

CHAPTER III

DIRECT TAXES

50

Income-tax

Amendment
of section 2.

3. In section 2 of Income-tax Act,—

(a) after clause (1B), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994, namely:—

‘(1C) “Additional Commissioner” means a person appointed to be an Additional Commissioner of Income-tax under sub-section (1) of section 117; 55

(1D) "Additional Director" means a person appointed to be an Additional Director of Income-tax under sub-section (1) of section 117;';

(b) in clause (7A),—

5 (i) after the words "any other provision of this Act, and the", the words "Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(ii) after the words "Additional Commissioner or", as so inserted, the words "Additional Director or," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;

10 (c) after clause (9A), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

'(9B) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117;';

15 (d) in clause (14), for sub-clause (ii), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

'(ii) personal effects, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependent on him, but excludes-

(a) jewellery;

(b) archaeological collections;

20 (c) drawings;

(d) paintings;

(e) sculptures; or

(f) any work of art.

Explanation.—For the purposes of this sub-clause, "jewellery" includes—

25 (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;';

30 (e) in clause (24), after sub-clause (xiii), the following sub-clause shall be inserted, namely:—

"(xiv) any sum referred to in clause (vi) of sub-section (2) of section 56;";

(f) for clause (25A), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 25th day of August, 1976, namely:—

35 '(25A) "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;';

80 of 1976.

40 **4.** In section 7 of the Income-tax Act, in clause (iii), for the words "Central Government", the words "Central Government or any other employer" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004. Amendment of section 7.

5. In section 9 of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1976, namely:— Amendment of section 9.

45 "*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this 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."

6. In section 10 of the Income-tax Act,—

50 (a) after clause (10BB), the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:—

'(10BC) 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

Amendment of section 10.

disaster, 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.

Explanation.—For the purposes of this clause, the expression “disaster” shall have the meaning assigned to it under clause (d) of section 2 of the Disaster Management Act, 2005;’; 5 53 of 2005.

(b) in clause (15), —

(A) in sub-clause (iv), in item (fa), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation.*—For the purposes of this item, the expression “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, but does not include a co-operative bank;’; 10 23 of 1955.
38 of 1959.
5 of 1970.
40 of 1980.
15 2 of 1934.

(B) for sub-clause (vii), the following shall be substituted with effect from the 1st day of April, 2008, namely:—

‘(vii) interest on bonds—

(a) issued by a local authority or by a State Pooled Finance Entity; and

(b) specified by the Central Government by notification in the Official Gazette.

Explanation.—For the purposes of this sub-clause, the expression “State Pooled Finance Entity” shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;’; 25

(c) in clause (23BBD), for the words, figures and letters “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”, the words, figures and letters “ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011” shall be substituted with effect from the 1st day of April, 2008; 30

(d) after clause (23BBF), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

“(23BBG) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003;” 36 of 2003.

(e) in clause (23C), with effect from the 1st day of June, 2007,—

(A) in sub-clause (iv), for the words “which may be notified by the Central Government in the Official Gazette”, the words “which may be approved by the prescribed authority” shall be substituted; 35

(B) in sub-clause (v), for the words “which may be notified by the Central Government in the Official Gazette”, the words “which may be approved by the prescribed authority” shall be substituted; 40

(C) for the second proviso, the following proviso shall be substituted, namely:—

”Provided further that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf.”; 45
50

(D) in the ninth proviso, for the words, brackets, figures and letter “every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (vi) or sub-clause (via)”, the words, brackets, figures and letter “every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via)” shall be substituted; 55

(E) in the thirteenth proviso, after the words "Central Government", the words "or is approved by the prescribed authority, as the case may be," shall be inserted;

(F) after the fifteenth proviso, the following proviso shall be inserted, namely:—

5 "Provided also that all pending applications, on 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;"

(f) after clause (23EB), the following shall be inserted with effect from the 1st day of April, 2008, namely:—

10 '(23EC) 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:

15 Provided that where any amount standing to the credit of the said 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.

74 of 1952.

20 *Explanation.*—For the purposes of this clause, "commodity exchange" shall mean a "registered association" as defined in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952;'

(g) in clause (23FB), with effect from the 1st day of April, 2008,—

(i) for the words "set up to raise funds for investment", the words "from investment" shall be substituted;

(ii) in *Explanation 1*, for clause (c), the following clause shall be substituted, namely:—

25 '(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(i) business of—

(A) nanotechnology;

(B) information technology relating to hardware and software development;

30 (C) seed research and development;

(D) bio-technology;

(E) research and development of new chemical entities in the pharmaceutical sector;

(F) production of bio-fuels; or

35 (G) building and operating composite hotel-cum-convention centre with seating capacity of more than three thousand; or

(ii) dairy or poultry industry;'

7. In section 10AA of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 10th day of February, 2006, namely:— Amendment of section 10AA.

40 "(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(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;

45 (ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

50 (iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanations 1* and *2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.”.

Amendment
of section
12A.

- 8.** In section 12A of the Income-tax Act, with effect from the 1st day of June, 2007,—
- (a) for the marginal heading, the following marginal heading shall be substituted, namely:— 5
- “Conditions for applicability of sections 11 and 12.”;
- (b) the existing section 12A shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered,—
- (i) in clause (a), after the proviso, the following proviso shall be inserted, namely:—
- ”Provided further that the provisions of this clause shall not apply in relation to any application 10
made on or after the 1st day of June, 2007;”;
- (ii) after clause (a), the following clause shall be inserted, namely:—
- ”(aa) the person in receipt of the income has made an application for registration of the trust
or institution on or after the 1st day of June, 2007 in the prescribed form and manner to the
Commissioner and such trust or institution is registered under section 12AA;”;
- (c) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—
- ”(2) 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.”.

Amendment
of section
12AA.

- 9.** In section 12AA of the Income-tax Act, with effect from the 1st day of June, 2007,— 20
- (a) in sub-section (1), after the word, brackets and letter “clause (a)”, the words, brackets, letters
and figure “or clause (aa) of sub-section (1)” shall be inserted;
- (b) in sub-section (2), after the word, brackets and letter “clause (a)”, the words, brackets, letters
and figure “or clause (aa) of sub-section (1)” shall be inserted.

Amendment
of section 17.

- 10.** In section 17 of the Income-tax Act,— 25
- (a) in clause (1), in sub-clause (viii), for the words “Central Government”, the words “Central
Government or any other employer” shall be substituted and shall be deemed to have been
substituted with effect from the 1st day of April, 2004;
- (b) in clause (2),—
- (A) after sub-clause (ii),— 30
- (i) the following *Explanations* shall be inserted and shall be deemed to have been inserted
with effect from the 1st day of April, 2002, namely:—
- ”*Explanation 1.*—For the purposes of this sub-clause, concession in the matter of rent
shall be deemed to have been provided if,—
- (a) in a case where an unfurnished accommodation is provided by any employer 35
other than the Central Government or any State Government and—
- (i) the accommodation is owned by the employer, the value of the accommodation
determined at the rate of ten per cent. of salary in cities having population exceeding
four lakhs as per 1991 census and seven and one-half per cent. of salary in other 40
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;
- (ii) 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 ten per cent. of salary, whichever is lower, in respect of the period during which the 45
said accommodation was occupied by the assessee during the previous year, exceeds
the rent recoverable from, or payable by, the assessee;
- (b) in a case where a furnished accommodation is provided by the Central Government
or any State Government, the licence fee determined by the Central Government or any
State Government in respect of the accommodation in accordance with the rules framed 50
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 during the

previous year, 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;

5

(c) in a case where a furnished accommodation is provided by an employer other than Central Government or any State Government and—

10

(i) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (i) of clause (a) 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;

15

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (ii) of clause (a) 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;

20

(d) in a case where the accommodation is provided by the employer 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 the accommodation determined at the rate of twenty-four per cent. of salary paid or 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.

25

Explanation 2.—For the purposes of this sub-clause, value of furniture and fixture shall be ten per cent. per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, airconditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.”;

30

(ii) in the *Explanation 1* as so inserted, for clause (a), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

”(a) in a case where an unfurnished accommodation is provided by any employer other than Central Government or any State Government and—

35

(i) 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 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;

40

(ii) 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.”;

45

(B) in sub-clause (iii), the proviso shall be omitted with effect from the 1st day of April, 2008.

11. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (5), for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2012” shall be substituted with effect from the 1st day of April, 2008. Amendment of section 35.

50

12. In section 36 of the Income-tax Act, in sub-section (1),— Amendment of section 36.

(A) in clause (ib), for the words “paid by cheque”, the words “paid by any mode of payment other than cash” shall be substituted with effect from the 1st day of April, 2008;

(B) in clause (viiia),—

55

(a) in sub-clause (a), after the words “or a non-scheduled bank”, the words “or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank” shall be inserted;

(b) in the *Explanation*,—

(i) in clause (ii) at the end, the words “, but does not include a co-operative bank” shall be omitted;

(ii) after clause (v), the following clause shall be inserted, namely:—

“(v) “co-operative bank”, “primary agricultural credit society” and “primary co-operative agricultural and rural development bank” shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P;”;

(C) for clause (viii), the following shall be substituted with effect from the 1st day of April, 2008, namely:— 5

“(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent. of the profits derived from eligible business computed under the head “Profits and gains of business or profession” (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time 10 to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) “specified entity” means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956; 15 1 of 1956.

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and 20

(vi) any other financial corporation including a public company;

(b) “eligible business” means,—

(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance in India for industrial or agricultural development or development of infrastructure facility; 25

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India; 30

(c) “banking company” means a company to which the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act; 10 of 1949.

(d) “co-operative bank”, “primary agricultural credit society” and “primary co-operative agricultural and rural development bank” shall have the meanings respectively assigned to them in the *Explanation* to sub-section (4) of section 80P; 35

(e) “housing finance company” means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) “public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956; 40 1 of 1956.

(g) “infrastructure facility” means—

(i) an infrastructure facility as defined in the *Explanation* to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of 45 sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) “long-term finance” means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of 50 not less than five years;”;

(D) clause (x) shall be omitted with effect from the 1st day of April, 2008;

(E) for clause (xii), the following clause shall be substituted with effect from the 1st day of April, 2008, namely:—

"(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

5 (a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

10 (c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;"

(F) after clause (xiii), the following clause shall be inserted with effect from the 1st day of April, 2008, namely:—

15 '(xiv) 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.

1 of 1956.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;'

13. In section 40A of the Income-tax Act, for sub-section (3), the following shall be substituted with effect from the 1st day of April, 2008, namely:— Amendment of section 40A.

20 "(3) (a) Where the assessee incurs any expenditure in respect of which payment is made in a sum exceeding twenty thousand rupees 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;

25 (b) where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent 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:

30 Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under this sub-section where any payment in a sum exceeding twenty thousand rupees is made otherwise than by an account payee cheque drawn on a bank or account payee bank draft, in such cases and under 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."

35

14. In section 49 of the Income-tax Act, after sub-section (2AA), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:— Amendment of section 49.

40 "(2AB) Where the capital gain arises from the transfer of 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 that clause."

15. In section 54EC of the Income-tax Act,— Amendment of section 54EC.

(a) in sub-section (1), the following proviso shall be inserted, namely:—

45 "Provided 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.";

(b) after sub-section (3), in the *Explanation*,—

(i) for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2006, namely:—

50 '(b) "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 the 31st day of March, 2007,—

(i) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988; or

68 of 1988.

(ii) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956,

1 of 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 bond) as it thinks fit:—

5

(ii) in clause (b) as so substituted, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2006, namely:—

“Provided that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (b) as they stood immediately before their amendment by the Finance Act, 2007, such bond shall be deemed to be a bond notified under this clause;”

10

(iii) after the proviso as so inserted, the following clause shall be inserted, namely:—

“(ba) “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.”

15

68 of 1988.
1 of 1956.Amendment
of section 56.

16. In section 56 of the Income-tax Act, in sub-section (2), in clause (v), in the proviso, the following sub-clauses shall be deemed to have been inserted with effect from the 1st day of April, 2005, namely:—

20

“(e) from any local authority as defined in the Explanation to clause (20) of section 10; or

(f) 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

(g) from any trust or institution registered under section 12AA.”

Amendment
of section
72A.

17. In section 72A of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of April, 2008, namely:—

25

“(1) Where there has been an amalgamation of—

(a) a company owning an industrial undertaking or a ship or a hotel with another company; or

(b) a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 with a specified bank; or

30

10 of 1949.

(c) 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,

then, notwithstanding anything contained in any other provision of this 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 unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.”

35

Amendment
of section
80AC.

18. In section 80AC of the Income-tax Act, after the word, figures and letters “section 80-IC”, the words, figures and letters “or section 80-ID” shall be inserted with effect from the 1st day of April, 2008.

Amendment
of section
80CCD.

19. In section 80CCD of the Income-tax Act,—

40

(a) in sub-section (1), for the words “employed by the Central Government”, the words “employed by the Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004;

(b) in sub-section (2), for the words “Central Government” at both the places where they occur, the words “Central Government or any other employer” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2004.

45

Amendment
of section
80D.

20. In section 80D of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2008,—

(a) for the words “paid by him by cheque”, the words “paid by him by any mode of payment other than cash” shall be substituted;

(b) in clause (i), for the word “ten”, the word “fifteen” shall be substituted;

50

(c) in clause (ii), for the word “ten”, the word “fifteen” shall be substituted;

(d) in the proviso,—

(i) for the word “ten”, the word “fifteen” shall be substituted;

(ii) for the word "fifteen", the word "twenty" shall be substituted;

21. In section 80E of the Income-tax Act, with effect from the 1st day of April, 2008,—

Amendment of section 80E.

(i) in sub-section (1), after the words "higher education", the words "or for the purpose of higher education of his relative" shall be inserted;

5 (ii) in sub-section (3), after clause (d), the following clause shall be inserted, namely:—

'(e) "relative", in relation to an individual, means the spouse and children of that individual.'

22. In section 80-IA of the Income-tax Act,—

Amendment of section 80-IA.

10 (i) in sub-section (2), after the words "distribution lines", the words "or lays and begins to operate a cross-country natural gas distribution network" shall be inserted with effect from the 1st day of April, 2008;

(ii) in sub-section (3), for the word, brackets and figures "clause (iv)", the words, brackets and figures "clause (iv) or clause (vi)" shall be substituted with effect from the 1st day of April, 2008;

(iii) in sub-section (4), with effect from the 1st day of April, 2008,-

15 (A) in clause (i), in the Explanation, in clause (d), for the words "or inland port", the words "inland port or navigational channel in the sea" shall be substituted;

(B) in clause (v), in sub-clause (b), for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2008" shall be substituted;

(C) after clause (v), the following clause shall be inserted, namely:—

20 '(vi) 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 such network, which fulfils the following conditions, namely:—

(a) 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;

25 (b) it 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;

19 of 2006.

(c) 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;

30 (d) it has started or starts operating on or after the 1st day of April, 2007; and

(e) any other condition which may be prescribed.

Explanation.—For the purposes of this clause, an "associated person" in relation to the assessee means a person—

35 (i) who participates directly or indirectly or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the assessee;

40 (iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent. of the total borrowings of the assessee.';

(iv) after sub-section (12), the following sub-section shall be inserted with effect from the 1st day of April, 2008, namely:—

45 "(12A) Nothing contained in sub-section (12) shall apply to any enterprise or undertaking which is transferred in a scheme of amalgamation or demerger on or after the 1st day of April, 2007.";

(v) after sub-section (13), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2000, namely:—

50 "*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply to a person who executes a works contract entered into with the undertaking or enterprise, as the case may be."

- Amendment of section 80-IB. **23.** In section 80-IB of the Income-tax Act, in sub-section (4), in the fourth proviso, for the figures, letters and words “31st day of March, 2007”, the figures, letters and words “31st day of March, 2012” shall be substituted with effect from the 1st day of April, 2008.
- Insertion of new section 80-ID. **24.** After section 80-IC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2008, namely:— 5
- Deduction in respect of profits and gains from business of hotels and convention centres in specified area. '80-ID (1) 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 10 assessment years beginning from the initial assessment year.
- (2) This section applies to any undertaking,—
- (i) 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 the 1st day of April, 2007 and ending on the 31st day of March, 2010; or 15
- (ii) 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 the 1st day of April, 2007 and ending on the 31st day of March, 2010.
- (3) The deduction under sub-section (1) shall be available only if —
- (i) the eligible business is not formed by the splitting up, or the reconstruction, of a business 20 already in existence;
- (ii) the eligible business is not formed by the transfer to a new business of a building previously used as a hotel or a convention centre, as the case may be;
- (iii) the eligible business is not formed by the transfer to a new business of machinery or plant previously used for any purpose. 25
- Explanation.*—The provisions of *Explanations* 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section;
- (iv) the assessee furnishes along with the return of income, the report of an audit in such form and containing such particulars as may be prescribed, and duly signed and verified by an 30 accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed.
- (4) 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 section 10AA, in relation to the profits and gains of the undertaking. 35
- (5) 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.
- (6) For the purposes of this section,—
- (a) “convention centre” means a building of a prescribed area comprising of convention halls to be used for the purpose of holding conferences and seminars, being of such size and number 40 and having such other facilities and amenities, as may be prescribed;
- (b) “hotel” means a hotel of two-star, three-star or four-star category as classified by the Central Government;
- (c) “initial assessment year”—
- (i) in the case of a hotel, means the assessment year relevant to the previous year in which 45 the business of the hotel starts functioning;
- (ii) in the case of a convention centre, means the assessment year relevant to the previous year in which the convention centre starts operating on a commercial basis;
- (d) “specified area” means the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad.'. 50
- Amendment of section 92CA. **25.** In section 92CA of the Income-tax Act, with effect from the 1st day of June, 2007,—
- (i) after sub-section (3), the following sub-section shall be inserted, namely: —

"(3A) Where a reference was made under sub-section (1) before the 1st day of June, 2007 but the order under sub-section (3) has not been made by the Transfer Pricing Officer before the said date, or a reference under sub-section (1) is made on or after the 1st day of June, 2007, an order under sub-section (3) may be made at any time before sixty days prior to the date on which the period of limitation referred to in section 153, or as the case may be, in section 153B for making the order of assessment or reassessment or recomputation or fresh assessment, as the case may be, expires.";

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) 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 as so determined by the Transfer Pricing Officer."

26. In section 115JB of the Income-tax Act, after sub-section (2), in the *Explanation* with effect from the 1st day of April, 2008,— Amendment of section 115JB.

(a) in clause (f), the words, figures and letters "section 10A or section 10B or" shall be omitted;

(b) in clause (ii), the words, figures and letters "section 10A or section 10B or" shall be omitted.

27. In section 115-O of the Income-tax Act, in sub-section (1), for the words "at the rate of twelve and one-half per cent.", the words "at the rate of fifteen per cent." shall be substituted. Amendment of section 115-O.

28. In section 115R of the Income-tax Act, in sub-section (2), for clauses (i) and (ii), the following clauses shall be substituted, namely:— Amendment of section 115R.

(i) twenty-five per cent. on income distributed by a money market mutual fund or a liquid fund;

(ii) twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund; and

(iii) twenty per cent. on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund."

29. In Chapter XII-E of the Income-tax Act, after section 115T, in the *Explanation*, after clause (c), the following clauses shall be inserted, namely: — Amendment of Explanation to Chapter XII-E.

'(d) "money market mutual fund" means a money market mutual fund as defined in sub-clause (p) of clause 2 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;

(e) "liquid fund" means 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.'

30. In section 115WB of the Income-tax Act, with effect from the 1st day of April, 2008,— Amendment of section 115WB.

(A) in sub-section (1),—

(i) in clause (b), the word "and" occurring at the end shall be omitted;

(ii) in clause (c), for the word "employees", the words "employees; and" shall be substituted;

(iii) after clause (c), the following clause shall be inserted, namely: —

'(d) 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).

Explanation.—For the purposes of this clause,-

(i) "specified security" means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes employees' stock option;

(ii) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.';

(B) in sub-section (2), in the proviso,—

(a) in clause (v), for the words "bill boards", the words "bill boards, display of products" shall be substituted;

(b) for clause (vii), the following clause shall be substituted, namely:—

"(vii) being the expenditure on distribution of samples either free of cost or at concessional rate; and".

Amendment
of section
115WC.

31. In section 115WC of the Income-tax Act, in sub-section (1), after clause (b), the following shall be inserted with effect from the 1st day of April, 2008, namely:— 5

'(ba) 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.

Explanation.—For the purposes of this clause, "fair market value" means the value determined in accordance with the method as may be prescribed by the Board;'. 10

Amendment
of section
115WJ.

32. In section 115WJ of the Income-tax Act, for sub-sections (2) and (3), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

"(2) Advance tax on the current fringe benefits shall be payable by –

(a) all the companies, who are liable to pay the same in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below: 15

Table I

Due date of instalment	Amount payable	
On or before the 15th June	Not less than fifteen per cent. of such advance tax.	20
On or before the 15th September	Not less than forty-five per cent. of such advance tax as reduced by the amount, if any, paid in the earlier instalment.	25
On or before the 15th December	Not less than seventy-five per cent. of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.	
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;	30

(b) all the assessees (other than companies), who are liable to pay the same in three instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below: 35

Table II

Due date of instalment	Amount payable	
On or before the 15th September	Not less than thirty per cent. of such advance tax.	40
On or before the 15th December	Not less than sixty per cent. of such advance tax as reduced by the amount, if any, paid in the earlier instalment.	
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.	45

(3) Where an assessee has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, 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.". 50

- 33.** In section 120 of the Income-tax Act, in sub-section (4), in clause (b) — Amendment of section 120.
- (i) after the words “shall be exercised or performed by”, the words “an Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- 5 (ii) after the words “an Additional Commissioner or”, as so inserted, the words “an Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996;
- (iii) after the words “deemed to be references to such”, the words “Additional Commissioner or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- 10 (iv) after the words “Additional Commissioner or” as so inserted, the words “Additional Director or” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1996.
- 34.** In section 132B of the Income-tax Act, in sub-section (4), in clause (a), for the words “six per cent. per annum”, the words “one-half per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008. Amendment of section 132B.
- 35.** In section 139 of the Income-tax Act, in sub-section (9), the proviso occurring at the end shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2006. Amendment of section 139.
- 36.** After section 139B of the Income-tax Act, the following sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2006, namely:— Insertion of new sections 139C and 139D
- 20 “139C. (1) The Board may make rules providing for a class or classes of persons who may not be required to furnish documents, statements, receipts, certificates, 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. Power of Board to dispense with furnishing documents, etc. with the return.
- 25 (2) 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 this section.
- 139D. The Board may make rules providing for— Filing of return in electronic form.
- 30 (a) the class or classes of persons who shall be required to furnish the return in electronic form;
- (b) the form and the manner in which the return in electronic form may be furnished;
- (c) the documents, statements, receipts, certificates or audited reports which may not be furnished along with the return in electronic form but shall be produced before the Assessing Officer on demand;
- 35 (d) the computer resource or the electronic record to which the return in electronic form may be transmitted.”.
- 37.** In section 142 of the Income-tax Act,— Amendment section 142.
- (a) in sub-section (2A), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—
- 40 “Provided 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.”;
- (b) in sub-section (2D), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—
- 45 “Provided that where any direction for audit under sub-section (2A) is issued by the Assessing Officer on or after the 1st day of June, 2007, 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.”.
- 38.** In section 143 of the Income-tax Act, in sub-section (3), in the proviso, in sub-clause (ii), after the words “scientific research association or other association”, the words “or fund or trust” shall be inserted with effect from the 1st day of June, 2007. Amendment of section 143.
- 50 **39.** In section 153 of the Income-tax Act, with effect from the 1st day of June, 2007,— Amendment of section 153.
- (a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

'Provided further that in case the assessment year in which the income was first assessable is the assessment year commencing on the 1st day of April, 2005 or any subsequent assessment year and during the course of the proceeding for the assessment of total income, a reference under sub-section (1) of section 92CA—

(i) was made before the 1st day of June, 2007 but an order under sub-section (3) of that section has not been made before such date; or

(ii) is made on or after the 1st day of June, 2007,

the provisions of clause (a) shall, notwithstanding anything contained in the first proviso, have effect as if for the words "two years", the words "thirty-three months" had been substituted.;

(b) in sub-section (2), after the second proviso, the following proviso shall be inserted, namely:— 10

'Provided also that where the notice under section 148 was served on or after the 1st day of April, 2006 and during the course of the proceedings for the assessment or reassessment or recomputation of total income, a reference under sub-section (1) of section 92CA-

(i) was made before the 1st day of June, 2007 but an order under sub-section (3) of that section has not been made before such date; or 15

(ii) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "twenty-one months" had been substituted.;

(c) in sub-section (2A), after the second proviso, the following proviso shall be inserted, namely:— 20

'Provided also that where the order under section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Commissioner on or after the 1st day of April, 2006, and during the course of the proceedings for the fresh assessment of total income, a reference under sub-section (1) of section 92CA—

(i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or 25

(ii) is made on or after the 1st day of June, 2007,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "twenty-one months" had been substituted.;

40. In section 153B of the Income-tax Act, in sub-section (1), after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:— 30 Amendment of section 153B.

'Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA— 35

(i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or

(ii) is made on or after the 1st day of June, 2007,

the provisions of clause (a) or clause (b) of this sub-section shall, notwithstanding anything contained in clause (i) of the second proviso, have effect as if for the words "two years", the words "thirty three months" had been substituted: 40

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2005 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA— 45

(i) was made before the 1st day of June, 2007 but an order under sub-section (3) of section 92CA has not been made before such date; or

(ii) is made on or after the 1st day of June, 2007, 50

the period of limitation for making the assessment or reassessment in case of such other person shall, notwithstanding anything contained in clause (ii) of the second proviso, be the period of thirty-three months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twenty-one

months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.’.

- 5 **41.** In the Income-tax Act, after section 153C, the following section shall be inserted with effect from the 1st day of June, 2007, namely:—
- 153D. No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of section 153A or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner.”.
- 10 **42.** In section 172 of the Income-tax Act, after sub-section (4), the following sub-section shall be inserted, namely:—
- “(4A) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (4) after the expiry of nine months from the end of the financial year in which the return under sub-section (3) is furnished:
- 15 Provided that where the return under sub-section (3) has been furnished before the 1st day of April, 2007, such order shall be made on or before the 31st day of December, 2008.”.
- 43.** In section 193 of the Income-tax Act, in the proviso, in clause (iv), the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:—
- 20 “Provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 during the financial year;”.
- 44.** In section 194A of the Income-tax Act, in sub-section (3), in clause (i), for the words “ does not exceed five thousand rupees”, the following words, brackets, letters and figures shall be substituted with effect from the 1st day of June, 2007, namely:—
- 25 “does not exceed—
- (a) ten thousand rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution, referred to in section 51 of that Act);
- (b) ten thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;
- (c) ten thousand rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and
- 30 (d) five thousand rupees in any other case.”.
- 45.** In section 194C of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—
- 35 “(1) Any person responsible for paying any sum to any resident (hereinafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and—
- (a) the Central Government or any State Government; or
- (b) any local authority; or
- (c) any corporation established by or under a Central, State or Provincial Act; or
- 40 (d) any company; or
- (e) any co-operative society; or
- (f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or
- 21 of 1860. 45 (g) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or
- (h) any trust; or
- (i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or
- 3 of 1956. 50 (j) any firm; or
- (k) any 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

Insertion of new section 153D.

Prior approval necessary for assessment in cases of search or requisition.

Amendment of section 172.

Amendment of section 193.

Amendment of section 194A.

Amendment of section 194C.

clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor,

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent. in case of advertising,

(ii) in any other case two per cent.,

of such sum as income-tax on income comprised therein:

Provided that no individual or a Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.”

Amendment
of section
194H.

46. In section 194H of the Income-tax Act, with effect from the 1st day of June, 2007,-

(a) for the words “five per cent.”, the words “ten per cent.” shall be substituted;

(b) after the second proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.”

Amendment
of section
194-I.

47. In section 194-I of the Income-tax Act, for clauses (a) and (b), the following clauses shall be substituted with effect from the 1st day of June, 2007, namely:—

“(a) ten per cent. for the use of any machinery or plant or equipment;

(b) fifteen per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family; and

(c) twenty per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is a person other than an individual or a Hindu undivided family:”

Amendment
of section
194J.

48. In section 194J of the Income-tax Act, in sub-section (1), for the words “five per cent.”, the words “ten per cent.” shall be substituted with effect from the 1st day of June, 2007.

Amendment
of section
197A.

49. In section 197A of the Income-tax Act, in sub-section (1C), the words, figures and letter “and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B” shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 2006.

Amendment
of section
201.

50. In section 201 of the Income-tax Act, in sub-section (1A), for the words “twelve per cent. per annum”, the words “one per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

Amendment
of section
206A.

51. In section 206A of the Income-tax Act, in sub-section (1), for the words “not exceeding five thousand rupees”, the words “not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case” shall be substituted with effect from the 1st day of June, 2007.

Amendment
of section
206C.

52. In section 206C of the Income-tax Act, in sub-section (1C), after the Table, the following *Explanations* shall be inserted with effect from the 1st day of June, 2007, namely:—

‘*Explanation 1.* - For the purposes of this sub-section, “mining and quarrying” shall not include mining and quarrying of mineral oil.

Explanation 2. – For the purposes of *Explanation 1*, “mineral oil” includes petroleum and natural gas.’

Amendment
of section
245A.

53. In section 245A of the Income-tax Act, with effect from the 1st day of June, 2007,—

(a) for clause (b), the following clause shall be substituted, namely:—

‘(b) “case” means 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:

Provided that—

(i) a proceeding for assessment or reassessment or recomputation under section 147;

(ii) a proceeding for 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;

5 (iii) a proceeding for 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 for 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 the purposes of this clause.

Explanation.—For the purposes of this clause—

10 (i) a proceeding for assessment or reassessment or recomputation referred to in clause (i) of the proviso shall be deemed to have commenced from the date on which a notice under section 148 is issued;

15 (ii) a proceeding for assessment or reassessment referred to in clause (ii) or clause (iii) of the proviso shall be deemed to have commenced on the date of initiation of the search under section 132 or requisition under section 132A;

(iii) a proceeding for making fresh assessment referred to in clause (iv) of the proviso 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;

20 (iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (ii) or clause (iii) or clause (iv) of the proviso, 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;";

(b) in clause (g), after the words "Settlement Commission", the words "and includes a Member who is senior amongst the Members of a Bench" shall be inserted.

25 **54.** In section 245C of the Income-tax Act, with effect from the 1st day of June, 2007—

Amendment of section 245C.

(i) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided 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

30 (ii) such tax and the interest thereon, 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.";

35 (ii) in sub-section (1A), the words, brackets, figures and letters "and sub-sections (2A) to (2D) of section 245D" shall be omitted;

(iii) for sub-section (1B), the following sub-section shall be substituted namely:—

"(1B) Where the income disclosed in the application relates to only one previous year,—

40 (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.";

(iv) in sub-section (1C), clause (c) shall be omitted;

45 (v) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) 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."

55. In section 245D of the Income-tax Act, —

Amendment of section 245D.

50 (i) for sub-section (1), the following sub-section shall be substituted with effect from the 1st day of June, 2007, namely:—

"(1) 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

requiring him 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:

Provided 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.”;

(ii) for sub-sections (2A), (2B), (2C) and (2D), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

“(2A) Where an application was made under 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 immediately before 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 thereon is paid on or before the 31st day of July, 2007.

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

(2B) 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 the Commissioner shall furnish the report within a period of thirty days of the receipt of communication from the Settlement Commission.

(2C) Where a report of the Commissioner called for under sub-section (2B) has been furnished within the period specified therein, the Settlement Commission may, on the basis of the 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, and shall send the copy of such order to the applicant and the Commissioner:

Provided that an application shall not be declared invalid unless an opportunity has been given to the applicant of being heard:

Provided further 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.

(2D) 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 immediately before 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 the provisions of sub-section (4), as they stood immediately before their amendment by the Finance Act, 2007, was not passed before the 1st day of June, 2007, such application shall not be allowed to be further proceeded with unless the additional tax on the income disclosed in such application and the interest thereon, is, notwithstanding any extension of time already granted by the Settlement Commission, paid on or before the 31st day of July, 2007.”;

(iii) for sub-sections (3), (4) and (4A), the following sub-sections shall be substituted with effect from the 1st day of June, 2007, namely:—

“(3) 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:

5 Provided that where the Commissioner does not furnish the report within the aforesaid period, the Settlement Commission may proceed to pass an order under sub-section (4) without such report.

(4) After examination of the records and the report of the Commissioner, if any, received under—

(i) sub-section (2B) or sub-section (3), or

10 (ii) the provisions of sub-sections (1) as they stood immediately before 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 application, but referred to in the report of the Commissioner.

(4A) 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;

20 (ii) in respect of an application made on or after the 1st day of June, 2007, within nine months from the end of the month in which the application was made.”;

(iv) in sub-section (6A), for the words “fifteen per cent. per annum”, the words “one and one-fourth per cent. for every month or part of a month” shall be substituted with effect from the 1st day of April, 2008.

25 **56.** In section 245DD of the Income-tax Act, in sub-section (2), in the proviso, the words “, so, however, that the total period of extension shall not in any case exceed two years” shall be omitted with effect from the 1st day of June, 2008. Amendment of section 245DD.

57. In section 245E of the Income-tax Act, after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 245E.

30 “Provided further that no proceeding shall be reopened by the Settlement Commission under this section in a case where an application under section 245C is made on or after the 1st day of June, 2007.”.

58. In section 245F of the Income-tax Act, in sub-section (2), the following provisos shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 245F.

35 “Provided 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:

Provided further that where—

40 (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 sub-section (2A) of section 245D, or, as the case may be, is declared invalid under sub-section (2C) of that section; or

(iii) an application is not allowed to be further proceeded with under sub-section (2D) of section 245D,

45 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 invalid, or, not allowed to be further proceeded with, as the case may be.”.

59. In section 245H of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of June, 2007, namely:— Amendment of section 245H.

50 “Provided further 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 this Act and the Wealth-tax Act, 1957 to a person who makes an application under section 245C on or after the 1st day of June, 2007.”.