CIRCULAR NO

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EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE ACT, 2011

INCOME-TAX ACT

Finance Act, 2011 – Explanatory Notes to the Provisions of Finance Act, 2011

Circular No. 2 of 2012, dated 22nd May, 2012

AMENDMENTS AT A GLANCE

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1. Introduction

1.1 The Finance Act, 2011 (hereafter referred to as the Act) as passed by the Parliament, received the assent of the President on the 8th day of April, 2011 and has been enacted as Act No. 08 of 2011. This circular explains the substance of the provisions of the Act relating to direct taxes.

2. Changes made by the Act

2.1 The Act has—

(i) specified the rates of income-tax for the assessment year 2011-12 and the rates of income-tax on the basis of which tax has to be deducted at source and advance tax has to be paid during financial year 2011-12.

(ii) amended sections 2(15), 10(34), 35(2AA), 35AD, 36, 40A(9), 80CCE, 80CCF, 80-IA(4)(iv), 80-IB, 92C, 92CA, 115A, 115JB(1), 115JB(6), 115-O(6), 115R(2), 131, 133, 139, 143, 153, 153B, 245C(1), 245D, 296 in the Income-tax Act, 1961;

(iii) inserted new sections/clauses 10(45), 10(46), 10(47), 94A, 115BBD, 139(1C), 139(4C)(g), 139(4C)(h), 194LB, 285 in the Income-tax Act, 1961;

(iv) inserted a new chapter XII-BA consisting of sections 115JC, 115JD, 115JE, 115JF, in the Income-tax Act, 1961;

(v) omitted section 282B of the Income tax Act, 1961;

(vi) amended rule 3 of Part A of the Fourth Schedule to the Income-tax Act, 1961;

(vii) amended section 22D of the Wealth-tax Act, 1957;

(viii) amended the Second Schedule to the Special Economic Zones Act, 2005.

3. Rate structure

3.1 Rates of income-tax in respect of incomes liable to tax for the assessment year 2011-12

3.1.1 In respect of income of all categories of taxpayers liable to tax for the assessment year 2011-12, the rates of income-tax have been specified in Part I of the First Schedule to the Finance Act 2011. These rates are the same as those laid down in Part III of the First Schedule to the Finance Act, 2010 for the purposes of computation of advance tax, deduction of tax at source from Salaries and charging of tax payable in certain cases during the financial year 2010-11.

The major features of the rates specified in the said Part I are as follows:

3.1.2 INDIVIDUAL, HINDU UNDIVIDED FAMILY, ASSOCIATION OF PERSONS, BODY OF INDIVIDUALS OR ARTIFICIAL JURIDICAL PERSON. - Paragraph A of Part I of the

First Schedule specifies the rates of income-tax in the case of every individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company) as under :-

<table>
<tr><td rowspan="2">Income chargeable to tax</td><td colspan="3">Rate of income-tax</td></tr>
<tr><td>Individual (other than individual woman resident in India and senior citizen resident in India), HUF, association of persons, body of individuals and artificial juridical person</td><td>Individual woman, resident in India and below the age of sixty-five years</td><td>Individual senior citizen, resident in India, who is of the age of sixty- five years or more</td></tr>
<tr><td>Up to Rs. 1,60,000</td><td>Nil</td><td rowspan="2">Nil</td><td rowspan="3">Nil</td></tr>
<tr><td>Rs. 1,60,001 - Rs. 1,90,000</td><td rowspan="3">10%</td></tr>
<tr><td>Rs. 1,90,001 - Rs. 2,40,000</td><td rowspan="2">10%</td></tr>
<tr><td>Rs. 2,40,001 - Rs. 5,00,000</td><td>10%</td></tr>
<tr><td>Rs. 5,00,001 - Rs. 8,00,000</td><td>20%</td><td>20%</td><td>20%</td></tr>
<tr><td>Exceeding Rs. 8,00,000</td><td>30%</td><td>30%</td><td>30%</td></tr>
</table>

In the case of every individual, Hindu undivided family, association of persons or body of individuals, no surcharge is levied.

An additional surcharge called the Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed in all cases. For instance, if the income-tax computed is Rs. 1,00,000 then the education cess of two per cent is to be computed on Rs. 1,00,000 which works out to Rs. 2,000. In addition, the amount of tax computed shall also be increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax. Thus in the earlier illustration, where the amount of tax computed is Rs. 1,00,000, the Education Cess of two per cent is Rs. 2,000, the said Secondary and Higher Education Cess will be computed on Rs. 1,00,000 which works out to be Rs. 1,000. The total cess in this case will amount to Rs. 3,000 (i.e., Rs. 2,000 + Rs. 1,000).

3.1.3 CO-OPERATIVE SOCIETIES - In the case of every co-operative society, the rates of income-tax have been specified in Paragraph B of Part I of the First Schedule to the Finance Act 2011. The rates are as follows:-

Income chargeable to tax	**Rate**
Up to Rs. 10,000	10%
Rs. 10,001 - Rs. 20,000	20%
Exceeding Rs. 20,000	30%

No surcharge shall be levied. Education Cess on income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of tax computed.

3.1.4 FIRMS - In the case of every firm, the rate of income-tax of thirty per cent has been specified in Paragraph C of Part I of the First Schedule to the Finance Act 2011. No surcharge shall be levied in the case of a firm.

Additional surcharge called the Education Cess on Income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed. In addition, such amount of tax shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax computed at the rate of one per cent on the amount of tax, in all cases.

3.1.5 LOCAL AUTHORITIES - In the case of every local authority, the rate of income-tax has been specified at thirty per cent in Paragraph D of Part I of the First Schedule to the Finance Act, 2011. No surcharge shall be levied. However, Education Cess on Income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of tax computed.

3.1.6 COMPANIES - In the case of a company, the rate of income-tax has been specified in Paragraph E of Part I of the First Schedule to the Finance Act 2011.

In case of a domestic company, the rate of income-tax is thirty per cent of the total income. The tax computed shall be enhanced by a surcharge of seven and one-half per cent of such income tax only where the domestic company has total income exceeding one crore rupees.

In the case of a company other than a domestic company, royalties received from Government or Indian concern under an approved agreement made after 31-3-1961, but before 1-4-1976 shall be taxed at fifty per cent. Similarly, in the case of fees for technical services received by such company from Government or Indian concern under an approved agreement made after 29-2-1964, but before 1-4-1976, shall be taxed at fifty per cent. On the balance of the total income of such company, the tax rate shall be forty per cent. The tax computed shall be enhanced by a surcharge of two and one-half per cent only in the cases where such company has total income exceeding one crore rupees.

However, marginal relief shall be allowed in the case of every company to ensure that the additional amount of income-tax payable, including surcharge, on the excess

of income over one crore rupees is limited to the amount by which the income is more than one crore rupees. Also, in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, 1961 (the Act) and where such income exceeds one crore rupees, marginal relief shall be provided.

Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed, inclusive of surcharge in the case of every company. Also, such amount of tax and surcharge shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent of the amount of tax computed, inclusive of surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

3.2 Rates for deduction of income-tax at source from certain incomes during the financial year 2011-12.

3.2.1 In every case in which tax is to be deducted at the rates in force under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Act, the rates for deduction of income-tax at source during the financial year 2011-12 have been specified in Part II of the First Schedule to the Finance Act 2011. The rates for deduction of income-tax at source during the financial year 2011-12 will continue to be the same as those specified in Part II of the First Schedule to the Finance Act, 2010 except in the case were income by way of interest is payable to non-resident, not being a company, or to a foreign company by an infrastructure debt fund referred to in section 10(47) of the Income-tax Act, 1961 where the rate of deduction of income-tax at source shall be five percent as mentioned in the newly inserted section 194LB of the Income-tax Act, 1961.

3.2.2 SURCHARGE - The tax deducted at source in each case shall be increased by a surcharge for purposes of the Union as follows:-

(i) In the case of every individual, Hindu undivided family, association of persons and body of individuals, no surcharge shall be levied.

(ii) In the case of every artificial juridical person, no surcharge shall be levied.

(iii) No surcharge shall be levied on the amount of income-tax deducted in the case of a co-operative society and local authority.

(iv) In the case of every firm and domestic company, no surcharge shall be levied.

(v) The surcharge on TDS shall be levied only on payments made to foreign companies. The rate of surcharge in such cases is two per cent of such income tax.

3.2.3 EDUCATION CESS - The additional surcharge, called the Education Cess on income-tax shall continue to be levied for the purposes of the Union at the rate of two per cent of income-tax and surcharge, if any, in the case of salary payments to

residents and in the case of all payments to non-residents. For instance, if such tax is Rs. 1,00,000 and the surcharge is Rs. 2,000, then the education cess of two per cent is to be computed on Rs. 1,02,000 which works out to be Rs. 2,040.

In addition, the amount of tax deducted and surcharge shall be further increased by an additional surcharge called Secondary and Higher Education Cess on income-tax at the rate of one per cent in all such cases. Thus in the earlier illustration, where the amount of tax deducted is Rs. 1,00,000, the surcharge is Rs. 2,000, the Education Cess of two per cent is Rs. 2,040, the said Secondary and Higher Education Cess will be computed on Rs. 1,02,000 which works out to be Rs. 1,020. The total cess in this case will amount to Rs. 3,060 (i.e., Rs. 2,040 + Rs. 1,020).

3.3 Rates for computation of advance tax, deduction of income-tax at source from Salaries and charging of income-tax in certain cases during the financial year 2011-12.

3.3.1 The rates for deducting income-tax at source from Salaries and computing advance tax during the financial year 2011-12 have been specified in Part III of the First Schedule to the Finance Act 2011. These rates are also applicable for charging income-tax during the financial year 2011-12 on current incomes in cases where accelerated assessments have to be made, e.g., provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during that financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for short duration, etc. The rates are as follows:-

3.3.2 INDIVIDUAL, HINDU UNDIVIDED FAMILY, ASSOCIATION OF PERSONS, BODY OF INDIVIDUALS OR ARTIFICIAL JURIDICAL PERSON - Paragraph A of Part III of the First Schedule specifies the rates of income-tax in the case of every individual. Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company). In the case of individuals, the basic exemption limit has been enhanced from Rs. 1,60,000 to Rs. 1,80,000. The qualifying age for senior citizen has been reduced to sixty years from sixty-five years. Further a new category for individual, resident tax payers have been created who is of the age of eighty years or more. Accordingly, the exemption limit for every woman resident in India and below the age of 60 years of age is Rs. 1,90,000. Further, the exemption limit for every individual resident in India and of the age of 60 years or more but less than eighty years at any time during the previous year has been raised from Rs. 2,40,000 to Rs. 2,50,000. The exemption limit for every individual resident in India and of the age of 80 years or more is Rs. 5,00,000 and thereafter tax rate of 20% shall be applicable for income less than Rs. 8,00,000. The rates of tax during the financial year 2011-12 in the case of persons mentioned above are as follows:-

Income chargeable to tax	**Rate of income-tax**			
	Individual (other than individual woman resident in India and	Individual woman, resident in	Individual, resident in India, who is	Individual, resident in India, who

<table>
<tr><td></td><td>senior citizen resident in India), HUF, association of persons, body of individuals and artificial juridical person.</td><td>India and below the age of sixty years.</td><td>of the age of sixty years or more but less than eighty years.</td><td>is of the age of eighty years or more.</td></tr>
<tr><td>Up to Rs. 1,80,000</td><td>Nil</td><td rowspan="2">Nil</td><td rowspan="2">Nil</td><td rowspan="3">Nil</td></tr>
<tr><td>Rs. 1,80,001 - Rs. 1,90,000</td><td rowspan="3">10%</td></tr>
<tr><td>Rs. 1,90,001 - Rs. 2,50,000</td><td rowspan="2">10%</td></tr>
<tr><td>Rs. 2,50,001 - Rs. 5,00,000</td><td>10%</td></tr>
<tr><td>Rs. 5,00,001 - Rs. 8,00,000</td><td>20%</td><td>20%</td><td>20%</td><td>20%</td></tr>
<tr><td>Exceeding Rs. 8,00,000</td><td>30%</td><td>30%</td><td>30%</td><td>30%</td></tr>
</table>

No surcharge shall be levied in such cases.

The Education Cess on income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed. In addition, the amount of tax computed shall also be increased by an additional cess called Secondary and Higher Education Cess on income-tax at the rate of one per cent of such income-tax.

3.3.3 CO-OPERATIVE SOCIETIES - In the case of every co-operative society, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Finance Act 2011. The rates are as follows-

Income chargeable to tax	**Rate**
Up to Rs. 10,000	10%
Rs. 10,001 - Rs. 20,000	20%
Exceeding Rs. 20,000	30%

No surcharge shall be levied. Education Cess on income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of tax computed.

3.3.4 FIRMS - In the case of every firm, the rate of income-tax of thirty per cent has been specified in Paragraph C of Part III of the First Schedule to the Finance Act 2011. No Surcharge shall be levied. The Education Cess on Income-tax shall continue to be levied at the rate of two per cent on the amount of tax computed. In addition, such amount of tax shall be further increased by an additional cess called Secondary and Higher Education Cess on income-tax computed at the rate of one per cent on the amount of tax, in all cases.

3.3.5 LOCAL AUTHORITIES - In the case of every local authority, the rate of income-tax has been specified at thirty per cent in Paragraph D of Part III of the First Schedule to the Finance Act 2011. No surcharge shall be levied. However, Education Cess on Income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of tax computed.

3.3.6 COMPANIES - In the case of a company, the rate of income-tax has been specified in Paragraph E of Part III of the First Schedule to the Finance Act, 2011.

In case of a domestic company, the rate of income-tax is thirty per cent of the total income. The tax computed shall be enhanced by a surcharge of five per cent only where such domestic company has total income exceeding one crore rupees.

In the case of a company other than a domestic company, royalties received from Government or Indian concern under an approved agreement made after 31-3-1961, but before 1-4-1976 shall be taxed at fifty per cent. Similarly, in the case of fees for technical services received by such company from Government or Indian concern under an approved agreement made after 29-2-1964, but before 1-4-1976, shall be taxed at fifty per cent. On the balance of the total income of such company, the tax rate shall be forty per cent. The tax computed shall be enhanced by a surcharge of two per cent only where such company has total income exceeding one crore rupees. However, marginal relief shall be allowed in the case of every company to ensure that the additional amount of income-tax payable, including surcharge, on the excess of income over one crore rupees is limited to the amount by which the income is more than one crore rupees.

However, Education Cess on Income-tax and Secondary and Higher Education Cess on income-tax shall be levied at the rate of two per cent and one per cent respectively of the amount of tax computed including surcharge. No marginal relief shall be available in respect of Education Cess and Secondary and Higher Education Cess.

4. Definition of "charitable purpose"

4.1. For the purposes of the Act; "charitable purpose" has been defined in section 2(15) which, among others, include "the advancement of any other object of general public utility".

4.2. However, "the advancement of any other object of general public utility" is not considered as a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, if receipts from such activities is above the specified limit in the previous year.

4.3. Second proviso to section 2(15) of the Act has been amended to provide that the specified monetary limit in respect of receipts from such activities shall be 25 lakh rupees instead of 10 lakh rupees.

4.4. ***Applicability***: - This amendment has been made effective from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

5. Exemption of certain perquisites of chairman and members of Union Public Service Commission

5.1. The existing provisions of the Act provide for the taxation of any perquisites or allowances received by an employee under the head 'salary' unless it is specifically exempt under the Act.

5.2. Section 10 of the Act excludes certain incomes from the ambit of total income. A new section 10(45) has been inserted in the Act to provide specific exemption to the both serving as well as retired Chairmen and Members of the Union Public Service Commission in respect of specified perquisites and allowances, which shall be notified by the Central Government.

5.3. ***Applicability***: - This amendment has been made effective retrospectively from 1st April, 2008 and will, accordingly, apply in relation to the assessment year 2008-09 and subsequent years.

6. Provision relating to exemption of a specified income of certain bodies or authorities or trust or board or commission

6.1. Section 10 of the Act excludes certain incomes from the ambit of total income. A new section 10(46) has been inserted in the Act, to provide exemption from income-tax to any specified income of body, authority, board, trust or commission which is set up or constituted by Central, State or Provincial Act or constituted by the Central Government or a State Government with the object of regulating or administering an activity for the benefit of general public, which is not engaged in any commercial activity, and is notified by the Central Government in this behalf. Such notified entities shall also file its return of income under section 139(4C) (g) of the Act.

6.2. ***Applicability***: - This amendment has been made effective from 1st June 2011.

7. Infrastructure Debt Fund

7.1. In order to augment long-term, low cost funds from abroad for the infrastructure sector, incentives have been introduced in the Act to facilitate setting up of dedicated debt funds.

7.2. Section 10 of the Act excludes certain incomes from the ambit of total income. A new section 10(47) has been inserted in the Act, so as to provide enabling power to the Central Government to notify any infrastructure debt fund which is set up in accordance with prescribed guidelines. Once notified, the income of such debt fund would be exempt from tax. It will, however, be required to file a return of income under section 139(4C) (h) of the Act.

7.3. Section 115A of the Act has also been amended to provide that any interest received by a non-resident from such notified infrastructure debt fund shall be taxable at the rate of five percent on the gross amount of such interest income. Similarly section 194LB has been inserted in the Act to provide that tax shall be deducted at the rate of five percent by such notified infrastructure debt fund on any interest paid by it to a non-resident.

7.4. ***Applicability***: - This amendment has been made effective from 1st June 2011.

8. Weighted deduction for contribution made for approved scientific research programme

8.1 Under the existing provisions of section 35(2AA) of the Income-tax Act, weighted deduction to the extent of 175 per cent is allowed for any sum paid to a National Laboratory or a university or an Indian Institute of Technology (IIT) or a specified person for the purpose of an approved scientific research programme.

8.2 In order to encourage more contributions to such approved scientific research programme, section 35(2AA) has been amended to increase this weighted deduction from 175 per cent to 200 per cent.

8.3 ***Applicability -*** This amendment takes effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

9. Investment-linked deduction in respect of specified business

9.1.1 Under the existing provisions of section 35AD, investment-linked tax incentive is provided by way of allowing hundred percent deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred. Prior to the enactment of the Finance Act, 2011, the following "specified businesses" were eligible for availing the aforesaid investment-linked deduction:-

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;
(iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.
(iv) building and operating, anywhere in India, a *new* hotel of two-star or above category as classified by the Central Government;
(v) building and operating, anywhere in India, a *new* hospital with at least one hundred beds for patients;
(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation, framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

9.1.2 Two new businesses have been added as "specified business" under section 35AD, namely,-

(a) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and
(b) production of fertilizer in India.

9.1.3 The date of commencement of operations for eligibility under section 35AD, in the case of the two "specified businesses" of affordable housing projects and production of fertilizer in a new plant or in a newly installed capacity in an existing plant shall be on or after 1st April, 2011.

9.1.4 ***Applicability -*** These amendments take effect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent years.

9.2.1 A reading of section 73A implies that a specified business operating under section 35AD will be able to set off its losses only against profits and gains of any other specified business. As discussed in Para 9.1.1, "specified business" in the case of hotels and hospitals has been defined as "new" hotel or "new" hospital under section 35AD.

9.2.2 Thus, 'a new hotel' was defined as "specified business" and was eligible for investment-linked deduction under section 35AD provided it began operation on or after 01.04.2010. The loss of this new hotel claiming investment-linked deduction was allowed set-off against profit of another specified business. Thus, this loss could be set off against the profit of another new hotel (whether eligible for deduction under section 35AD or not) but not against an old hotel. First, it was difficult to specify what is 'new' or 'old' unless a date is specified. Second, there was no real incentive if loss of the new hotel business was not allowed set-off against the profit of old hotel of the same taxpayer, which was otherwise allowable if no investment-linked deduction was claimed.

9.2.3 Therefore, section 35AD has been amended to allow set-off of loss of a specified business against a similar business/like activity by removing the word

"new" from the definition of 'specified business' in the case of hotels and hospitals under section 35AD(8)(c). With this amendment, under section 73A, the loss of specified business claiming deduction under section 35AD would be allowed for set-off against the profit of another specified business whether or not the latter is eligible for deduction under section 35AD. It would, therefore, allow balance sheet financing in the case of a person who runs a hospital or a hotel. The person would be able to set off the profits of such an entity with the losses of a new hospital or hotel which begins to operate after 1.4.2010 and which is eligible for deduction of expenditure under section 35AD.

9.3 ***Applicability***: - This amendment has been made effective retrospectively from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

10. Tax benefits for New Pension System (NPS)

10.1 Section 80CCD of the Income-tax Act provides, *inter alia*, a deduction under section 80CCD(1), in respect of contribution made by an employee, and a deduction under section 80CCD(2) in respect of the contribution made by the employer on behalf of the employee, to the New Pension System (NPS) account. In view of the existing provisions of section 80CCE, the aggregate deduction under sections 80C, 80CCC and 80CCD cannot exceed one lakh rupees.

10.2 Section 80CCE has been amended so as to provide that deduction under section 80CCD(2) in respect of the contribution made by the employer, on behalf of the employee, to the New Pension System (NPS) account ,shall be excluded from the limit of one lakh rupees provided under section 80CCE.The contribution of the employer therefore will be available as a further deduction to the assessees over and above the deduction of Rs one Lakh under section 80CCE.

10.3 Under the existing provisions of the Act, the contribution made by an employer towards a recognised provident fund, an approved superannuation fund or an approved gratuity fund is allowable as a deduction from business income under clauses (iv) and (v) respectively, of section 36(1), subject to certain limits. However, section 36 does not provide for a similar deduction from business income in respect of the contribution made by the employer, on behalf of the employee, to the New Pension System (NPS) account.

10.4 Section 36 has been amended by insertion of a new clause (*iva*) in sub-section (1), to provide that any sum paid by the assessee as an employer by way of contribution towards a pension scheme on the behalf of an employee to the New Pension System (NPS) account, as referred to in section 80CCD shall be allowed as deduction in computing the income of the employer under the head "Profits and gains of business or profession", to the extent it does not exceed ten per cent. of the salary of the employee in the previous year.

10.5 Section 40A deals with expenses or payments not deductible in certain circumstances. Section 40A(9) has been amended to provide that a contribution

made for the purposes and to the extent provided under section 36(1)(*iva*) would not be disallowed as a deduction in the hands of the employer.

10.6 ***Applicability:*** **-** These amendments take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

11. Deduction for investment in long-term infrastructure bonds

11.1 Under the existing provisions of section 80CCF, a sum of Rs. 20,000 (over and above the existing limit of Rs. 1 lakh available under section 80CCE for tax savings on account of specified investments), is allowed as deduction in computing the total income of an individual or a Hindu undivided family if that sum is paid or deposited during the previous year relevant to the assessment year 2011-12 in long-term infrastructure bonds as notified by the Central Government.

11.2 The availability of this deduction has been extended to the year 2011-12 (assessment year 2012-13) also, if the sum is paid or deposited during the F.Y 2011-12 in the aforesaid bonds.

11.3 ***Applicability*** **-** This amendment takes effect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13.

12. Extension of sunset clause for tax holiday for power sector

12.1 Under the existing provisions of clause (iv) of sub-section (4) of section 80-IA, a deduction of profits and gains is allowed to an undertaking which,—

(a) is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2011;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2011;

(c) undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2011.

12.2 The above terminal date has been extended for a further period of one year, i.e., up to 31st March, 2012.

12.3 ***Applicability:*** **-** This amendment takes effect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent years.

13. Deduction in respect of profits and gains from undertakings engaged in commercial production of mineral oil

13.1 Under the existing provisions of sub-section (9) of section 80-IB of the Income-tax Act, 1961, a seven-year profit-linked deduction of hundred percent. is available to an undertaking if it fulfils any of the following, namely:-

(i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before 1st April, 1997;
(ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after 1st April, 1997;
(iii) is engaged in refining of mineral oil and begins such refining on or after 1st October, 1998 but not later than 31st March, 2012;
(iv) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (NELP-VIII) under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after 1st April, 2009;
(v) is engaged in commercial production of natural gas in blocks licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks and begins commercial production of natural gas on or after 1st April, 2009.

13.2 For the purposes of claiming this deduction, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner, are treated as a single "undertaking".

13.3 Thus, an undertaking which is located in any part of India and is engaged in commercial production of mineral oil is eligible for the above-mentioned deduction if it has begun or begins commercial production of mineral oil at any time after 1st April, 1997 and no sunset date has been provided.

13.4 The deduction available for commercial production of mineral oil mentioned at Para 13.1(ii) will now not be available for blocks licensed under a contract awarded after 31st March, 2011. These blocks are licensed under a contract awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.

13.5 ***Applicability*** **-** This amendment takes effect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent assessment years.

14. Rationalization of provisions relating to Transfer Pricing

The provisions related to transfer pricing have been rationalized in the following way:-

14.1.1 Section 92C of the Act provides the procedure for computation of the Arms Length Price (ALP). The section provides the methods of computing the ALP and mandates that the most appropriate method should be chosen to compute ALP. It is also provided that if more than one price is determined by the chosen method, the ALP shall be taken to be arithmetical mean of such prices. The second proviso to section 92C(2) of the Act has been amended to provide that if the variation between the actual price of the transaction and the ALP (i.e, allowable variation), as determined above, does not exceed such percentage, as may be notified by Central Government in this behalf, of the actual price, then, no adjustment will be made and the actual price shall be treated as the ALP.

14.1.2 ***Applicability***: - This amendment has been made effective from 1st April, 2012 and it shall accordingly apply in relation to the Assessment Year 2012-13 and subsequent assessment years.

14.2.1 Section 92CA of the Act provides that the Transfer Pricing Officer (TPO) can determine the arms length price in relation to an international transaction, which has been referred to the TPO by the Assessing Officer. Further, Section 92CA(7) provides that for the purpose of determining the ALP, the TPO can exercise powers available to an assessing officer under section 131(1) and section 133(6) of the Act. These are powers of summoning or calling for details for the purpose of inquiry or investigation into the matter.

14.2.2 Section 92CA of the Act has been amended to enable the Transfer Pricing Officer to determine the ALP in respect of any other international transactions, which are noticed by him subsequently, in the course of proceedings before him. These international transactions would be in addition to the international transactions referred to the TPO by the Assessing Officer. Further, section 92CA(7) of the Act has also been amended enabling TPO to conduct on-the-spot enquiry and verification by exercise of power conferred under section 133A of the Act.

14.2.2 ***Applicability***: - These amendments have been made effective from 1st June 2011.

14.3.1 In addition to filing of return of income, assessees who have undertaken international transactions are also required (under the provisions of section 92E of the Act) to prepare and file a transfer pricing report in Form 3CEB before the due date of filing return of income. Section 139 of the Act has been amended to provide 30th November of the assessment year as the due date for filing of return of income in cases of corporate assessees who are required to prepare and file transfer pricing report. Prior to this amendment the date of filing of return of income was 30 September of the assessment year.

14.3.2 ***Applicability***: - This amendment has been made effective from 1st April, 2011 and it shall accordingly apply in relation to the Assessment Year 2011-12 and subsequent assessment years.

15. Tool box of counter measures in respect of transactions with persons located in a non-cooperative jurisdiction.

15.1 In order to discourage transactions by a resident assessee with persons located in any country or jurisdiction, which does not effectively exchange information with India, a set of anti-avoidance measures have been provided.

15.2 A new section 94A has been inserted in the Act to specifically apply to transactions undertaken with persons located in such country or area. The section provides—

(i) an enabling power to the Central Government to notify any country or territory outside India, having regard to the lack of effective exchange of information by it with India, as a notified jurisdictional area;

(ii) that if an assessee enters into a transaction, where one of the parties to the transaction is a person located in a notified jurisdictional area, then all the parties to the transaction shall be deemed to be associated enterprises and the transaction shall be deemed to be an international transaction and accordingly, transfer pricing regulations shall apply to such transactions;

(iii) that no deduction in respect of any payment made to any financial institution shall be allowed unless the assessee furnishes an authorization, in the prescribed form, authorizing the Board or any other income-tax authority acting on its behalf, to seek relevant information from the said financial institution;

(iv) that no deduction in respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area shall be allowed under any provision of the Act unless the assessee maintains such other documents and furnishes the information as may be prescribed;

(v) that if any sum is received from a person located in the notified jurisdictional area, then, the onus is on the assessee to satisfactorily explain the source of such money in the hands of such person or in the hands of the beneficial owner, and in case of his failure to do so, the amount shall be deemed to be the income of the assessee;

(vi) that any payment made to a person located in such area shall be liable to deduction of tax at the higher of the rates specified in the relevant provision of the Act or rate or rates in force or a rate of 30 per cent.

Applicability: - These amendments have been made effective from 1st June 2011.

16. Taxation of certain foreign dividends at a reduced rate

16.1 A new section 115BBD has been introduced in the Act to provide that where total income of an Indian company for the previous year relevant to assessment year

2012-13 includes any income by way of dividends received from the specified foreign company, then such dividends shall be taxable at the rate of fifteen per cent (plus applicable surcharge and cess) on the gross amount of dividends. No expenditure in respect of such dividends shall be allowed under the Act. Prior to this amendment such dividends were taxed at applicable corporate tax rate subject to allowable deductions. The total income of the company, as reduced by the gross dividends, shall be chargeable at the corporate tax rate (plus applicable surcharge and cess).

16.2 A specified foreign company with reference to this new section 115BBD shall be a foreign company in which the Indian company holds 26% or more in nominal value of the equity share capital of the foreign company.

16.3. ***Applicability***: - This amendment has been made effective from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13.

17. Tax on Distributed Income to unit holders

17.1 Section 115R(2) of the Act has been amended to provide levy of additional income-tax at a higher rate of 30% on income distributed by a debt fund to a person other than an individual or a HUF. The amended section provides that a Mutual Fund shall be liable to pay additional income-tax on distributed income at the rate of –

(a) 25% if the recipient is an individual or a HUF in case of distribution by money market mutual fund or liquid fund;
(b) 30% if the recipient is any other person in case of distribution by money market mutual fund or liquid fund;
(c) 12.5% if the recipient is an individual or a HUF in case of distribution by debt fund other than money market mutual fund or a liquid fund; and
(d) 30% if the recipient is any other person in case of distribution by a fund other than money market mutual fund or a liquid fund.

17.2 There is no change in the rate of income-tax in case of distribution of income to any individual or HUF. Distribution by an equity oriented fund shall continue to be exempt from tax.

17.3 ***Applicability***: - This amendment has been made effective from 1st June 2011.

18. Minimum Alternate Tax

18.1.1 Under the existing provisions of sub-section (1) of section 115JB, a company is required to pay a minimum alternate tax (MAT) at the rate of 18% on its book profit, if the income-tax payable on the total income, as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2011, is less than such minimum tax. The amount of tax paid under the said section is allowed to be carried forward and set off against tax payable up to the tenth assessment year immediately succeeding the assessment year in which the tax credit becomes allowable under the provisions of section 115JAA.

18.1.2 The rate of MAT has been increased to eighteen and one-half percent (18.5%) from the existing rate of eighteen percent of such book profit.

18.1.3*Applicability* - This amendment takes effect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent assessment years.

18.2.1 The book profit of a company under section 115JB for the purposes of computing MAT is determined as net profit as per profit and loss account with upward and downward adjustments as specified in the section. One of the downward adjustments is the amount of profits eligible for deduction under section 80HHC or section 80HHE or section 80HHF in relation to exports of the company.

18.2.2 The deductions under these sections have been phased out and no deduction is allowable for the assessment year beginning on or after 01.04.2005.

18.2.3 As the legislative intent was to exclude export profits from the levy of MAT only during the period of availability of deductions under section 80HHC, 80HHE and 80HHF, the amount of eligible profits are not allowable as a deduction while computing book profit under section 115JB after the phase out of the deductions, i.e., after 01.04.2005.

18.2.4 Accordingly, section 115JB has been amended by omitting clauses (iv), (v) and (vi) of *Explanation 1* with retrospective effect from 01.04.2005 so that profits eligible for deductions under section 80HHC, 80HHE and 80HHF cannot be reduced from the net profit as shown in the profit and loss account, in computing book profit for the purpose of levy of MAT for assessment years beginning on or after 1.4.2005.

18.2.5*Applicability* - This amendment has been made effective retrospectively from 1st April, 2005 and will, accordingly, apply in relation to the assessment year 2005-06 and subsequent years.

19. Provisions relating to Minimum Alternate Tax (MAT) and Dividend Distribution Tax (DDT) in case of Special Economic Zones

19.1.1 Under the existing provisions of section 10AA, a deduction of hundred percent is allowed in respect of profits and gains derived by a unit located in a Special Economic Zone (SEZ) from the export of articles or things or from services for the first five consecutive assessment years; of fifty percent for further five assessment years; and thereafter, of fifty percent of the ploughed back export profit for the next five years.

19.1.2 Further, under section 80-IAB, a deduction of hundred percent is allowed in respect of profits and gains derived by an undertaking from the business of development of an SEZ notified on or after 1st April, 2005 from the total income for any ten consecutive assessment years out of fifteen years beginning from the year in which the SEZ has been notified by the Central Government.

19.1.3 Under the existing provisions of sub-section (6) of section 115JB, an exemption is allowed from payment of minimum alternate tax (MAT) on book profit in respect of the income accrued or arising on or after 1st April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone (SEZ), as the case may be.

19.1.4 Further, under the existing provisions of sub-section (6) of section 115-O, an exemption is allowed from payment of tax on distributed profits [Dividend Distribution Tax (DDT)] in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after 1st April, 2005 out of its current income. Such distributed income, in the hands of the recipient, is also exempt from tax under sub-section (34) of section 10 of the Act.

19.1.5 The above provisions were inserted in the Income-tax Act by the Special Economic Zones Act, 2005 (SEZ Act) with effect from 10th February, 2006.

19.2.1 There was no sunset date provided for exemption from MAT in the case of an entrepreneur or a Developer, in a Unit or SEZ or from DDT in case of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining an SEZ.

19.2.2 The availability of exemption from minimum alternate tax in the case of SEZ Developers and units in SEZs has now been sunset in the Income Tax Act as well as the SEZ Act and the provisions of section 115JB(6) will cease to have effect from 1.4.2012.

19.2.3*Applicability* - These amendments take affect from 1st April, 2012 and will accordingly apply in relation to the assessment year 2012-13 and subsequent years.

19.3.1 Further, the availability of exemption from dividend distribution tax in the case of SEZ Developers has been discontinued under the Income-tax Act as well as the SEZ Act for dividends declared, distributed or paid on or after 1st June, 2011.

19.3.2*Applicability* - These amendments take effect from 1st June, 2011. Corresponding amendments to clause (34) of section 10 of the Income-tax Act by omitting the *Explanation* and to the SEZ Act have been made effective from 1st June, 2011.

20. Alternate Minimum Tax for certain Limited Liability Partnerships:

20.1 The Limited Liability Partnership Act, 2008 (LLP) has come into effect in 2009. The LLP has features of both a body corporate, as well as a traditional partnership. The Income-tax Act provides for the same taxation regime for a limited liability partnership as is applicable to a partnership firm.

20.2 A Limited Liability Partnership, being treated as a firm for taxation, has the following tax advantage over a company under the Income-tax Act:-

i) it is not subject to Minimum Alternate Tax;
ii) it is not subject to Dividend Distribution Tax; and
iii) it is not subject to surcharge.

20.3 In order to preserve the tax base vis-à-vis profit-linked deductions, a new Chapter XII-BA containing special provisions relating to certain limited liability partnerships has been inserted in the Act.

20.4 As per the provisions of new Chapter XII-BA, where the regular income tax payable for a previous year by a limited liability partnership is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such limited liability partnership and it shall be liable to pay income tax on such total income at the rate of eighteen and one-half percent.

20.5 For the purpose of the above,
(i) "adjusted total income" shall be the total income before giving effect to this newly inserted Chapter XII-BA as increased by the deductions claimed under any section included in Chapter VI-A under the heading "*C – Deductions in respect of certain incomes*" and deduction claimed under section 10AA;
(ii) "alternate minimum tax" shall be the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent; and
(iii) "regular income-tax" shall be the income-tax payable for a previous year by a limited liability partnership on its total income in accordance with the provisions of the Act other than the provisions of this newly inserted Chapter XII-BA.

20.6 It is further provided that the credit for tax (tax credit) paid by a limited liability partnership under this newly inserted Chapter XII-BA shall be allowed to the extent of the excess of the alternate minimum tax paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off for an assessment year in which the regular income tax exceeds the alternate minimum tax to the extent of the excess of the regular income tax over the alternate minimum tax.

20.7 ***Applicability*** **-** This amendment take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

21. Collection of information on requests received from tax authorities outside India

21.1 Under the existing provisions of section 131(1) of the Income-tax Act, certain income-tax authorities have been conferred the same powers as are available to a Civil Court while trying a suit in respect of discovery and inspection, enforcing the attendance of any person, including any officer of a banking company and examining

him on oath, compelling production of books of account and other documents and issuing summons.

21.2 In order to facilitate prompt collection of information on requests received from tax authorities outside India in relation to an agreement for exchange of information under section 90 or section 90A of the Act, section 131 was amended and new sub-section(2) was inserted. The new sub-section provides that for the purpose of making an enquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or 90A, it shall be competent for any income-tax authority, not below the rank of Assistant Commissioner of Income Tax, as notified by the Board in this behalf, to exercise the powers currently conferred on income-tax authorities referred to in section 131(1). The authority so notified by the Board shall be able to exercise the powers under section 131(1) notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.

21.3 Further section 131(3) of the Act was amended to empower the aforesaid authority, as notified by the Board, to impound and retain books of account and other documents produced before it in any proceedings under the Act.

21.4 Similar amendments have also been made to the provisions of section 133 of the Act.

21.5 ***Applicability***: - These amendments take effect from 1st June, 2011.

22. Exemption to a class or classes of persons from furnishing a return of income

22.1 Under the existing provisions contained in section 139(1) of the Income-tax Act, every person, if his total income during the previous year exceeds the maximum amount which is not chargeable to income-tax, is required to furnish a return of his income.

22.2 In the case of a salaried tax payer, entire tax liability is discharged by the employer through deduction of tax at source. Complete details of such tax payers are also reported by the employer through Tax Deduction at Source (TDS) statements. Therefore, in cases where there is no other source of income, filing of a return is a duplication of existing information.

22.3 In order to reduce compliance burden on small tax payers, a new sub-section (1C) is inserted in section 139. This provision empowers the Central Government to exempt, by notification in the Official Gazette, any class or classes of persons from the requirement of furnishing a return of income, having regard to such conditions as may be specified in that notification.

22.4 Consequential amendments are also made to the provisions of section 296 to provide that any notification issued under section 139(1C) shall be laid before Parliament.

22.5 ***Applicability***: - These amendments take effect from 1st June, 2011

23. Centralised Processing of Returns

23.1 Section 143 of the Income Tax Act, 1961 was amended vide Finance Act, 2008 and concept of Centralised Processing of Returns was introduced, so that all the returns are expeditiously processed and tax payable or refund due to assessee are determined in a definite frame. Under the existing provisions of section 143(1B), the Central Government was empowered, for the purposes of giving effect to the scheme of centralised processing of returns, to issue a notification relating to processing of returns.

23.2 A Centralised Processing Centre has been set up where returns are being processed in batches. However, some more functionalities in the processing of returns need to be added. Therefore, it is proposed to extend the time limit for issue of such notification under section 143 (1B) from 31st March, 2011 to 31st March 2012.

23.3 ***Applicability***: - This amendment takes effect retrospectively from 1st April, 2011.

24. Extension of time limit for assessments in case of exchange of information

24.1 Section 153 of the Income-tax Act provides for the time limits for completion of assessments and reassessments. In Explanation 1 to section 153 of the Income-tax Act, certain periods specified therein are to be excluded while computing the period of limitation for completion of assessment or reassessments.

24.2 In order to exclude the time taken in obtaining information from the tax authorities in jurisdictions situated outside India, under an agreement referred to in section 90 or 90A, from the statutory time limit prescribed for completion of assessment or reassessment, a new clause (viii) was inserted in *Explanation 1* to section 153.

24.3 It provides that the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to section 90 or 90A and ending with the date on which the information so requested is received by the Commissioner, or a period of six months, whichever is less, shall be excluded.

24.4 Similar amendments have also been made to the provisions of section 153B of the Act.

24.5 ***Applicability***: - These amendments take effect from 1st June, 2011.

25. Modification in the condition for filing an application before the Settlement Commission

25.1 The existing provisions contained in the proviso to section 245C (1) allow an application to be made before the Settlement Commission, if –

(i) the proceedings have been initiated against the applicant under section 153A or under section 153C as a result of search or a requisition of books of account, as the case may be, and the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees;

(ii) in other cases, if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

25.2 In order to expand the criteria for filing an application for settlement by a tax payer in whose case proceedings have been initiated as a result of search or requisition of books of account, a new clause (ia) has been inserted in the proviso to section 245C(1).

25.3 The new clause stipulates that an application can also be made, where the applicant –

(a) is related to the person [referred to in clause (i) above] in whose case proceedings have been initiated as a result of search and who has filed an application; and

(b) is a person in whose case proceedings have also been initiated for assessment or reassessment of income as a result of search,

the additional amount of income-tax payable on the income disclosed in his application exceeds ten lakh rupees.

25.4 As a consequence, a tax payer who is the subject matter of a search would be allowed to file an application for settlement if additional income-tax payable on the income disclosed in the application exceeds fifty lakh rupees. Entities related to such a tax payer, who are also the subject matter of search, would now be allowed to file an application for settlement, if additional income-tax payable in their application exceeds ten lakh rupees.

25.5 The relationship between the person who makes an application under clause (ia) of the proviso to section 245C (1) and the person mentioned in clause (i) of the proviso is defined by inserting an Explanation in the section.

25.6 ***Applicability*: -** This amendment takes effect from 1st June, 2011.

26. Power of the Settlement Commission to rectify its orders

26.1 Section 245D(4) of the Income-tax Act provides that the Settlement Commission may pass an order, as it thinks fit, on the matters covered by the application received by it, after giving an opportunity of being heard to the applicant and to the Commissioner.

26.2 Further under section 245F(1), the Settlement Commission has been conferred all the powers which are vested in an income-tax authority under the Act. An Income-tax authority has the power under section 154 to amend any order passed by it for the purpose of rectifying any mistake apparent from the record.

26.3 A new sub-section (6B) has been inserted in section 245D so as to specifically provide that the Settlement Commission may, at any time within a period of six months from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under section 245D(4).

26.4 It is further provided that a rectification which has the effect of modifying the liability of the applicant shall not be made unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.

26.5 Consequential amendments have also been made in section 22D of the Wealth Tax Act.

26.6 ***Applicability*: -** These amendments take effect from 1st June, 2011

27. Omission of the requirement of quoting of Document Identification Number

27.1 Under section 282B of the Income-tax Act, every income-tax authority shall, on or after the 1st day of July, 2011, allot a computer-generated Document Identification Number (DIN) in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

27.2 Considering the practical difficulties due to non-availability of requisite infrastructure on an all India basis, the aforesaid section was omitted.

27.3 ***Applicability*: -** This amendment takes effect from 1st April, 2011.

28. Reporting requirement by certain non-residents

28.1 Foreign companies or firms or associations of individuals operate in India through a branch or a liaison office after approval by Reserve Bank of India. The branch constitutes a permanent establishment of the entity and is, therefore, required to file a return of income along with requisite details. A non-resident does not file a return of income with regard to its liaison office on the ground that no business activity is allowed to be carried out in India.

28.2 A new section 285 has been inserted in the Act providing that a non-resident would be required to file an annual information statement in respect of activities of its Liaison Office in India, in prescribed form providing the prescribed details. The form would be required to be filed within sixty days from the end of the financial year to which it pertains.

28.3 ***Applicability***: -These amendments have been made effective from 1st June 2011.

29. Recognition to Provident Funds – Extension of time limit for obtaining Exemption from EPFO

29.1.1 Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 [clause (ea)] is that the establishment shall obtain exemption under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act).

29.1.2 Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.

29.1.3 The first proviso to sub-rule (1) of rule 3, inter alia, specifies 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 specify by rules in this behalf, the recognition to such fund shall be withdrawn if such fund does not satisfy such conditions on or before 31st December, 2010.

29.2 In order to provide further time to Employees' Provident Fund Organization (EPFO) to process the applications made by establishments seeking exemption under section 17 of the EPF & MP Act, the proviso has been amended so as to extend the time limit from 31st December, 2010 to 31st March, 2012.

29.3 ***Applicability*** **-** This amendment takes effect retrospectively from 1st January, 2011.

F. No. 142/01/2012-SO(TPL)

(Vimal Anand)
Under Secretary to the Government of India