides that any income of a venture capital company or venture capital fund set up to raise funds for investment in a venture capital undertaking does not form part of total income. The definitions of "venture capital company", "venture capital fund" and "venture capital undertaking" are provided in Explanation 1 to clause (23FB). "Venture capital undertaking" has been defined in clause (c) of the said *Explanation* to mean a venture capital undertaking referred to in Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 and notified as such in the Official Gazette by the Board.

It is proposed to amend clause (23FB) so as to provide exemption to any income of a venture capital company or venture capital fund from investment in a venture capital undertaking.

For the purposes of the said clause (23FB), it is also proposed to amend clause (c) of *Explanation* 1 so as to define "venture capital undertaking" to mean such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in certain specified businesses or industries.

These amendments will take effect from the 1st day of April, 2008 and will accordingly apply in relation to the assessment year 2008-2009 and subsequent assessment years.

Clause 7 of the Bill seeks to amend section 10AA of the Income-tax Act relating to special provisions in respect of newly established units in Special Economic Zones.

The provisions contained in sub-section (4) of the said section provides that section 10AA is applicable to any undertaking, being the unit, which has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessement year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.

It is proposed to substitute said sub-section (4) so as to provide that section 10AA is applicable to any undertaking, being the unit, which fulfils conditions laid down therein. The conditions are that (i) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone; (ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence; (iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

It is further proposed to provide that the condition mentioned in clause (ii) of the proposed sub-section (4) shall not apply in respect of any undertaking, being the unit, which is formed as a result of re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as referred to in section 33B in the circumstances and within the period specified in that section.

It is also proposed to insert an *Explanation* so as to provide that the provisions of *Explanation* 1 and *Explanation* 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of the said sub-section (4).

This amendment will take effect retrospectively from 10th February, 2006.

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

It is proposed to amend the marginal heading of the said section as "Conditions for applicability of sections 11 and 12".

The provisions of the said section 12A, which lay down the conditions for registration of trusts, are proposed to be renumbered as sub-section (1).

Clause (a) of the renumbered sub-section (1) provides a condition that the provisions of sections 11 and 12 shall not apply in relation to the income of any trust or institution if the person in receipt of income has made an application for registration of trust or institution in the prescribed form and in the prescribed manner to the Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or establishment of the institution, whichever is later and such trust or institution is registered under section 12AA. Where the application is not filed within the period aforesaid, the Commission has the power to condone the delay. It is proposed to amend the condition in the said section 12A so as to remove the requirement for filing an application for registration within one year of the creation of the trust or establishment of an institution and also to remove the power of the Commissioner to condone any delay in filing such application.

For this purpose, it is proposed to insert a second proviso to the said clause (a) so as to provide that the provisions of said clause (a) shall not apply in relation to an application made on or after the 1st day of June, 2007.

It is also proposed to insert a new clause (aa) in sub-section (1) as so renumbered to provide that the provisions of sections 11 and 12 shall not apply in relation to the income of the trust or institution unless the person in receipt of the income has made an application for the registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form and in the prescribed manner to the Commissioner and such trust or institution is registered under section 12AA.

It is also proposed to insert a new sub-section (2) in the said section so as to provide that where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution for the assessment year immediately following the financial year in which such application is made.

These amendments will take effect from 1st June, 2007.

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

It is proposed to amend sub-section (1) of the said section so as to include a reference to an application for registration of a trust or institution made under clause (aa) of sub-section (1) of section 12A, proposed to be inserted vide clause 8 of the Bill. This amendment is consequential in nature.

It is also proposed to amend sub-section (2) of the said section so as to include a reference to an application for registration of a trust or institution made under clause (aa) of sub-section (1) of section 12A, proposed to be inserted vide clause 8 of the Bill. This amendment is consequential in nature.

These amendments will take effect from 1st June, 2007.

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

Under the existing provisions contained in sub-clause (viii) of clause (1) of the said section, the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD shall be included in the definition of "salary".

It is proposed to amend the said sub-clause (viii) so as to provide that the contribution made by any other employer in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD shall also be included in the definition of "salary".

This amendment will take effect retrospectively from the 1st day of April, 2004 and shall, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause (2) of section 17 provides that perquisite, *inter alia*, includes the value of rent free accommodation provided to the assessee by his employer, the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer, etc.

It is proposed to insert an *Explanation* to sub-clause (ii) of clause (2) so as to provide that concession in the matter of rent shall be deemed to have been provided, in a case where unfurnished accommodation is provided to the assessee by an employer (other than Central or State Government) owned by the employer, the value of accommodation determined at the rate of ten per cent. of the salary in cities having population exceeding four lakhs as per 1991 census and seven and one-half per cent. of salary in other cities, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by assessee.

It is further proposed to provide that concession in the matter of rent shall be deemed to have been provided in a case where an unfurnished accommodation is provided to the assessee by an employer (other than Central or State Government) is taken on lease or rent by the employer, the value of accommodation being the actual amount of lease rental paid or payable by the employer or ten per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by the assessee.

It is also proposed to provide that concession in the matter of rent shall be deemed to have been provided in a case where a furnished accommodation is provided to the assessee by the Central or State Government, the licence fee determined by the Central or State Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee, exceeds the aggregate of the rent recoverable from or payable by the assessee, and any charges paid or payable for the furniture and fixtures by the assessee.

It is also proposed to provide that in a case where a furnished accommodation is provided by an employer other than Central or State Government and accommodation is owned by the employer, the value of unfurnished accommodation as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from or payable by the assessee.

It is also proposed to provide that in a case where a furnished accommodation is provided by an employer other than Central or State Government and accommodation is taken on lease or rent by the employer, the value of unfurnished accommodation as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from or payable by the assessee.

It is also proposed to provide that the value of furniture and fixture shall be ten per cent. of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar

appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.

It is also proposed to provide that in a case where the accommodation is provided by an employer other than Central or State Government in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another), the value of accommodation determined at the rate of twenty-four per cent. of salary paid were payable for the previous year or the actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided, exceeds the rent recoverable from or payable by the assessee.

These amendments will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

It is also proposed to substitute clause (a) of the *Explanation* 1 as so inserted so as to provide that concession in the matter of rent shall be deemed to have been provided in a case where an unfurnished accommodation is provided by any employer other than the Central Government or State Government and the accommodation is owned by the employer, the value of the accommodation determined at the rate of twenty per cent. of salary in cities having population exceeding four lakhs as per 2001 census and fifteen per cent. of the salary in other cities, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from or payable by the assessee.

It is also proposed to provide that concession in the matter of rent shall be deemed to have been provided in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or twenty per cent. of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from or payable by the assessee.

These amendments will take effect retrospectively from 1st April, 2006 and will, accordingly, apply in relation to the assessment year 2006-2007 and subsequent years.

According to sub-clause (iii) of the said clause, "perquisite" includes the value of any benefit or amenity granted or provided free of cost or at concessional rate by a company, etc. However, the proviso to sub-clause (iii) excludes therefrom the value of any benefit provided by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants directly or indirectly under any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government.

It is proposed to omit the said proviso to sub-clause (iii) of clause (2) of section 17.

This amendment will take effect form 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 11 of the Bill seeks to amend section 35 of the Income-tax Act which relates to expenditure on scientific research.

Sub-section (2AB) of the said section provides that where a company engaged in the business of bio-technology or in the business of manufacture or production of articles or things specified therein, or notified thereunder, incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then there shall be allowed a deduction of a sum equal to one and one-half times of the expenditure so incurred. However, no deduction is allowable under the said sub-section in respect of such expenditure incurred after the 31st day of March, 2007.

It is proposed to amend clause (5) of the said sub-section (2AB) so as to allow deduction in respect of expenditure incurred up to the 31st March, 2012.

This amendment will take effect from the 1st day of April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent assessment years up to assessment year 2012-2013.

Clause 12 of the Bill seeks to amend section 36 of the Income-tax Act relating to other deductions.

Clause (ib) of sub-section (1) of the said section provides for deduction to the extent specified therein of the amount of premium paid by cheque by the assessee as an employer to effect or to keep in force an insurance on health of his employees under the scheme approved by the Central Government or by any other insurer as provided therein.

Now, it is proposed that the said premium can be paid by other mode also except cash.

This amendment will take effect from the 1st day of April, 2008, and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Sub-clause (a) of clause (viia) of sub-section (1) of the said section provides for deduction of an amount not exceeding seven and one-half per cent. of the total income (computed before making any deduction under the said clause and Chapter VIA) and an amount not exceeding ten per cent. of the aggregate average advances made by the rural branches of a scheduled bank as specified or a non-scheduled bank in the computation of income of such banks.

The proposed amendment seeks to extend the same deductions which are available to a scheduled bank and non-scheduled bank to a co-operative bank not being a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

This amendment will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-2008 and subsequent years.

Clause (viii) of sub-section (1) of the said section provides deduction, in respect of any special reserve created and maintained by specified entities, for an amount not exceeding forty per cent. of profits derived from eligible business activities, carried to such reserve.

It is proposed to substitute clause (viii) of sub-section (1) of the said section so as to reduce the percentage of deduction from forty per cent. to twenty per cent. of the profits derived from the business of providing long-term finance. The proposed amendment further seeks to define certain terms including 'specified entities' and 'eligible business' for the purposes of deduction. The specified entities and the respective eligible business which are entitled to such deduction are,-

(a) a financial corporation specified in section 4A of the Companies Act or a financial corporation which is a public sector company or a banking company or a co-operative bank (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) engaged in the business

of providing long-term finance in India for industrial or agricultural development or development of infrastructure facility;

(b) a housing finance public company engaged in the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(c) any other financial corporation including a public company, engaged in the business of providing long-term finance for development of infrastructure facility in India.

These amendments will take effect from the 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

The existing provisions of clause (x) of sub-section (1) of the said section allows deduction of any sum paid by a public financial institution by way of contribution to any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately.

The proposed amendment seeks to omit the said clause from sub-section (1) of section 36.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause (xii) of sub-section (1) of the said section provides that any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act, for the objects and purposes authorised by the Act, is allowed as deduction in the computation of its income.

The proposed amendment seeks to provide that the deduction shall be allowed only if such corporation or body corporate is notified by the Central Government in the Official Gazette under the said clause, having regard to the objects and purposes of the corresponding Central, State or Provincial Act.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Sub-section (1) of the said section provides that the deductions provided for in the clauses thereunder, shall be allowed in respect of matters dealt with therein, in computing the income under section 28 which relates to profits and gains of business or profession.

It is proposed to insert a new clause (xiv) in sub-section (1) of the said section to provide for deduction of any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

It is also proposed to define the expression "public financial institution".

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent assessment years.

Clause 13 of the Bill seeks to amend section 40A of the Income-tax Act which relates to expenses or payments not deductible in certain circumstances.

The provisions contained in sub-section (3) of the said section provide that any expenditure incurred by the assessee in respect of which payment exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or by an account payee bank draft is not allowed as a deduction to the extent of twenty per cent. of such payment.

It is proposed to substitute the said sub-section (3) so as to provide that (a) where the assessee incurs any expenditure in respect of which payment exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft, no deduction shall be allowed in respect of such expenditure; (b) where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee and subsequently during any previous year, the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the amount of payment exceeds twenty thousand rupees.

However, no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession where any payment exceeding twenty thousand rupees is made in such cases and such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent assessment years.

Clause 14 of the Bill seeks to amend section 49 of the Income-tax Act which relates to cost with reference to certain modes of acquisition.

It is proposed to insert sub-section (2AB) in the said section so as to provide that in a case where the capital gain arises from the transfer of the specified security or sweat equity shares, the value of which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC, the cost of acquisition of such security or shares shall be the value under the proposed clause (ba).

This amendment is consequential to insertion of clause (ba) in sub-section (1) of section 115WC.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 15 of the Bill seeks to amend section 54EC of the Income-tax Act relating to capital gains not to be charged on investment in certain bonds.

The provisions contained in sub-section (1) of the said section provides that the capital gains arising from the transfer of a long-term capital asset shall be exempt from tax to the extent such gains are invested in long-term specified asset within a period of six months after the date of such transfer.

It is proposed to amend the said sub-section (1) so as to provide that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees.

This amendment will take effect from 1st April, 2007.

Clause (b) of the Explanation to section 54EC clarifies the expression "long-term specified asset" to mean any bond redeemable after three years and issued on or after the 1st day of April, 2006 by the National Highways Authority of India or by the Rural Electrification Corporation Limited, being a company formed and registered under the Companies Act, 1956 and notified by the Central Government for the purposes of the said section.

It is proposed to amend the said clause (b) so as to provide that "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before 31st day of March, 2007, by the National Highways Authority of India or by the Rural

Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 and notified by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bonds) as it thinks fit:

It is also proposed to insert a proviso after clause (b) as so substituted to validate the bonds notified before the 1st day of April, 2007, with the conditions specified in the notification, under the provisions of clause (b) as they stood immediately before their amendment by the Finance Act, 2007.

These amendments will take effect retrospectively from 1st April, 2006.

It is further proposed to insert a new clause (ba) providing that "long term specified asset" for making any investment under this section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India, Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956.

This amendment will take effect from 1st April, 2007.

Clause 16 of the Bill seeks to amend section 56 of the Income-tax Act which relates to income from other sources.

Clause (v) of sub-section (2) of the said section provides that where any sum of money exceeding Rs.25,000 is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004 but before the 1st day of April, 2006, the whole of such sum is chargeable to income-tax under the head 'income from other sources'. The proviso to the said clause provides that the said clause shall not apply to any sum of money received from such persons and under such circumstances specified therein. Amendments were made to the said proviso vide the Taxation Laws (Amendment) Act, 2006 and clauses (e), (f) and (g) were inserted therein so as to provide that clause (v) shall not apply to any such sum of money received from any local authority as defined in the Explanation to clause (20) of section 10, or from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10, or from any trust or institution registered under section 12AA. This amendment came into effect on the 13th day of July, 2006.

Though the intention was to give effect to the said clauses (e), (f) and (g) with effect from the 1st day of April, 2005, the Taxation Laws (Amendment) Act, 2006 came into force on the 13th day of July, 2006. Therefore, it is proposed to give retrospective effect to clauses (e), (f) and (g) with effect from the 1st day of April, 2005.

This amendment will take effect retrospectively from 1st April, 2005 and will, apply in relation to the assessment years 2005-2006 and 2006-2007.

Clause 17 of the Bill seeks to amend section 72A of the Income-tax Act which relates to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

The provisions contained in sub-section (1) of the said section provide that where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 with a specified bank, then, notwithstanding anything contained in any other provision of the Income-tax Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for an unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and the other provisions of the Income-tax Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

It is proposed to substitute sub-section (1) of the said section so as to include amalgamation of one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business also.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-09 and subsequent years.

Clause 18 of the Bill seeks to amend section 80AC of the Income-tax Act which relates to deduction not to be allowed unless return furnished.

Section 80AC of the Income-tax Act provides that no deduction is admissible for any assessment year commencing on the 1st April, 2006 or any subsequent assessment year under section 80-IA or section 80-IAB or section 80-IB or section 80-IC, unless the assessee furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139 of the Income-tax Act.

The proposed amendment seeks to provide that deduction under the proposed section 80-ID shall also not be admissible unless the assessee furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139 of the Income-tax Act.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 19 of the Bill seeks to amend section 80CCD of the Income-tax Act which relates to allowing deduction in respect of contribution to pension scheme of the Central Government.

Sub-section (1) of the said section provides that where an assessee, being an individual employed by the Central Government on or after the 1st day of January, 2004, has in the previous year paid or deposited any amount in his account under the pension scheme, he shall be allowed a deduction in the computation of his total income, of the whole of the amount so paid or deposited as does not exceed ten per cent. of his salary in the previous year.

Sub-section (2) of the said section provides that where in the case of an assessee, the Central Government makes any contribution to his account under the said pension scheme, he shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government as does not exceed ten per cent. of his salary in the previous year.

It is proposed to amend sub-section (1) and sub-section (2) with a view to extend the provisions of section 80CCD to an individual assessee employed by any other employer on or after the 1st January, 2004.

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

Clause 20 of the Bill seeks to amend section 80D of the Income-tax Act which relates to deduction in respect of medical insurance premia.

Sub-section (1) of section 80D provides that in computing the total income of an assessee being an individual or a Hindu undivided family, the sum paid by cheque to effect or to keep in force an insurance on the health of the assessee or on the health

of any member of the family, shall be deducted, provided such sum does not exceed ten thousand rupees. In the case of senior citizens, the deduction of fifteen thousand rupees is available.

It is proposed to provide that sum referred to in the said section can be paid by any mode other than cash.

It is also proposed to increase the maximum amount allowable under the said section, from rupees ten thousand to rupees fifteen thousand. In the case of senior citizens, it is proposed to increase the limit from rupees fifteen thousand to rupees twenty thousand.

These amendments will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 21 of the Bill seeks to amend section 80E of the Income-tax Act relating to deduction in respect of interest on loan taken for higher education.

In accordance with the provisions of sub-section (1) of the said section, a deduction is allowed to an individual, of any amount paid in the previous year, out of his income chargeable to tax, by way of interest on loan taken by him from any financial institution or any approved charitable institution for pursuing his higher education.

Sub-section (2) of the said section provides that the deduction is available for eight assessment years beginning from the assessment year in which the assessee starts paying the interest on the loan.

The proposed amendment seeks to extend the deduction available under the said section to an individual for the payment made by way of interest on loan taken by him for higher education of his relative.

Consequently, it is proposed to define the term "relative" for the purposes of the said section so as to mean spouse and children.

This amendment will take effect from the 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 22 of the Bill seeks to amend section 80-IA of the Income-tax Act which relates to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Sub-section (2) of the said section provides that the deduction may be claimed by an assessee for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an industrial park or a special economic zone, generates power or commences transmission or distribution of power or undertakes substantial renovation and modernization of the existing transmission or distribution lines.

It is proposed to amend the said sub-section so as to provide that the assessee may also claim deduction for ten out of fifteen years beginning from the year in which an undertaking lays and begins to operate a cross-country natural gas distribution network.

Sub-section (3) of the aforesaid section provides that the undertaking engaged in generation or distribution or transmission of power or undertaking engaged in providing telecommunication services and formed by way of reconstruction or splitting up or by transfer to a new business of old plant and machinery shall not be eligible for deduction under the said section.

It is proposed to apply these conditions to the undertaking engaged in laying and operating a cross-country natural gas distribution network also.

Sub-section (4) of the said section specifies the activities eligible for deduction which, *inter alia*, include infrastructure facility, generation, transmission or distribution of power, etc. Explanation to clause (i) of sub-section (4) of the said section defines the expression "infrastructure facility".

It is proposed to expand the scope of the expression "infrastructure facility" so as to include a navigational channel in the sea also.

Clause (v) of said sub-section (4), *inter alia*, provides that an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant is eligible for ten years tax benefit if it begins to generate or transmit or distribute power before the 31st March, 2007.

It is proposed to amend sub-clause (b) of clause (v) of the said sub-section (4) so as to extend the date to begin generation, transmission or distribution of power by one more year i.e., before 31st March, 2008.

It is also proposed to insert a new clause (vi) in the said sub-section (4) of section 80-IA so as to provide that any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of the network, shall be eligible for deduction under the said section if it is owned by a company registered in India or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act; has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in the Official Gazette; one-third of its total pipeline capacity is available for use on common carrier basis by any person other than the assessee or an associated person; it has started or starts functioning on or after 1st April, 2007 and fulfils any other condition which may be prescribed.

It is proposed to define the expression "associated person" for the purposes of the proposed clause (vi).

The provisions contained in sub-section (12) of the said section, *inter alia*, provides that where any undertaking of an Indian company which is entitled to the deduction under the said section is transferred before the expiry of the period specified therein, to another Indian company in a scheme of amalgamation or demerger, the deductions to the extent and in the manner specified therein shall be available to the amalgamated or the resulting company.

It is proposed to insert sub-section (12A) so as to provide that nothing contained in sub-section (12) shall apply to any undertaking or enterprise which is transferred in a scheme of amalgamation or demerger on or after the 1st day of April, 2007.

These amendments will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

It is also proposed to insert an Explanation to section 80-IA so as to clarify that nothing contained in the said section shall apply to a person who executes a works contract entered into with the undertaking or enterprise, as the case may be.

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

Clause 23 of the Bill seeks to amend section 80-IB of the Income-tax Act which relates to deductions in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Sub-section (4) of the said section, *inter alia*, provides that the amount of deduction in the case of an industrial undertaking engaged in manufacture or production of articles or things or operating its cold storage plant or plants during the period beginning on the 1st day of April, 1993 and ending on the 31st day of March, 2007 in the State of Jammu and Kashmir shall be hundred per cent. of the profits and gains derived from such industrial undertaking for five assessment years and thereafter twenty-five per cent. (or thirty per cent. in the case of a company) for the next five assessment years.

It is proposed to amend the fourth proviso to the said sub-section so as to extend the said period up to 31st March, 2012 for setting up industrial undertakings in the State of Jammu and Kashmir and for commencement of manufacture or production of articles or things or operation of a cold storage plant.

This amendment will take effect from the 1st day of April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 24 of the Bill seeks to insert a new section 80-ID in the Income-tax Act relating to deduction in respect of profits and gains from business of hotels and convention centres in specified area.

Sub-section (1) of the proposed new section 80-ID seeks to provide that where the gross total income of an assessee includes any profits and gains derived by an undertaking from any business referred to in sub-section (2) (such business being hereinafter referred to as the 'eligible business'), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business for five consecutive assessment years beginning from the initial assessment year.

The proposed sub-section (2) provides that the said section applies to any undertaking engaged in the business of hotel located in the specified area, if such hotel is constructed and has started or starts functioning at any time during the period beginning on 1st April, 2007 and ending on 31st March, 2010 or engaged in the business of building, owning and operating a convention centre, located in the specified area, if such convention centre is constructed at any time during the period beginning on 1st April, 2007 and ending on 31st March, 2010.

The proposed sub-section (3) specifies the conditions to be fulfilled by the undertaking for the purpose of deduction under the proposed new section.

The proposed sub-section (4) provides that notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10AA, in relation to the profits and gains of the undertaking.

The proposed sub-section (5) provides that the provisions contained in sub-section (5) and sub-sections (8) to (11) of section 80-IA shall, so far as may be, apply to the eligible business under this section.

The proposed sub-section (6) defines the expressions "convention centre", "hotel", "initial assessment year" and "specified area".

These amendments will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 25 of the Bill seeks to amend section 92CA of the Income-tax Act relating to reference to Transfer Pricing Officer.

Under the existing provisions contained in sub-section (3) of section 92CA, there is no time limit for making the order of determination of arm's length price of an international transaction by a Transfer Pricing Officer.

It is proposed to insert a new sub-section (3A) in the said section so as to provide that an order under sub-section (3) of the said section by a Transfer Pricing Officer for determination of arm's length price of international transactions shall be made at least two months before the period of limitation referred to in section 153 or section 153B, as the case may be, for making the order of assessment or reassessment or recomputation, or fresh assessment expires. This time limitation shall also be applicable in cases where a reference was made to the Transfer Pricing Officer before 1st June, 2007 for determining arm's length price of an international transaction but an order under sub-section (3) of the said section has not been passed by him before the said date.

The provisions of sub-section (4) of the said section provides that on receipt of the order under sub-section (3), the Assessing officer shall proceed to compute the total income of the assessee under sub-section (4) of section 92C having regard to the arm's length price determined under sub-section (3) by the Transfer Pricing Officer.

It is proposed to amend the said sub-section (4) of section 92CA so as to provide that, on receipt of the order under sub-section (3), the Assessing Officer shall proceed to compute the total income of the assessee under sub-section (4) of section 92C in conformity with the arm's length price determined under sub-section (3) of section 92CA by the Transfer Pricing Officer.

These amendments will take effect from 1st June, 2007.

Clause 26 of the Bill seeks to amend section 115JB of the Income-tax Act which relates to special provision for payment of tax by certain companies.

The said section provides that in the case of a company, if the tax payable on the total income, as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 2007, is less than ten per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be ten per cent. of such book profit. Sub-section (2) deals with the preparation of profit and loss account. As per the Explanation after sub-section (2), the expression "book profit" means the net profit as shown in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 as increased or reduced by certain adjustments, as specified in that section. The aforesaid Explanation, *inter alia*, provides that the book profit shall be increased by the amount or amounts of expenditure relatable to any income referred to in section 10A or section 10B if such amount is debited to the profit and loss account and it shall be reduced by the amount of income referred to in those sections if any such amount is credited to the profit and loss account.

It is proposed to amend the provisions of section 115JB so as to provide that any income to which the provisions of section 10A or 10B apply, shall be included in the book profit for the purposes of section 115JB and shall consequently be liable to levy of MAT.

Accordingly, it is proposed to amend clause (f) of the Explanation after sub-section (2) of section 115JB to provide that the book profit shall not be increased by the amount or amounts of expenditure relatable to any income to which section 10A or section 10B applies.

It is further proposed to amend clause (ii) of the said Explanation so as to provide that the amount of income to which any of the provisions of section 10A or section 10B apply, shall not be reduced from the book profit for the purposes of calculation of income-tax payable under the aforesaid section.

These amendments will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 27 of the Bill seeks to amend section 115-O of the Income-tax Act which relates to tax on distributed profits of domestic companies.

Sub-section (1) of the said section, *inter alia*, provides that any amount declared, distributed or paid by a domestic company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003, whether out of current or accumulated profits, shall be charged to additional income-tax (also called "tax on distributed profits") at the rate of twelve and one-half per cent.

It is proposed to amend the said sub-section so as to increase the rate of such tax on distributed profits from twelve and one-half per cent. to fifteen per cent.

This amendment will take effect from the 1st day of April, 2007.

Clause 28 of the Bill seeks to amend section 115R of the Income-tax Act which relates to tax on distributed income to unit holders.

Sub-section (2) of section 115R, inter alia, provides that any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family and twenty per cent. on income distributed to any other person.

It is proposed to amend the said sub-section so as to also provide that where the income is distributed by a money market mutual fund or a liquid fund, such fund shall be liable to pay additional income-tax on such distributed income at the rate of twenty-five per cent. The existing rates of tax on income distributed by a fund other than a money market mutual fund or a liquid fund shall remain the same.

This amendment will take effect from the 1st day of April, 2007.

Clause 29 of the Bill seeks to amend the *Explanation* to Chapter XII-E of the Income-tax Act realting to tax on distributed income to unit holders.

It is proposed to insert a new clause (d) in the said Explanation so as to define "money market mutual fund" to mean a money market mutual fund as defined in sub-clause (p) of clause 2 of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996. It is also proposed to insert a new clause (e) in the said Explanation so as to define "liquid fund" to mean a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the Securities and Exchange Board of India Act, 1992 or regulations made thereunder.

This amendment will take effect from the 1st April, 2007.

Clause 30 of the Bill seeks to amend section 115WB of the Income-tax Act which defines fringe benefits.

Sub-section (1) of the said section provides that "fringe benefits", inter alia, means any privilege, service, facility or amenity, any free or concessional ticket provided by the employer for private journeys of his employees or their family members and any contribution by the employer to an approved superannuation fund for employees.

It is proposed to insert a new clause (d) in sub-section (1) so as to include any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), within the ambit of "fringe benefits".

It is also proposed to define the expressions "specified security" and "sweat equity shares" for the purposes of the proposed clause (d).

Sub-section (2) of the said section provides that the fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has in the course of his business or profession, incurred any expense on, or made any payment for, the purposes of entertainment, hospitality, conference, sales promotion including publicity, etc.

Proviso to clause (D) of sub-section (2) excludes certain expenditure on advertisement from sales promotion including publicity. Clause (v) of the said proviso excludes expenditure on certain items of advertisement. It is proposed to expand the scope of this clause so as to include expenditure made on display of products within its ambit. Similarly Clause (vii) of the said proviso excludes only the expenditure on distribution of free samples of medicines or of medical equipment to doctors. It is, now, proposed to extend the benefit of this clause to expenditure on distribution of samples of any items either free of cost or at a concessional rate to any person including doctors.

This amendment will take effect from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 31 of the Bill seeks to amend section 115WC of the Income-tax Act which relates to value of fringe benefits.

Sub-section (1) of the said section provides for the valuation of the fringe benefits.

It is proposed to insert a new clause (ba) in sub-section (1) of the said section so as to provide that the fair market value of the specified security or sweat equity shares referred to in clause (d) of sub-section (1) of section 115WB, on the date of exercise of the option by the employee as reduced by the amount actually paid by, or recovered from the employee in respect of such security or shares, shall be the value of fringe benefit referred to in the proposed clause (d) of sub-section (1) of section 115WB.

It is also proposed to define the expression “fair market value” to mean the value determined in accordance with the method as may be prescribed by the Board.

This amendment will take effect form 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-2009 and subsequent years.

Clause 32 of the Bill seeks to amend section 115WJ of the Income-tax Act relating to advance tax in respect of fringe benefits.

Sub-section (2) of section 115WC provides that the amount of advance tax payable by an assessee in the financial year shall be thirty per cent. of the value of the fringe benefits referred to in section 115WC, paid or payable in each quarter and shall be payable on or before the 15th day of the month following such quarter. However, the advance tax payable for the quarter ending on the 31st March of the financial year shall be payable on or before the 15th day of March of the said financial year.

Sub-section (3) of section 115WJ provides that where an assessee has failed to pay the advance tax in accordance with sub-section (2), he shall be liable to pay simple interest at the rate of one per cent. on the amount by which the advance tax paid falls short of, thirty per cent. of the value of fringe benefits for any quarter, for every month or part of the month for which the shortfall continues.

It is proposed to substitute sub-section (2) of the said section so as to provide that the amount of advance tax on the current fringe benefits shall be payable by all the companies, who are liable to pay the same, in four instalments during each financial

year. The companies shall pay not less than fifteen per cent of such advance tax on or before 15th June; forty-five per cent as reduced by the amount paid in earlier instalment on or before 15th September; seventy-five per cent as reduced by the amount paid in earlier instalments on or before 15th December; and the whole amount as reduced by any amount paid in earlier instalments on or before 15th March of the financial year. All assessees (other than companies), who are liable to pay the advance tax on current fringe benefits shall pay the same in three instalments during each financial year. Such assessees shall pay not less than thirty per cent of such advance tax on or before 15th September; sixty per cent as reduced by the amount paid in earlier instalment on or before 15th December; and the whole amount as reduced by any amount paid in earlier instalments on or before 15th March of the financial year.

As a consequence of substitution of sub-section (2), it is also proposed to substitute sub-section (3) of section 115WJ so as to provide that where an assessee has failed to pay the advance tax or there is short payment, he shall be liable to pay simple interest at the rate of one per cent. of the amount by which the advance tax paid falls short of the amount payable by the due date for every month or part of the month for which the shortfall continues.

This amendment will take effect from 1st June, 2007.

Clause 33 of the Bill seeks to amend section 120 of the Income-tax Act which deals with the jurisdiction of income-tax authorities.

It is proposed to amend clause (b) of sub-section (4) of the said Act so as to provide that the powers and functions conferred on or assigned to the Assessing Officer may also be exercised or performed by an Additional Commissioner.

This amendment will take effect retrospectively from 1st June, 1994.

In this said clause amendments are further proposed so as to provide that the powers and functions conferred on or assigned to the Assessing Officer may also be exercised or performed by the Additional Director.

This amendment will take effect retrospectively from1st October, 1996.

Clause 34 of the Bill seeks to amend section 132B of the Income-tax Act which relates to application of seized or requisitioned assets.

Clause (a) of sub-section (4) of the said section provides for payment of simple interest at the rate of six per cent. per annum by the Central Government on the unadjusted amount of money seized or requisitioned. Now it has been proposed to change the method of calculation of interest on a monthly basis.

The proposed amendment seeks to provide that simple interest at the rate of one-half per cent. is to be calculated for every month or part of a month instead of six per cent. per annum.

This amendment will take effect from the 1st day of April, 2008.

Clause 35 of the Bill seeks to amend section 139 of the Income-tax Act which relates to return of income.

It is proposed to omit the proviso to sub-section (9) to the said section which is occurring at the end in view of the fact that the provisions contained therein are proposed to be covered in the new sections 139C and 139D.

This will take effect retrospectively from 1st June, 2006.

Clause 36 of the Bill seeks to insert new sections 139C and 139D in the Income-tax Act which relates to rule making power of the Board.

It is proposed to insert a new section 139C so as to provide that the Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificate, audited reports or any other documents, which are otherwise under any other provisions of this Act, except section 139D, required to be furnished, along with the return but on demand to be produced before the Assessing Officer.

It is further proposed to provide that any rule made under the proviso to sub-section (9) of section 139 as it stood immediately before its omission by the Finance Act, 2007, shall be deemed to have been made under the provisions of new section 139C.

It is also proposed to insert a new section 139D so as to provide that the Board may make rules providing for the class or classes of persons who shall be required to furnish the return of income in electronic form; the form and the manner in which the return of income in electronic form may be furnished; the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return of income in electronic form but shall be produced before the Assessing Officer on demand; the computer resource or the electronic record to which the return of income in electronic form may be transmitted.

Consequentially, it is proposed to insert new clauses (eeba) and (eebb) in sub-section (2) of section 295 which provides for rule making powers of the Board.

These amendments will take retrospective effect from 1st June, 2006.

Clause 37 of the Bill seeks to amend section 142 of the Income-tax Act which relates to enquiry before assessment.

Sub-section (2A) of the said section provides that if, at any stage of the proceedings before him, the Assessing Officer having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or Commissioner, direct the assessee to get the accounts audited by an accountant, as defined in the Explanation below sub-section (2) of section 288, nominated by the Chief Commissioner or Commissioner in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and such other particulars as the Assessing Officer may require.

It is proposed to amend the said sub-section (2A) by inserting a proviso to provide that the Assessing Officer shall not direct the assessee to get the accounts so audited unless the assessee has been given a reasonable opportunity of being heard.

This amendment will take effect from 1st June, 2007.

Sub-section (2D) of the said section provides that the expenses of, and incidental to, any audit under sub-section (2A) (including the remuneration of the accountant) shall be determined by the Chief Commissioner or Commissioner (which determination shall be final) and paid by the assessee and in default of such payment, shall be recoverable from the assessee in the manner provided in Chapter XVII-D for the recovery of arrears of tax.

It is proposed to insert a proviso to the said sub-section (2D), so as to provide that where any direction is issued on or after 1st June, 2007 under sub-section (2A) by the Assessing Officer to an assessee to get the accounts audited, the expenses of, and incidental to, such audit (including the remuneration of the Accountant) shall be determined by the Chief Commissioner or Commissioner in accordance with such guidelines as may be prescribed and the expenses so determined shall be paid by the Central Government.

This amendment will take effect from 1st June, 2007.

Clause 38 of the Bill seeks to amend section 143 of the Income-tax Act relating to assessment.

The proviso to sub-section (3) of the said section provides, inter alia, that in the case of a fund or trust or institution, which is required to furnish the return of income under sub-section (4C) of section 139, no order making an assessment of the total income or loss of such fund or trust or institution shall be made by the Assessing Officer, without giving effect to the provisions of section 10, unless the Assessing Officer has intimated the Central Government, the contravention of the provisions of sub-clause (iv) or sub-clause (v) of clause (23C) of section 10 and the notification issued in respect of such fund or trust or institution has been rescinded.

Clause 6 of the Bill seeks to amend sub-clauses (iv) and (v) of clause (23C) of section 10 so as to allow exemption to such fund or trust or institution referred to therein, as may be approved by the prescribed authority.

It is proposed to amend sub-clause (ii) of the proviso to sub-section (3) of section 143 so as to include a reference to the withdrawal of approval granted to a fund or trust or institution referred to in sub-clause (iv) or sub-clause (v) of clause (23C) of section 10.

This amendment will take effect from the 1st June, 2007.

Clause 39 of the Bill seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessment and reassessments.

The provisions of sub-sections (1), (2) and (2A) of the said section provide for time limit for completion of assessment and reassessment of total income by the Assessing Officer.

It is proposed to insert new provisos in sub-sections (1), (2) and (2A) of the said section providing the revised time limits for completion of assessment and reassessment of total income where a reference is made under section 92CA by the Assessing Officer to the Transfer Pricing Officer for determination of arm's length price of international transactions. In such cases, the revised time limit shall be the time limits specified under the aforesaid section as increased by twelve months. The revised time limit shall also be applicable in cases where such reference was made to the Transfer Pricing Officer before 1st June, 2007 but an order has not been passed by him before the said date.

These amendments will take effect from 1st June, 2007.

Clause 40 of the Bill seeks to amend section 153B of the Income-tax Act relating to time limit for completion of assessment under section 153A.

The provisions of sub-section (1) of the said section provide for time limit for completion of assessment and reassessment by the Assessing Officer.

It is proposed to insert new provisos in sub-section (1) to revise the time limits specified in the said section for completion of assessment or reassessment in case of search or requisition and where a reference is made under section 92CA by the Assessing Officer to the Transfer Pricing Officer for determination of arm's length price of international transactions. In such cases, the revised time limit shall be the time limit specified under the aforesaid section as increased by twelve months. The revised time limit shall also be applicable in cases where such reference was made to the Transfer Pricing Officer before 1st June, 2007 but an order has not been passed by him before the said date.

These amendments will take effect from 1st June, 2007.

Clause 41 of the Bill seeks to insert new section 153D in the Income-tax Act relating to prior approval for assessment in cases of search or requistion.

The proposed new section 153D provides that no order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of,—

(i) each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A; and

(ii) the assessment year relevant to the previous year in which search is conducted or requisition is made under the said sections,

except with the previous approval of the Joint Commissioner.

This amendment will take effect from 1st June, 2007.

Clause 42 of the Bill seeks to amend section 172 of the Income-tax Act, which relates to shipping business of non-residents.

The said section does not provide for a time limit for completion of assessment in respect of a return furnished under sub-section (3) thereof.

The proposed amendment seeks to insert a new sub-section (4A) providing that no order assessing the income and determining the sum of tax payable thereon shall be made under the said section after the expiry of nine months from the end of the financial year in which the return under sub-section (3) is furnished.

Further a proviso to the said sub-section is proposed to be inserted so as to provide that where a return under sub-section (3) is furnished before the 1st day of April, 2007, the order assessing the income and determining the sum of tax payable thereon shall be made on or before the 31st December, 2008.

These amendments will take effect from 1st day of April, 2007.

Clause 43 of the Bill seeks to amend section 193 of the Income-tax Act, which relates to deduction of tax at source on interest on securities.

The proviso to the said section excludes, inter alia, any interest payable on any security of the Central Government or a State Government from the requirement of deduction of tax at source and consequently, tax is not being deducted on interest payable on 8% Savings (Taxable) Bonds, 2003.

The proposed amendment seeks to provide that the person responsible for paying to a resident any interest on 8% Savings (Taxable) Bonds, 2003 shall deduct income-tax if interest payable on such Bonds exceeds ten thousand rupees during the financial year.

This amendment will take effect from the 1st June, 2007.

Clause 44 of the Bill seeks to amend section 194A of the Income-tax Act, which relates to deduction of tax at source on interest other than "Interest on securities".

Clause (i) of sub-section (3) of the said section provides that deduction of income-tax at source shall not be made in those cases where the amount of income by way of interest does not exceed five thousand rupees.

The proposed amendment seeks to provide that the limit for tax deduction at source for the purpose of said section shall be ten thousand rupees, where the payer is a banking company or a co-operative society engaged in carrying on the business of banking, or interest is payable on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf, and five thousand rupees in any other case.

This amendment will take effect from the 1st day of June, 2007.

Clause 45 of the Bill seeks to amend section 194C of the Income-tax Act, which relates to deduction of tax at source on payments to contractors and sub-contractors.

Sub-section (1) of the said section does not provide for deduction of tax at source on payments made by an individual or a Hindu undivided family to the contractor.

The proposed amendment seeks to substitute sub-section (1) so as to also include payments made by an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding financial year in which such sum is credited or paid to the account of the contractor. However, it seeks to exempt deduction of income-tax at source in those cases where payments are made exclusively for personal purposes of such individual or any member of Hindu undivided family.

This amendment will take effect from 1st June, 2007.

Clause 46 of the Bill seeks to amend section 194H of the Income-tax Act which relates to deduction of tax at source on payment of commission or brokerage to a resident.

The said section provides exemption from deduction of tax at source on payment of insurance commission referred to in section 194D. In other cases where tax is required to be deducted at source on payment of commission or brokerage, the rate for such deduction is specified at five per cent.

The amendment seeks to enhance the existing rate of five per cent. for deduction of tax at source to ten per cent. The amendment further seeks to insert a proviso to provide exemption from deduction of tax at source in respect of payments of commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees also.

This amendment will take effect from 1st June, 2007.

Clause 47 of the Bill seeks to amend section 194-I of the Income-tax Act, which relates to deduction of tax at source on any income payable by way of rent.

Clauses (a) and (b) of the said section provide for deduction of tax at source on an income by way of rent at the rate of fifteen per cent. where the payee is an individual or a Hindu undivided family and twenty per cent. in other cases. The term “rent” is defined in clause (i) of the Explanation.

The proposed amendment seeks to amend clauses (a) and (b) so that deduction of tax at source on an income by way of rent for the use of machinery, plant and equipment shall be at the rate of ten per cent. and for the use of any other things specified in clause (i) of the Explanation therein, excluding machinery, plant and equipment, at the rate of fifteen per cent. where the payee is an individual or Hindu undivided family and in any other case, twenty per cent.

This amendment will take effect from the 1st June, 2007.

Clause 48 of the Bill seeks to amend section 194J of the Income-tax Act which provides for deduction of tax at source on fees for professional or technical services.

Sub-section (1) of said section lays down that a person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of fees for professional, technical services, royalty or sums referred to in clause (va) of section 28 shall deduct an amount equal to five per cent. of such sum as income-tax.

It is proposed to amend the said sub-section (1) so as to enhance the rate for deduction of tax at source to ten per cent.

This amendment will take effect from the 1st June, 2007.

Clause 49 of the Bill seeks to amend section 197A of the Income-tax Act which relates to cases in which no deductions are required to be made.

Sub-section (1C) of the said section contains a reference to section 88B which has been omitted with effect from 1st April, 2006.

The amendment seeks to delete reference to the omitted section 88B from the said sub-section.

This amendment will take effect retrospectively from 1st April, 2006 and will, accordingly, apply in relation to the assessment year 2006-2007 and subsequent years.

Clause 50 of the Bill seeks to amend section 201 of the Income-tax Act which relates to consequences of failure to deduct or pay the tax.

Sub-section (1A) of the said section provides for liability of payment of simple interest at twelve per cent. per annum on the amount of tax not deducted or partly deducted or not paid to the Government account. Now it has been proposed to change the method of calculation of interest on a monthly basis.

The proposed amendment seeks to provide that simple interest at one per cent. is to be calculated for every month or part of a month instead of twelve per cent. per annum.

This amendment will take effect from the 1st April, 2008.

Clause 51 of the Bill seeks to amend section 206A of the Income-tax Act which relates to furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

Sub-section (1) of the said section requires any banking company or co-operative society or public company responsible for paying to a resident any income not exceeding five thousand rupees by way of interest, other than interest on securities, to prepare quarterly returns and deliver or cause to be delivered the same to the prescribed income-tax authority.

The proposed amendment seeks to conform to the amendment proposed in section 194A in relation to increasing the threshold limit for deduction of tax at source to ten thousand rupees where the payer is a banking company or a co-operative society.

This amendment will take effect from the 1st June, 2007.

Clause 52 of the Bill seeks to amend section 206C of the Income-tax Act which relates to collection of tax at source and profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

It is proposed to define “mining and quarrying” referred to in the Table under sub-section (1C) by specifying that the mining and quarrying shall not include mining and quarrying of mineral oil. It has been further clarified that the expression “mineral oil” shall include petroleum and natural gas.

This amendment will take effect from the 1st June, 2007.

Clause 53 of the Bill seeks to amend section 245A of the Income-tax Act relating to definitions under chapter XIX-A.

Clause (b) of the said section provides that the definition of ‘case’ means any proceeding under this Act for the assessment or reassessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or reassessment, which may be pending before the income-tax authority on the date on which an application under sub-section (1) of section 245C has been made. Where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause.

It is proposed to amend clause (b) of the said section so as to define case as any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made. It has also been provided therein that- (i) a proceeding of assessment or reassessment or recomputation under section 147; (ii)a proceeding of assessment or reassessment for any of the assessment years referred to in clause (b) of section 153A in case of a person referred to in section 153A or section 153C; (iii) a proceeding of assessment or reassessment for the assessment year referred to in clause (b) of sub-section (1) of section 153B in case of a person referred to in section 153A or section 153C; (iv)a proceeding of making fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment, shall not be a proceeding for assessment for purposes of this clause.

It is further proposed to insert an explanation in the said clause (b) so as to clarify that for the purposes of the said clause; (i) a proceeding of assessment or reassessment or recomputation under section 147 shall be deemed to have commenced from the date on which notice under section 148 is issued; (ii) a proceeding of assessment or reassessment shall be deemed to have commenced on the date of initiation of search under section 132 or making of requisition under section 132A; (iii) a proceeding of making fresh assessment shall be deemed to have commenced from the date on which the order under section 254 or section 263 or section 264, setting aside or cancelling an assessment was passed; (iv) in any other case, a proceeding of assessment for an assessment year, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made.

Under the existing provisions of clause (g) of the said section, 'Vice-Chairman' has been defined to mean a Vice-Chairman of the Settlement Commission.

Sub-clause (b) of the said clause seeks to amend clause (g) of the said section so as to mean Vice-Chairman of the Settlement Commission and includes a Member who is senior amongst the Members of a Bench.

These amendments will take effect from 1st June, 2007.

Clause 54 of the Bill seeks to amend section 245C of the Income-tax Act relating to application for settlement of cases.

Sub-section (1) of section 245C provides that an assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which such income has been derived, the additional amount of income-tax payable on such income and such other particulars as may be prescribed, to the Settlement Commission to have the case settled. It is provided therein that no such application shall be made unless- (a) the assessee has furnished the return of income which he is or was required to furnish under any of the provisions of this Act; and (b)the additional amount of income-tax payable on the income disclosed in the application exceeds one hundred thousand rupees.

Sub-clause (i) of the said clause seeks to substitute the proviso to the said sub-section (1) so as to provide that no such application shall be made unless-(i) the additional amount of income-tax payable on the income disclosed in the application exceeds three lakh rupees ; and (ii) such tax and the interest which would have been paid under the provisions of this Act had the income disclosed in the application been declared in the return of income before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application.

Sub-section (1A) of section 245C provides that for the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 245D, the additional amount of income-tax payable in respect of the income disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

Sub-clause (ii) of the said clause seeks to amend the said sub-section (1A), so as to omit the reference to sub-sections (2A) to (2D) of section 245D.

Under the existing provisions of sub-section (1B) of section 245C, the manner of calculation of additional amount of income-tax payable in respect of the income disclosed in the application has been provided. Under the said sub-section, where the income disclosed in the application relates to only one previous year, then- (i)if the applicant has not furnished a return in respect of the total income of that year, irrespective of whether an assessment has been made in respect of the total income of that year, then, except in a case covered by clause (iii), tax shall be calculated on the income disclosed in the application; (ii) if the applicant has furnished a return in respect of the total income of that year, irrespective of whether or not an assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application; (iii) if the proceeding pending before the income-tax authority is in the nature of a proceeding for reassessment of the applicant under section 147 or by way of appeal or revision in connection with such reassessment, and the applicant has not furnished a return in respect of the total income of that year in the course of such proceeding for reassessment, tax shall be calculated on the aggregate of the total income as assessed in the earlier proceeding for assessment under section 143 or section 144 or section 147 and the income disclosed in the application.

Sub-clause (iii) of the said clause seeks to amend the said sub-section (1B) so as to provide that where the income disclosed in the application relates to only one previous year, then- (i) if the applicant has not furnished a return in respect of the total income of that year, then, tax shall be calculated on the income disclosed in the application as if such income were the total income; (ii) if the applicant has furnished a return in respect of the total income of that year, tax shall be calculated on the aggregate of the total income returned and the income disclosed in the application as if such aggregate were the total income.

Under the existing provisions of sub-section (1C) of section 245C, the additional amount of income-tax payable in respect of the income disclosed in the application relating to the previous year referred to in sub-section (1B) shall be- (a)in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause;(b)in a case referred to in clause (ii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income returned for that year;(c)in a case referred to in clause (iii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the total income assessed in the earlier proceeding for assessment under section 143 or section 144 or section 147.

Sub-clause (iv) of the said clause seeks to amend the said sub-section (1C) so as to omit clause (c) in the said sub-section.

Sub-clause (v) of the said clause seeks to insert a new sub-section (4), so as to provide that an assessee shall, on the date on which he makes an application under sub-section (1) to

the Settlement Commission, also send a copy of such application to the Assessing Officer.

These amendments will take effect from 1st June, 2007.

Clause 55 of the Bill seeks to amend section 245D of the Income-tax Act relating to procedure on the receipt of application under section 245C.

Under the existing provisions of sub-section (1) of section 245D, it is provided that on receipt of an application under section 245D, the Settlement Commission shall call for a report from the Commissioner and on the basis of the material contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission, shall, where it is possible, by order, reject the application or allow the application to be proceeded with within a period of one year from the end of the month in which such application was made under section 245C. It is provided therein that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard. It has also been provided that the Commissioner shall furnish the report within a period of forty-five days of the receipt of communication from the Settlement Commission in case of all applications made under section 245 on or after the 1st day of July, 1995 and if the Commissioner fails to furnish the report within the said period, the Settlement Commission may make the order without such report.

Sub-clause (i) of the said clause seeks to amend the said sub-section so as to provide that on receipt of an application under section 245C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with. It is also proposed to provide that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

Under the existing provisions of sub-section (2A) of section 245D, it is provided that subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the additional amount of income-tax payable on the income disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

Sub-clause (ii) of the said clause seeks to amend sub-section (2A) to provide that where an application was made under sub-section (1) of section 245C before the 1st day of June, 2007 but an order under the provisions of sub-section (1) of this section as they stood prior to their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the income disclosed in such application and the interest, is, paid on or before the 31st day of July, 2007. It is also proposed to insert an explanation in the said sub-section to provide that- in respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall, for the purposes of sub-section (1), be deemed to be the date of order of rejection or allowing the application to be proceeded with.

Under the existing provisions of sub-section (2B) of section 245D, it is provided that if the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of income-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

Sub-clause (ii) of the said clause seeks to amend sub-section (2B) to provide that the Settlement Commission shall- (i) in respect of an application which is allowed to be proceeded with under sub-section (1),within thirty days from the date on which the application was made; or (ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007, call for a report from the Commissioner, and Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

Under the existing provisions of sub-section (2C) of section 245D it is provided that where the additional amount of income-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

Sub-clause (ii) of the said clause seeks to amend sub-section (2C) to provide that where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified in that sub-section, the Settlement Commission may, on the basis of the material contained in such report and within a period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, if necessary, and shall send the copy of such order to the applicant and the Commissioner. It is proposed to provide therein that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard. It is also proposed to provide that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

Under the existing provisions of sub-section (2D) of section 245D it is provided that where the additional amount of income-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Assessing Officer having jurisdiction over the assessee.

Sub-clause (ii) of the said clause seeks to amend sub-section (2D) to provide that where an application was made under sub-section (1) of section 245C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section, as they stood prior to their amendment by the Finance Act, 2007, allowing the application to have been proceeded with has been passed before the 1st day of June, 2007 but an order under sub-section (4) was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with if the additional tax on the income disclosed in such application and the interest, is, notwithstanding any extension of time granted by the Settlement Commission, not paid on or before the 31st day of July, 2007.

Under the existing provisions of sub-section (3) of section 245D it is provided that where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

Sub-clause (iii) of the said clause seeks to amend sub-section (3) to provide that the Settlement Commission in respect of – (i) an application which has not been declared invalid under sub-section (2C); or (ii)an application referred to in sub-section (2D),which has been allowed to be further proceeded with under that sub-section, may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission. It is also proposed to provide therein that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

Under the existing provisions of sub-section (4) of section 245D it is provided that after examination of the records and the report of the Commissioner received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner under sub-section (1) or sub-section (3).

Sub-clause (iii) of the said clause seeks to amend sub-section (4) of the said section to provide that after examination of the record and the report of the Commissioner, if any, furnished under - (i) sub-section (2B) or sub-section (3), or (ii) the provisions of sub-section (1) as they stood prior to their amendment by the Finance Act, 2007,and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the applicant, but referred to in the report of the Commissioner.

Under the existing provisions of sub-section (4A) of section 245D it is provided that in every application allowed to be proceeded with under sub-section (1), the Settlement Commission shall, where it is possible, pass an order under sub-section (4) within a period of four years from the end of the financial year in which such application was allowed to be proceeded with.

Sub-clause (iii) of the said clause seeks to amend sub-section (4A) of the said section to provide that the Settlement Commission shall pass an order under sub-section (4) - (i) in respect of an application referred to in sub-section (2A) or sub-section (2D) , on or before the 31st day of March, 2008; (ii) in respect of an application made on or after 1st day of June, 2007, within nine months from the end of the month in which the application was made.

These amendments will take effect from 1st June, 2007.

Sub-section (6A) of the said section provides for liability of the assessee to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid. It is proposed to change themethod of calculation of interest on a monthly basis.

Sub-clause (iv) of the said clause seeks to provide that simple interest at the rate of one and one-fourth per cent. is to be calculated for every month or part of a month instead of fifteen per cent. per annum.

This amendment will take effect from the 1st day of April, 2008.

Clause 56 of the Bill seeks to amend section 245DD of the Income-tax Act relating to power of the Settlement Commission to order provisional attachment to protect revenue.

Under the existing provisions of sub-section (2) of section 245DD, it is provided that every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1).

It has also been provided therein that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

It is proposed to amend the said sub-section so as to omit the condition that the total period of extension shall not in any case exceed two years. This amendment is of consequential in nature.

This amendment will take effect from 1st June, 2007.

Clause 57 of the Bill seeks to amend section 245E of the Income-tax Act relating to power of the Settlement Commission to reopen completed proceedings.

Under the existing provisions of the said section, it is provided that if the Settlement Commission is of the opinion that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act by any income-tax authority before the application under section 245C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also. It has also been provided therein that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under section 245C exceeds nine years.

It is proposed to amend the said section so as to provide that the provisions of this section shall not be applicable in respect of a case, where an application is made on or after 1st June, 2007.

This amendment will take effect from 1st June, 2007.

Clause 58 of the Bill seeks to amend section 245F of the Income-tax Act relating to power and procedure of the Settlement Commission.

Under the existing provisions of sub-section (2) of section 245F, it is provided that where an application made under section 245C has been allowed to be proceeded with under section 245D,

the Settlement Commission shall, until an order is passed under sub-section (4) of section 245D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of an income-tax authority under this Act in relation to the case.

It is proposed to amend the said sub-section by inserting a proviso so as to provide that where an application has been made under section 245C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made. It also proposed to provide in the said sub-section that where- (i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 245D; or (ii) an application, is not allowed to be proceeded with under the said sub-section (2A) of section 245D, or, as the case may be, is declared invalid under sub-section (2B) of that section; or (iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 245D, the Settlement Commission, in respect of such application shall have such exclusive jurisdiction up to the date on which the application is rejected, or, not allowed to be proceeded with, or, declared in valid, or, not allowed to be further proceeded with as the case may be.

This amendment will take effect from 1st June, 2007.

Clause 59 of the Bill seeks to amend section 245H of the Income-tax Act relating to power of the Settlement Commission to grant immunity from prosecution and penalty.

Under the existing provisions of sub-section (1) of section 245H, it is provided that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also from the imposition of any penalty under this Act, with respect to the case covered by the settlement. It has also been provided therein that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 245C.

It is proposed to amend the said sub-section by inserting a second proviso so as to provide that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code or under any Central Act other than Income-tax Act and the Wealth-tax Act, to a person who made an application for settlement under section 245C on or after the 1st day of June, 2007.

This amendment will take effect from 1st June, 2007.

Clause 60 of the Bill seeks to insert a new section 245HA in the Income-tax Act relating to abatement of proceedings relating to the Settlement Commission.

It is proposed to provide in sub-section (1) of the said section that where - (i) an application made under section 245-C on or after the 1st day of June, 2007 has been rejected under sub-section (1) of section 245D; or (ii) an application made under section 245C has not been allowed to be further proceeded with under sub-section (2A) or under sub-section (2D) of section 245D; or (iii) an application made under section 245C has been declared as invalid under sub-section (2C) of section 245D; or (iv) in respect of any other application made under section 245C, an order under sub-section (4) of section 245D has not been passed within the time specified under sub-section (4A) of section 245D, the proceedings before the Settlement Commission shall abate on the specified date. It also proposes to insert an Explanation so as to clarify the meaning of "specified date". For the purpose of this sub-section, "specified date" means- (a) in respect of an application referred to in clause (i), the day on which the application was rejected; (b) in respect of application referred to in clause (ii), the 31st day of July, 2007; (c) in respect of application referred to in clause (iii), the last day of the month in which the application was declared invalid;(d) in respect of application referred to in clause(iv), on the date on which the time specified in sub-section (4A) expires.

It is further proposed to provide in sub-section (2) of the new section, that where a proceeding before the Settlement Commission abates, the Assessing Officer shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C had been made.

It is also proposed to provide in sub-section (3) of the new section, that for the purposes of sub-section (2), the Assessing Officer shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such material, information, inquiry and evidence had been produced before the Assessing Officer or held or recorded by him in the course of the proceedings before him.

It is also proposed to provide that in sub-section (4) of said section that for the purposes of the time-limit under sections 149, 153,153B, 154, 155,158BE and 231 and for the purposes of payment of interest under sections 243 or section 244 or, as the case may be, section 244A, for making the assessment or reassessment under sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 245C and ending with "specified date" referred to in sub-section (1) shall be excluded; and where the assessee is a firm, for the purposes of the time-limit for cancellation of registration of the firm under sub-section (2) of section 186, the period aforesaid shall, likewise, be excluded.

These amendments will take effect from 1st June, 2007.

It also seeks to insert a new section 245HAA in the Income-tax Act relating to credit for the tax paid in case of abatement of proceedings.

It is proposed to provide in the said section that where an application made under section 245C is rejected under sub-section (1) of section 245D or is not allowed to be proceeded with under sub-section (2A) of section 245D or is declared invalid under sub-section (2C) of section 245D or has not been allowed to be further proceeded with under sub-section (2D) of section 245D or an order under section (4) of section 245D has not been passed before the time provided under sub-section (4A) of section 245D, the Assessing Officer shall, in making the assessment, or, as the case may be, completing the proceedings in accordance with the provisions of section 245HA, allow the credit for the tax and interest paid before making the application or during the pendency of the case before the Settlement Commission.

This amendment will take effect from 1st June, 2007.

Clause 61 of the Bill seeks to amend section 245K of the Income-tax Act relating to bar on subsequent application for settlement in certain cases.

Under the existing provisions of the said section, it is provided that where- (i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who makes the application under section

245C for settlement, on the ground of concealment of particulars of his income; or(ii)after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case; or (iii) the case of such person is sent back to the Assessing Officer by the Settlement Commission under section 245HA, then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

It is proposed to amend the said section by substituting the existing clauses with new sub-sections (1) and (2) thereto. The proposed new sub-section (1) provides that where- (i) an order of settlement passed under sub-section (4) of section 245D provides for the imposition of a penalty on the person who makes the application under section 245C for settlement, on the ground of concealment of particulars of his income; or (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter XXII in relation to that case, or (iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June,2002, then, he shall not be entitled to apply for settlement under section 245C in relation to any other matter.

The proposed sub-section (2) provides that where a person has made an application under section 245C on or after the 1st June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 245D, such person shall not be subsequently entitled to make an application under section 245C.

These amendments will take effect from 1st June, 2007.

Clause 62 of the Bill seeks to amend section 246A of the Income-tax Act which relates to appealable orders before the Commissioner (Appeals).

It is proposed to insert a new clause (hb) in sub-section (1) of the said section to provide that a person deemed to be an assessee in default for not collecting the whole or any part of tax or after collecting the tax, failing to pay the same, may appeal before the Commissioner (Appeals).

It is further proposed to provide a reference to the order under section 271AAA in sub-clause (B) of clause (j) of sub-section (1) of the said section, so as to also provide an appeal against the order imposing a penalty under section 271AAA before the Commissioner (Appeals). This amendment is consequential in nature.

It is also proposed to insert a new sub-section (1B) to provide that an appeal filed by an assessee in default against an order made under sub-section (6A) of section 206C on or after 1st day of April, 2007 but before 1st day of June, 2007 shall be deemed to have been filed before the Commissioner (Appeals).

These amendments will take effect from 1st June, 2007.

Clause 63 of the Bill seeks to substitute section 248 of the Income-tax Act relating to provision of appeal by a person denying liability to deduct tax.

The provisions of section 248 lay down that where any person has deducted and paid tax in accordance with the provisions of sections 195 and 200 in respect of any sum chargeable under this Act, other than interest and who denies his liability to make such deductions, may make an appeal to the Commissioner (Appeals) to be declared not liable to make such deductions. In such situation, claim of refund of tax deducted and paid, may be, by deductee as well as deductor.

It is proposed to substitute section 248 so as to provide that where under an agreement or other arrangement, the tax deductible on any income, other than interest, under section 195 is to be borne by the person by whom the income is payable, and such person having paid such tax to the credit of the Central Government, claims that no tax was required to be deducted on such income, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.

It is therefore proposed to amend clause (a) of sub-section (2) of section 249 providing that where the appeal is under section 248, the prescribed time shall be counted from the date of payment of tax.

This amendment is consequential in nature and will take effect from 1st June, 2007.

Clause 64 of the Bill seeks to amend section 249 of the Income-tax Act relating to form of appeal and limitation.

Sub-section (2) of section 249 provides for the dates from which thirty days for filing appeal shall be counted indifferent situations. The provisions of clause (a) of sub-section (2) provide that where the appeal relates to any tax deducted under sub-section (1) of section 195, thirty days for filing appeal shall be counted from the date of payment of the tax.

The provisions of section 248 lay down that where any person has deducted and paid tax in accordance with the provisions of sections 195 and 200 in respect of any sum chargeable under this Act, other than interest and who denies his liability to make such deductions, may make an appeal to the Commissioner (Appeals) to be declared not liable to make such deductions. In such situation, claim of refund of tax deducted and paid, may be, by deductee as well as deductor.

It also proposes to substitute section 248 of the Income-tax Act providing for an appeal by a person referred to in section 195A, who is required to pay the tax in India on income of the non-resident under 'net of tax' arrangement be allowed to file an appeal to the Commissioner (Appeals) under section 248, denying liability to pay tax.

It is therefore proposed to amend clause (a) of sub-section (2) of section 249 providing that where the appeal is under section 248, the prescribed time shall be counted from the date of payment of tax.

This amendment is consequential in nature and will take effect from 1st June, 2007.

Clause 65 of the Bill seeks to amend 253 of the Income-tax Act which relates to appeals to the Appellate Tribunal.

Clause (c) of sub-section (1) of the said section provides that an appeal lies to the Appellate Tribunal against the orders passed by the Commissioner of Income-tax under sections 12AA, 263, 271, 272A or an order passed by him under section 154 amending his order under section 263 or an order passed by a Chief Commissioner or a Director General or a Director under section 272A.

It is proposed to amend the said clause so as to include appeals against the orders passed by the Commissioner under clause (vi) of sub-section (5) of section 80G, relating to approval of institutions or funds.

This amendment will take effect from the 1st of June, 2007.

Clause 66 of the Bill seeks to amend section 254 of the Income-tax Act relating to orders of Appellate Tribunal.

The first proviso to sub-section (2A) of the said section provides that where an order of stay is made in any proceedings relating to an appeal filed under sub-section (1) of section 253, the Appellate Tribunal shall dispose of the appeal within a period of one hundred and eighty days from the date of such order. In the second proviso to the said sub-section (2A), it is provided that if such appeal is not so disposed of within the period specified

in the first proviso, the stay order shall stand vacated after the expiry of the said period.

It is proposed to amend the said sub-section so as to provide that the Appellate Tribunal may, on an application made by the assessee and after considering the merits of the application, pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order. It is further proposed to provide that if such appeal is not so disposed of within the period of stay specified in the order of stay, the Appellate Tribunal may, on an application made in this behalf by the assessee and on being satisfied that the delay in disposing of the said appeal is not attributable to the assessee, extend the period of stay, or pass an order of stay for a further period or periods as it thinks fit; but the aggregate of the period originally allowed and the period or periods so extended or allowed shall not, in any case, exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the said appeal within the period of stay so extended or allowed.

It is also proposed to provide that if the appeal is not so disposed of within the period of stay initially allowed or the period or periods of stay subsequently extended or allowed, the order of stay shall stand vacated after the expiry of such period or periods.

This amendment will take effect from the 1st June, 2007.

Clause 67 of the Bill seeks to amend section 271 of the Income-tax Act which relates to penalties imposable for failure to furnish returns, comply with notices, concealment of income, etc.

The provisions of clause (b) of Explanation 4 to sub-section (1) of the said section provide that in a case to which Explanation 3 to the said sub-section (1) applies, the amount of tax sought to be evaded shall mean the tax on the total income assessed.

It is proposed to amend the said Explanation 4 so as to provide that in a case to which said Explanation 3 applies, in which the amount of tax sought to be evaded shall mean the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self assessment tax paid before the issue of notice under sub-section (1) of section 142 or section 148.

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

The provisions of Explanation 5 to sub-section (1) of section 271 provide that, where in the course of a search initiated under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (referred to as assets in this *Explanation*) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income — (i) for any previous year which has ended before the date of the search, but the return of income for such year has not been furnished before the said date or, where such return has been furnished before the said date, such income has not been declared therein; or (ii) for any previous year which is to end on or after the date of the search, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of section 271, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income. However, penalty shall not be levied if certain conditions prescribed therein are fulfilled.

It is proposed to amend said *Explanation* 5 so as to provide that provisions of said *Explanation* shall be applicable only in a case where search under section 132 was initiated before 1st June, 2007.

This amendment will take effect from 1st June, 2007.

It is further proposed to insert a new *Explanation* 5A to sub-section (1) of section 271 so as to provide that where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,— (i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or (ii) any income based on any entry in any books of account or other documents or transactions and claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year; which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

This amendment will take effect from 1st June, 2007.

Clause 68 of the Bill seeks to insert a new section 271AAA in the Income-tax Act which relates to penalty in certain cases.

It is proposed to provide in the said new section that, in a case where search has been initiated under section 132 on or after 1st June, 2007, the assessee shall be liable to pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year. However, provisions of this section shall not be applicable if the assessee — (i) in a statement admits the undisclosed income and specifies the manner in which such income has been derived; under sub-section (4) of section 132 in the course of the search, (ii) substantiates the manner in which the undisclosed income was derived; and (iii) pays the tax, together with interest, if any, in respect of the undisclosed income. It is further proposed to provide that No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1). It is also proposed to provide that the provisions of section 274 and section 275 shall, so far as may be, apply in relation to the penalty leviable under the proposed new section.

It is further proposed to insert *Explanation* to the said section so as to clarify that undisclosed income means — (i) any income of the specified previous years represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions is found in the course of a search under section 132, which has not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous years; or which has otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of the search; or (ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted.

It is also proposed to clarify that specified previous year means the previous year—(i) which has ended before the date of

search, but the date of filing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the said date; or (ii) in which search was conducted.

The insertion of the new section will take effect from 1st April, 2007 and will be applicable for assessment year 2007-2008 and subsequent assessment years in cases where search under section 132 is initiated on or after 1st June, 2007.

Clause 69 of the Bill seeks to insert a new section 292C in the Income-tax Act relating to presumption as to assets, books of account, etc.

It is proposed to insert a new section 292C in the Act so as to provide that where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed that –

(i) such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

(ii) the contents of such books of account and other documents are true; and

(iii) the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been singed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

This amendment will take effect retrospectively from 1st October, 1975.

Clause 70 of the Bill seeks to amend section 295 of the Income-tax Act which relates to power of the Board to make rules.

It is proposed to insert new clauses (eeba) and (eebb) in sub-section (2) of said section which are consequent to insertion of sections 139C and 139D giving certain rule making powers to the Board.

The amendment will take retrospective effect from 1st June, 2006.

Clause 71 of the Bill seeks to amend section 296 of the Income-tax Act relating to rules and certain notifications to be placed before Parliament.

The provisions of section 296 provide, *inter alia*, that every notification issued under sub-clause (iv) of clause (23C) of section 10 has to be laid before each House of Parliament within a specified period.

Clause 6 of the Bill, *inter alia,* proposes to amend sub-clause (iv) of clause (23C) of section 10 so as to allow exemption with effect from the 1st day of June, 2007 to any fund or institution referred to therein, as may be approved by the prescribed authority. Hence, no notification shall be issued by the Central Government on or after the 1st day of June, 2007.

It is proposed to amend section 296 so as to provide that every such notification issued before the 1st day of June, 2007 under sub-clause (iv) of clause (23C) of section 10 has to be placed before each House of Parliament within the specified period. This amendment is consequential in nature. This amendment will take effect from the 1st day of June, 2007.

Clause 72 of the Bill seeks to amend Second Schedule to the Income-tax Act which relates to procedure for recovery of tax. Rule 60 provides for application to set aside sale of immovable property on deposit. Sub-rule (1) of the said rule 60 provides that the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale apply to the Tax Recovery Officer to set aside the sale. Clause (a) of the said sub-rule (1) provides that such application can be made by the defaulter to the Tax Recovery Officer on his depositing the amount specified in the proclamation of sale for the recovery of which the sale was ordered, with interest on such amount at the rate of fifteen per cent. per annum, calculated from the date of the proclamation of sale to the date when deposit is made.

It is proposed to amend the said clause (a) so as to provide that the interest shall be chargeable at the rate of one and one-fourth per cent. for every month or part of a month instead of fifteen per cent. per annum.

Rule 68A of the said schedule provides for acceptance of property in satisfaction of amount due from the defaulter. Sub-rule (3) of the said rule provides that the amount by which the price of the property agreed upon under sub-rule (1) of the said rule between the Assessing Officer and the defaulter exceeds the amount due to the defaulter, such excess amount is to be paid by the Assessing Officer to the defaulter within a period of three months from the date of delivery of possession of the property to the Assessing officer. Where the Assessing Officer fails to pay such amount within the said period, the Central Government is required to pay simple interest at the rate of six per cent. per annum to the defaulter on such excess amount, for the period commencing on expiry of three months from the date of delivery of possession of the property and ending with the date of payment of the amount that was remaining unpaid.

It is proposed to amend the said sub-rule (3) so as to provide that interest shall be paid at the rate of one-half per cent. for every month or part of a month instead of six per cent. per annum.

These amendments will take effect from the 1st April, 2008.

Clause 73 of the Bill seeks to amend Part A of the Fourth Schedule to the Income-tax Act which relates to the recognised provident funds.

Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or Commissioner may accord recognition to any provident fund which in his opinion satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf.

The proviso to sub-rule (1) of the said rule 3 provides that in a case where recognition has been accorded to any provident fund on or before 31st March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4, and any other conditions which the Board may, by rules specify in this behalf, the recognition to such fund shall be withdrawn, if such fund does not satisfy such conditions on or before 31st March, 2007.

It is proposed to amend the said proviso to sub-rule (1), so as to extend the said time limit by one more year *i.e.* up to 31st March, 2008.

It is also proposed to insert another proviso to sub-rule (1) so as to provide that nothing contained in the first proviso shall apply to the provident fund of an establishment in respect of which a notification has been issued by the Central Government under sub-section (2) of section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

Rule 4 of the said schedule sets out the conditions, which a fund is required to satisfy for receiving and retaining recognition. Clause (ea) of the said rule 4 provides that the fund shall be of an establishment to which the provisions of sub-section (3) or sub-section (4) of section 1 of the said Employees' Provident Funds

and Miscellaneous Provisions Act are applicable and such establishment has been exempted under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section.

Since the provisions of the said clause (ea) are not very clear, it is proposed to substitute the said clause so as to provide that the fund shall be a fund of an establishment to which the provisions of sub-section (3) of section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (4) of section 1 of the said Act, and such establishment shall obtain exemption under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section.

This amendment will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-2008 and subsequent years.

Wealth-tax.

Clause 74 of the Bill seeks to amend section 2 of the Wealth-tax Act which relates to definitions.

Under the existing provisions of clause (ca) of the said section 2, it has been provided that "Assessing Officer" means the Deputy Commissioner of Income-tax or the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of wealth-tax under section 8 of the Wealth-tax Act and also the Joint Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act.

It is proposed to amend said clause (ca) so as to include Additional Commissioner in the definition of "Assessing Officer". The proposed amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st June, 1994.

It is further proposed to amend said clause (ca) so as to include Additional Director in the definition of "Assessing Officer". The proposed amendment is also clarificatory in nature.

This amendment will take effect retrospectively from 1st October, 1996.

Clause (ka) of the said section provides that India shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry. The said definition is as respects any period for the purposes of section 6 and as respects any period included in the year ending with the valuation date, for the purposes of making any assessment for the assessment year commencing on the 1st day of April, 1963, or for any subsequent year.

The proposed amendment is to substitute the said clause with a new clause so as to provide that "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters.

This amendment will take effect retrospectively from 25th August, 1976.

Clause 75 of the bill seeks to amend section 22A of the Wealth-tax relating to definitions under chapter V-A.

Clause (b) of the said section provides that the definition of 'case' means any proceeding under Wealth-tax Act for the assessment or reassessment of any person in respect of any year or years, or by way of appeal or revision in connection with such assessment or reassessment, which may be pending before wealth-tax authority on the date on which an application under sub-section (1) of section 22C has been made. Where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause.

It is proposed to amend clause (b) of the said section so as to define case as any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 22C is made. It has also been provided therein that— (i) a proceeding of assessment or reassessment under section 17; (ii) a proceeding of making fresh assessment in pursuance of an order under section 23A or under section 24 or under sub-section (1) or sub-section (2) of section 25 setting aside or cancelling an assessment; (iii) a proceeding of assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B, shall not be a proceeding for assessment for purposes of this clause. It is further proposed to insert an explanation in the said clause (b) so as to clarify that for the purposes of the said clause (i) a proceeding of assessment or reassessment referred to in clause (i) of the proviso shall, in a case where a notice under section 17 is not issued on the basis of search under section 37A or requisition under section 37B, be deemed to have commenced from the date on which notice under section 17 is issued; (ii) a proceeding of making fresh assessment referred to in clause (ii) of the proviso shall be deemed to have commenced from the date on which the order under section 23A or section 24 or under sub-section (1) or sub-section (2) of section 25, setting aside or cancelling an assessment was passed; (iii) a proceeding of assessment or reassessment referred to in clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 37A or making of requisition under section 37B; (iv) a proceeding of assessment for an assessment year, other than the proceeding of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) of the proviso shall be deemed to have commenced from the 1st day of the assessment year. and concludedon the date on which the assessment is made.

Under the existing provisions of the clause (f) of the said section, 'Vice-Chairman' has been defined to mean a Vice-Chairman of the Settlement Commission.

Sub-clause (b) of the said clause seeks to amend clause (g) of the said section so as to mean Vice-Chairman of the Settlement Commission and includes a Member who is senior amongst the Members of a Bench.

These amendments will take effect from 1st June, 2007.

Clause 76 of the Bill seeks to amend section 22C ofthe Wealth-tax Act relating to application for settlement of cases.

Sub-section (1) of section 22C provides that an assessee may, at any stage of a case relating to him, make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his wealth which has not been disclosed before the Assessing Officer, the manner in which such wealth has been derived, the additional amount of wealth-tax payable on such wealth and such other particulars as may be prescribed, to the Settlement Commission to have the case settled. It is provided therein that no such application shall be made unless the assessee has furnished the return of wealth

which he is or was required to furnish under any of the provisions of this Act.

Sub-clause (i) of the said clause seeks to substitute the proviso to the said sub-section (1) so as to provide that no such application shall be made unless such wealth-tax and the interest which would have been paid under the provisions of this Act had the wealth disclosed in the application been declared in the return of net wealth before the Assessing Officer on the date of application, has been paid on or before the date of making the application and the proof of such payment is attached with the application .

Sub-section (1A) of section 22C provides that for the purposes of sub-section (1) of this section and sub-sections (2A) to (2D) of section 22D, the additional amount of wealth-tax payable in respect of the wealth disclosed in an application made under sub-section (1) of this section shall be the amount calculated in accordance with the provisions of sub-sections (1B) to (1D).

Sub-clause (ii) of the said clause seeks to amend the said sub-section (1A), so as to omit reference to sub-section (2A) to (2D) of section 22D.

Under the existing provisions of sub-section (1B) of section 22C, the manner of calculation of additional amount of wealth-tax payable in respect of the wealth disclosed in the application has been provided. Under the said sub-section, where the wealth disclosed in the application relates to only one previous year, then— (i) if the applicant has not furnished a return in respect of the net-wealth of that year, irrespective of whether an assessment has been made in respect of the net wealth of that year, then, except in a case covered by clause (iii), tax shall be calculated on the wealth disclosed in the application; (ii) if the applicant has furnished a return in respect of the net wealth of that year, irrespective of whether or not an assessment has been made in pursuance of such return, tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application; (iii) if the proceeding pending before the wealth-tax authority is in the nature of a proceeding for reassessment of the applicant under section 17 or by way of appeal or revision in connection with such reassessment, and the applicant has not furnished a return in respect of the net wealth of that year in the course of such proceeding for reassessment, tax shall be calculated on the aggregate of the net wealth as assessed in the earlier proceeding for assessment under section 16 or section 17 and the wealth disclosed in the application.

Sub-clause (iii) of the said clause seeks to amend the said sub-section (1B) so as to provide that where the wealth disclosed in the application relates to only one previous year, then— (i) if the applicant has not furnished a return in respect of the net wealth of that year, then, tax shall be calculated on the wealth disclosed in the application as if such wealth were the net wealth; (ii) if the applicant has furnished a return in respect of the net wealth of that year, tax shall be calculated on the aggregate of the net wealth returned and the wealth disclosed in the application as if such aggregate were the net wealth.

Under the existing provisions of sub-section (1C) of section 22C, the additional amount of wealth-tax payable in respect of the wealth disclosed in the application relating to the previous year referred to in sub-section (1B) shall be— (a) in a case referred to in clause (i) of that sub-section, the amount of tax calculated under that clause; (b) in a case referred to in clause (ii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the net wealth returned for that year; (c) in a case referred to in clause (iii) of that sub-section, the amount of tax calculated under that clause as reduced by the amount of tax calculated on the net wealth assessed in the earlier proceeding for assessment under section 16 or section 17.

Sub-clause (iv) of the said clause seeks to amend the said sub-section (1C) so as to omit clause (c) in the said sub-section.

Sub-clause (v) of the said clause seeks to insert a new sub-section (4), so as to provide that an assessee shall, on the date on which he makes an application under sub-section (1) to the Settlement Commission, also send a copy of such application to the Assessing Officer.

These amendments will take effect from 1st June, 2007.

Clause 77 of the Bill seeks to amend section 22D of Wealth-tax Act relating to procedure on the receipt of application under section 22C.

Under the existing provision of sub-section (1) of section 22D, it is provided that on receipt of an application under section 22C, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission, shall, where it is possible, by order, reject the application or allow the application to be proceeded with within a period of one year from the end of the month in which such application was made under section 22C. It is provided therein that an application shall not be rejected under this sub-section unless an opportunity has been given to the applicant of being heard. It has also been provided that the Commissioner shall furnish the report within a period of forty-five days of the receipt of communication from the Settlement Commission in case of all applications made under section 22C on or after the date on which the Finance (No. 2) Act,1991 receives the assent of the President and if the Commissioner fails to furnish the report within the said period, the Settlement Commission may make the order without such report.

Sub-clause (i) of the said clause seeks to amend the said sub-section so as to provide that on receipt of an application under section 22C, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain as to why the application made by him be allowed to be proceeded with, and on hearing the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the application, by an order in writing, reject the application or allow the application to be proceeded with. It is also proposed to provide that where no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

Under the existing provisions of sub-sections (2A) of section 22D, it is provided that subject to the provisions of sub-section (2B), the assessee shall, within thirty-five days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the additional amount of wealth-tax payable on the wealth disclosed in the application and shall furnish proof of such payment to the Settlement Commission.

The sub-clause (ii) of the said clause seeks to amend sub-section (2A) to provide that where an application was made under sub-section (1) of section 22C before the 1st day of June, 2007 but an order under the provisions of sub-section (1) of this section as they stood prior to their amendment by the Finance Act, 2007, has not been made before the 1st day of June, 2007, such application shall be deemed to have been allowed to be proceeded with if the additional tax on the wealth disclosed in such application and the interest, is, paid on or before the 31st day of July, 2007. It is also proposed to insert an explanation in the said sub-section

to provide that in respect of the applications referred to in this sub-section, the 31st day of July, 2007 shall, for the purposes of sub-section (1), be deemed to be the date of order of rejection or allowing the application to be proceeded with.

Under the existing provisions of sub-section (2B) of section 22D, it is provided that if the Settlement Commission is satisfied, on an application made in this behalf by the assessee, that he is unable for good and sufficient reasons to pay the additional amount of wealth-tax referred to in sub-section (2A) within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate security for the payment thereof.

The sub-clause (ii) of the said clause seeks to amend sub-section (2B) to provide that the Settlement Commission shall— (i) in respect of an application which is allowed to be proceeded with under sub-section (1),within thirty days from the date on which the application was made; or (ii) in respect of an application referred to in sub-section (2A) which is deemed to have been allowed to be proceeded with under that sub-section, on or before the 7th day of August, 2007, call for a report from the Commissioner, and Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

Under the existing provisions of sub-section (2C) of section 22D it is provided that where the additional amount of wealth-tax is not paid within the time specified under sub-section (2A), then, whether or not the Settlement Commission has extended the time for payment of the amount which remains unpaid or has allowed payment thereof by instalments under sub-section (2B), the assessee shall be liable to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid from the date of expiry of the period of thirty-five days referred to in sub-section (2A).

The sub-clause (ii) of the said clause seeks to amend sub-section (2C) to provide that where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified in that sub-section, the Settlement Commission may, on the basis of the material contained in such report and within period of fifteen days of the receipt of the report, by an order in writing, declare the application in question as invalid, if necessary, and shall send the copy of such order to the applicant and the Commissioner. It is proposed to provide therein that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard. It is also proposed to provide that where the Commissioner has not furnished the report within the aforesaid period, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

Under the existing provisions of sub-section (2D) of section 22D it is provided that where the additional amount of wealth-tax referred to in sub-section (2A) is not paid by the assessee within the time specified under that sub-section or extended under sub-section (2B), as the case may be, the Settlement Commission may direct that the amount of wealth-tax remaining unpaid, together with any interest payable thereon under sub-section (2C), be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter VII, by the Assessing Officer having jurisdiction over the assessee.

The sub-clause (ii) of the said clause seeks to amend sub-section (2D) to provide that where an application was made under sub-section (1) of section 22C before the 1st day of June, 2007 and an order under the provisions of sub-section (1) of this section as they stood prior to their amendment by the Finance Act, 2007 allowing the application to have been proceeded with has been passed before the 1st day of June, 2007 but an order under sub-section (4) was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with if the additional tax on the wealth disclosed in such application and the interest, is, notwithstanding any extension of time granted by the Settlement Commission, not paid on or before the 31st day of July, 2007.

Under the existing provisions of sub-section (3) of section 22D it is provided that where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

Sub-clause (iii) of the said clause seeks to amend sub-section (3) to provide that the Settlement Commission in respect of – (i) an application which has not been declared invalid under sub-section (2C); or (ii) an application referred to in sub-section (2D),which has been allowed to be further proceeded with under that sub-section, may call for the records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case, and the Commissioner shall furnish the report within a period of ninety days of the receipt of communication from the Settlement Commission. It is also proposed to provide therein that where the Commissioner does not furnish his report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

Under the existing provisions of sub-section (4) of section 22D it is provided that after examination of the records and the report of the Commissioner received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner under sub-section (1) or sub-section (3).

Sub-clause (iii) of the said clause seeks to amend sub-section (4) of the said section to provide that after examination of the record and the report of the Commissioner, if any, furnished under - (i) sub-section (2B) or sub-section (3), or (ii) the provisions of sub-section (1) as they stood prior to their amendment by the Finance Act, 2007, and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the applicant, but referred to in the report of the Commissioner.

Under the existing provisions of sub-section (4A) of section 22D it is provided that in every application allowed to be proceeded with under sub-section (1), the Settlement Commission shall, where it is possible, pass an order under sub-section (4) within a period of four years from the end of the financial year in which such application was allowed to be proceeded with.

Sub-clause (iii) of the said clause seeks to amend sub-section (4A) of the said section to provide that the Settlement Commission shall pass an order under sub-section (4) - (i) in respect of application referred to in sub-section (2A) or sub-section (2D) , on or before the 31st day of March, 2008; (ii) in respect of an application made on or after 1st day of June, 2007, within nine months from the end of the month in which the application was made.

These amendments will take effect from 1st June, 2007.

Sub-section (6A) of the said section provides for liability of the assessee to pay simple interest at fifteen per cent. per annum on the amount remaining unpaid. It is proposed to change the method of calculation of interest on a monthly basis.

Sub-clause (iv) of the said clause seeks to provide that simple interest at the rate of one and one-fourth per cent. is to be calculated for every month or part of a month instead of fifteen per cent. per annum.

This amendment will take effect from the 1st day of Apirl, 2008.

Clause 78 of the Bill seeks to amend section 22DD of the Wealth-tax Act relating to power of the Settlement Commission to order provisional attachment to protect revenue.

Under the existing provisions of sub-section (2) of section 22DD, it is provided that every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1). It has also been provided therein that the Settlement Commission may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as it thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

It is proposed to amend the said sub-section so as to omit the condition that the total period of extension shall not in any case exceed two years. This amendment is of consequential in nature.

This amendment will take effect from 1st June, 2007.

Clause 79 of the Bill seeks to amend section 22E of the Wealth-tax Act relating to power of the Settlement Commission to reopen completed proceedings.

Under the existing provisions of the said section, it is provided that if the Settlement Commission is of the opinion that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act by any wealth-tax authority before the application under section 22C was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also. It has also been provided therein that no proceeding shall be reopened by the Settlement Commission under this section if the period between the end of the assessment year to which such a proceeding relates and the date of application for settlement under section 22C exceeds nine years.

It is proposed to amend the said section so as to provide that the provisions of this section shall not be applicable in respect of a case, where an application is made on or after 1st June, 2007.

This amendment will take effect from 1st June, 2007.

Clause 80 of the Bill seeks to amend section 22F of the Wealth-tax Act relating to power and procedure of the Settlement Commission.

Under the existing provisions of sub-section (2) of section 245F, it is provided that where an application made under section 245C has been allowed to be proceeded with under section 245D, the Settlement Commission shall, until an order is passed under sub-section (4) of section 22D, have, subject to the provisions of sub-section (3) of that section, exclusive jurisdiction to exercise the powers and perform the functions of a wealth-tax authority under this Act in relation to the case.

It is proposed to amend the said sub-section by inserting a proviso so as to provide that where an application has been made under section 22C on or after the 1st day of June, 2007, the Settlement Commission shall have such exclusive jurisdiction from the date on which the application was made. It also proposes to provide in the said sub-section that where- (i) an application made on or after the 1st day of June, 2007, is rejected under sub-section (1) of section 22D; or (ii) an application, is not allowed to be proceeded with under said sub-section (2A) of section 22D, or, as the case may be, is declared invalid under sub-section (2B) of that section; or (iii) an application is not allowed to be further proceeded with under section (2D) of section 22D, the Settlement Commission, in respect of such application shall have such exclusive jurisdiction upto the date on which the application is rejected, or, not allowed to be proceeded with, or, declared in valid, or, not allowed to be further proceeded with as the case may be.

This amendment will take effect from 1st June, 2007.

Clause 81 of the Bill seeks to amend section 22H of the Wealth-tax Act relating to power of the Settlement Commission to grant immunity from prosecution and penalty.

Under the existing provisions of sub-section (1) of section 22H, it is provided that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 22C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his wealth and the manner in which such wealth has been derived, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also (either wholly or in part) from the imposition of any penalty under this Act, with respect to the case covered by the settlement. It has also been provided therein that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 22C..

It is proposed to amend the said sub-section by inserting a second proviso so as to provide that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code or under any Central Act other than Income-tax Act and the Wealth-tax Act to a person who made an application for settlement under section 22C on or after the 1st day of June, 2007.

This amendment will take effect from 1st June, 2007.

Clause 82 of the Bill seeks to insert a new section 22HA in the Wealth-tax Act relating to abatement of proceedings relating to the Settlement Commission.

It is proposed to provide in sub-section (1) of the said section that where- (i) an application made under section 22C on or after 1st day of June, 2007 has been rejected under sub-section

(1) of section 22D; or (ii) an application made under section 22C has not been allowed to be further proceeded with under sub-section (2A) or under sub-section (2D) of section 22D; or (iii) an application made under section 22C has been declared as invalid under sub-section (2C) of section 22D; or (iv) in respect of any other application made under section 22C, an order under sub-section (4) of section 22D has not been passed within the time specified under sub-section (4A) of section 22D, the proceedings before the Settlement Commission shall abate on the specified date. It also proposes to insert an explanation so as to clarify the meaning of "specified date". For the purpose of this sub-section, "specified date" means- (a) in respect of an application referred to in clause (i), the day on which the application was rejected; (b) in respect of application referred to in clause (ii), the 31st day of July, 2007; (c) in respect of application referred to in clause (iii) , the last day of the month in which the application was declared invalid;(d) in respect of application referred to in clause (iv), on the date on which the time limitation specified in sub-section (4A) expires.

It is further proposed to provide in sub-section (2) of the new section, that where a proceeding before the Settlement Commission abates, the Assessing Officer shall dispose of the case in accordance with the provisions of this Act as if no application under section 22C had been made.

It is also proposed to provide in sub-section (3) of the new section, that for the purposes of sub-section (2), the Assessing Officer shall be entitled to use all the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before the Assessing Officer or held or recorded by him in the course of the proceedings before him.

It is also proposed to provide that in sub-section (4) of said section that for the purposes of the time-limit under sections 17A, 32 and 35 and for the purposes of payment of interest under section 34A in a case referred to in sub-section (2), the period commencing on and from the date of the application to the Settlement Commission under section 22C and ending with "specified date" referred to in sub-section (1) shall be excluded.

These amendments will take effect from 1st June, 2007.

It also seeks to insert a new section 22HAA in the Wealth-tax Act relating to credit for the tax paid in case of abatement of proceedings.

It is proposed to provide in the said section that where an application made under section 22C is rejected under sub-section (1) of section 22D or is not allowed to be proceeded with under sub-section (2A) of section 22D or is declared invalid under sub-section (2C) of section 22D or has not been allowed to be further proceeded with under sub-section (2D) of section 22D or an order under sub-section (4) of section 22D has not been passed before the time provided under sub-section (4A) of section 22D, the Assessing Officer shall, in making the assessment, or, as the case may be, completing the proceedings in accordance with the provisions of section 22HA, allow the credit for the tax and interest paid before making the application or during the pendency of the case before the Settlement Commission.

This amendment will take effect from 1st June, 2007.

Clause 83 of the Bill seeks to sustitute section 22K of the Wealth-tax Act relating to bar on subsequent application for settlement in certain cases.

Under the existing provisions of the said section, it is provided that where- (i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his wealth; or (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case; or (iii) the case of such person is sent back to the Assessing Officer by the Settlement Commission under section 22HA, then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.

It is proposed to amend the said section by substituting the existing clauses with new sub-sections (1) and (2) thereto. The proposed sub-section (1) provides that where- (i) an order of settlement passed under sub-section (4) of section 22D provides for the imposition of a penalty on the person who made the application under section 22C for settlement, on the ground of concealment of particulars of his wealth; or (ii) after the passing of an order of settlement under the said sub-section (4) in relation to a case, such person is convicted of any offence under Chapter VIII in relation to that case, or (iii) the case of such person was sent back to the Assessing Officer by the Settlement Commission on or before the 1st day of June,2002, then, he shall not be entitled to apply for settlement under section 22C in relation to any other matter.

The proposed sub-section (2) provides that where a person has made an application under section 22C on or after the 1st June, 2007 and if such application has been allowed to be proceeded with under sub-section (1) of section 22D, such person shall not be subsequently entitled to make an application under section 22C.

These amendments will take effect from 1st June, 2007.

Clause 84 of the Bill seeks to insert section 42D of the Wealth-tax Act relating to presumption as to assets, books of account, etc.

It is proposed to insert a new section 42D in the Wealth-tax Act so as to provide that where any books of account or other documents, articles or things including money are found in the possession or control of any person in the course of a search, it may, in any proceeding under this Act, be presumed that–

(i) such books of account or other documents, articles or things including money belong to such person;

(ii) the contents of such books of account or other documents are true; and

(iii) the signature and every other part of such books of account or other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.

This amendment will take effect retrospectively from 1st October, 1975.