

## Notes on clauses

### Income-tax

Clause 2, read with the First Schedule to the Bill specifies the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2010-2011. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2010-2011 from income other than "Salaries" subject to such deductions under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from, or paid on, income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2010-2011.

#### Rates of income-tax for the assessment year 2010-2011

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2010-2011. These rates are the same as those, specified in Part III of the First Schedule to the Finance (No.2) Act, 2009, for the purposes of deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2009-2010.

#### Rates of deduction of tax at source during the financial year 2010-2011 from income other than "Salaries"

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 2010-2011 from income other than "Salaries". The rates are the same as those specified in Part II of the First Schedule to the Finance (No. 2) Act, 2009 for the purposes of deduction of income-tax at source during the financial year 2009-2010.

The amount of tax so deducted shall be increased by a surcharge at the rate of two and one-half per cent. in the case of a company other than a domestic company. In all other cases, no surcharge will be levied on the tax deducted at source.

#### Rates for deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2010-2011

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from, or paid on, income under the head "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 2010-2011.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. In such cases, the income-tax exemption limit will remain the same. The rates of income-tax will also remain the same. However, the tax slabs are revised as under:—

Up to Rs. 1,60,000	Nil
Rs. 1,60,001 to 5,00,000	10 per cent.
Rs. 5,00,001 to 8,00,000	20 per cent.
Above Rs. 8,00,000	30 per cent.

In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Up to Rs. 1,90,000	Nil
Rs. 1,90,001 to 5,00,000	10 per cent.
Rs. 5,00,001 to 8,00,000	20 per cent.
Above Rs. 8,00,000	30 per cent.

In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Up to Rs. 2,40,000	Nil
Rs. 2,40,001 to 5,00,000	10 per cent.
Rs. 5,00,001 to 8,00,000	20 per cent.
Above Rs. 8,00,000	30 per cent.

No surcharge shall be levied in the case of persons covered in paragraph A of Part-III of the First Schedule.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for the assessment year 2010-2011. No surcharge will be levied.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 2010-2011. No surcharge will be levied.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for the assessment year 2010-2011. No surcharge will be levied.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In such cases, the rates of tax will continue to be the same as that specified for the assessment year 2010-2011.

For the financial year 2010-2011, surcharge in the case of a domestic company having income above one crore rupees is proposed to be reduced to seven and one-half per cent. from the existing rate of ten per cent. Marginal relief will be provided. In case of a company other than a domestic company, the surcharge shall continue to be levied at the rate of two and one-half per cent. and subject to the same conditions as were applicable for the assessment year 2010-2011.

In all other cases (including sections 115JB, 115-O, 115R, etc.) where surcharge at the rate of ten per cent. was applicable, the surcharge will be applicable at the rate of seven and one-half per cent.

"Education Cess" at the rate of two per cent. and "Secondary and Higher Education Cess" at the rate of one per cent. shall continue to be levied in all cases covered under Part III of the First Schedule. In the cases covered under Part II of the First Schedule, there will be no levy of the Education Cess and Secondary and Higher Education Cess on tax deducted or collected at source in the case of a domestic company and any other person who is resident in India. Both the cesses would, however, continue to apply on tax deducted at source in the case of salary payments. These would also continue to be levied in the cases of persons not resident in India and companies other than domestic companies.

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

The existing provision contained in clause (15) of the aforesaid section defines "charitable purpose" to include, *inter alia*, "the advancement of any other object of general public utility". The proviso to the said clause provides that "the advancement of any other object of general public utility" shall not be 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.

Sub-clause (a) proposes to amend the said clause (15) by inserting a second proviso therein to provide that the first proviso shall not apply if the aggregate value of receipts from the activities referred to in the first proviso is ten lakh rupees or less in the previous year.

This amendment will take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-2010 and subsequent years.

The existing provision contained in sub-clause (xv) of clause (24) of the aforesaid section provides that any sum of money or value of property referred to in clause (vii) of sub-section (2) of section 56 will fall within the definition of "income".

Sub-clause (b) proposes to amend sub-clause (xv) to also make a reference therein to value of property referred to in the proposed clause (vii) to sub-section (2) of section 56. This amendment is consequential to the amendment made *vide* sub-clause (b) of clause 21 of the Bill.

This amendment will take effect from 1st June, 2010 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 4 of the Bill seeks to amend section 9 of the Income-tax Act relating to income deemed to accrue or arise in India.

The existing provisions contained in the *Explanation* occurring after sub-section (2) of the aforesaid section provide that, for the removal of doubts, for the purposes of the said section, where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of sub-section (1), such income shall be included in the total income of the non-resident, whether or not, the non-resident has a residence or place of business or business connection in India.

It is proposed to substitute the said *Explanation* so as to provide that the income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) and shall be included in the total income of the non-resident, whether or not,—

- (i) the non-resident has a residence or place of business or business connection in India; or
- (ii) the non-resident has rendered services in India.

This amendment will take effect, retrospectively, from 1st June, 1976 and will, accordingly, apply in relation to the assessment year 1977-1978 and subsequent years.

Clause 5 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Under the existing provisions contained in clause (21) of the aforesaid section, in computing the total income of the previous year of any person, any income of a scientific research association for the time being approved for the purpose of clause (ii) of sub-section (1) of section 35 is not included.

It is proposed to amend clause (21) of the aforesaid section so as to make it also applicable to a research association which has as its object, undertaking research in social science or statistical research, provided such research association is approved and notified under clause (iii) of sub-section (1) of section 35. Consequently, the income of such association shall not be included in its total income.

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 6 of the Bill seeks to amend section 10AA of the Income-tax Act relating to special provision in respect of newly established Units in Special Economic Zones.

Under the existing provisions contained in sub-section (7) of the aforesaid section, as they would stand before section 6 of the

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Finance (No.2) Act, 2009 comes into force, the profits derived from the export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.

The aforesaid provision was amended by section 6 of the Finance (No.2) Act, 2009, so as to substitute the reference to "assessee" by the word "undertaking". The said amendment will become effective from 1st April, 2010 and accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

It is proposed to insert a proviso to the aforesaid sub-section (7) so as to make the provisions of the said amended sub-section effective retrospectively for the assessment year beginning on 1st April, 2006 and subsequent assessment years.

This amendment will take effect retrospectively from 1st April, 2010.

Clause 7 of the Bill seeks to amend section 12AA of the Income-tax Act relating to procedure for registration of a trust or institution.

Under the existing provision contained in sub-section (3) of the aforesaid section, if the activities of the trust or institution referred to in sub-section (1), which has been granted registration under sub-section (1), are not genuine or are not being carried out in accordance with the objects of the trust or institution, the Commissioner shall, after giving a reasonable opportunity of being heard to the said trust or institution, pass an order in writing cancelling the registration granted under clause (b) of sub-section (1).

It is proposed to amend the said sub-section (3) so as to also provide for cancellation of registration where any trust or institution has obtained registration at any time under section 12A before its amendment.

This amendment will take effect from 1st June, 2010.

Clause 8 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation.

The existing provisions contained in the aforesaid section provide that the aggregate depreciation allowable to the predecessor and successor business entities in case of succession or amalgamation shall not exceed in any previous year the deduction allowable at prescribed rates as if the succession or amalgamation had not taken place and such deduction shall be apportioned between the two entities in the ratio of the number of days for which the assets were used by them.

It is proposed to make a reference of clause (xiiib) in the fifth proviso to sub-section (1) of the aforesaid section to provide that in case of succession of a private company or unlisted public company by limited liability partnership, the aggregate depreciation allowable to the predecessor company and the successor limited liability partnership shall not exceed, in any previous year, the deduction calculated at the prescribed rate as if no succession has taken place.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 9 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on research.

Sub-clause (i) of clause 9 seeks to amend sub-section (1) of the aforesaid section 35.

The existing provisions contained in clause (ii) of sub-section (1) of the said section provide for weighted deduction to the extent of one hundred twenty-five per cent. of any sum paid to a scientific research association which has the object of undertaking scientific research or to a university, college or other institution to be used for scientific research.

Item (b) of sub-clause (i) proposes to amend the said clause (ii) so as to enhance the said weighted deduction from one hundred and twenty-five per cent. to one hundred and seventy-five per cent.

Clause (iii) of sub-section (1) of the aforesaid section provides that weighted deduction shall be allowed in respect of contributions made to an approved university, college or institution to be used for research in social science or statistical research.

Item (c) of sub-clause (i) proposes to amend clause (iii) of the aforesaid sub-section to include research associations, which have as their object, undertaking of research in social science or statistical research provided such research associations are approved and notified. Accordingly, any sum paid to such research associations shall be eligible for weighted deduction.

Sub-clause (ii) of clause 9 seeks to amend sub-section (2AA) of the aforesaid section 35.

The existing provisions contained in clause (a) of sub-section (2AA) of the said section provide for a weighted deduction to the extent of one hundred and twenty-five per cent. of any sum paid to a National Laboratory or a University or an Indian Institute of Technology or a specified person for the purpose of an approved scientific research programme.

It is proposed to amend the said clause (a) so as to enhance the said weighted deduction from one hundred and twenty-five per cent. to one hundred and seventy-five per cent.

Sub-clause (iii) of clause 9 seeks to amend sub-section (2AB) of the aforesaid section 35.

The existing provisions contained in clause (1) of sub-section (2AB) of the said section provide for weighted deduction of one hundred and fifty per cent. of the expenditure incurred by a company on scientific research on an approved in-house research and development facility.

It is proposed to amend the said clause (1) so as to enhance the said weighted deduction from one hundred and fifty per cent. to two hundred per cent.

These amendments will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 10* of the Bill seeks to amend section 35AD of the Income-tax Act relating to deductions in respect of expenditure on specified business.

Under the existing provisions of the aforesaid section, deduction in respect of expenditure of capital nature incurred, wholly or exclusively, during the year for a specified business is allowed. The expression "specified business" is defined in clause (c) of sub-section (8) of the said section. The specified business, *inter alia*, includes the business of 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. The conditions to be applied to specified business are laid down in sub-section (2) of the aforesaid section. One of such conditions is that the aforesaid specified business should have made not less than one-third of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person.

Sub-clause (a) proposes to amend sub-clause (c) of clause (iii) of sub-section (2) of the aforesaid section 35AD so as to provide that the proportion of the total pipeline capacity to be made available for use on common carrier basis should be as specified by regulations made by the Petroleum and Natural Gas Regulatory Board.

This amendment will take effect retrospectively from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-2011 and subsequent years.

The existing provisions contained in sub-section (3) of the aforesaid section 35AD provide that the assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VI-A under the heading "*C.-Deductions in respect of certain incomes*".

Sub-clause (b) proposes to substitute sub-section (3) of the aforesaid section so as to provide that where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A under the heading "*C.-Deductions in respect of certain incomes*" in relation to such specified business for the same or any other assessment year.

Sub-section (5) of the aforesaid section 35AD prescribes the conditions as regards the date of commencement of the specified business.

Sub-clause (c) proposes to amend sub-section (5) of the aforesaid section so as to insert a new clause (aa) to provide that the specified business in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government should commence its operation on or after 1st April, 2010.

The existing provisions of clause (c) of sub-section (8) of the aforesaid section 35AD define the expression "specified business" to mean the business of setting up and operating a cold chain facility, a warehousing facility for storage of agricultural produce and laying and operating a cross-country natural gas or crude or petroleum oil pipeline network.

Sub-clause (d) proposes to amend clause (c) of sub-section (8) of the aforesaid section so as to bring the business relating to building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government within the purview of "specified business".

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 11* of the Bill seeks to amend section 35DDA of the Income-tax Act relating to amortisation of expenditure incurred under voluntary retirement scheme.

The existing provisions contained in the aforesaid section provide that where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement under any scheme of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.

Sub-clause (a) proposes to amend the aforesaid section so as to insert a new sub-section (4A) to provide that in case of succession of a private company or unlisted public company by a limited liability partnership, the provisions of the said section shall apply to the successor limited liability partnership as they would have applied to the predecessor company.

Sub-clause (b) proposes to amend sub-section (5) of the aforesaid section to provide that in case of such conversion, no deduction under the said section shall be allowed to the predecessor company in the previous year in which the conversion takes place.

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 12* of the Bill seeks to amend section 40 of the Income-tax Act relating to amounts not deductible.

Under the existing provisions contained in sub-clause (ia) of clause (a) of the aforesaid section, non-deduction of tax or non-

payment of tax after deduction on payment of any sum by way of interest, commission or brokerage, rent, royalty, fees for professional services or fees for technical services payable to a resident or amounts payable to a contractor or sub-contractor, being resident, results in the disallowance of the said sum, in the computation of income of the payer, on which tax is required to be deducted under Chapter XVII-B.

The proviso to the said sub-clause provides that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the last month of the previous year but paid after the due date of filing of return or deducted during any other month of the previous year but paid after the end of the said previous year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

It is proposed to amend sub-clause (ia) of clause (a) of the aforesaid section to provide that disallowance under the said sub-clause will be attracted, if, after deduction of tax during the previous year, the same has not been paid on or before the due date of filing of return of income specified in sub-section (1) of section 139.

This amendment will take effect retrospectively from 1st April, 2010, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 13 of the Bill seeks to amend section 43 of the Income-tax Act relating to definitions of certain terms relevant to income from profits and gains of business or profession.

The existing provisions contained in Explanation 13 to clause (1) of the aforesaid section provide that the actual cost of any capital asset on which deduction has been allowed or is allowable under section 35AD shall be treated as 'nil' in specified circumstances.

Sub-clause (a) proposes to make a reference of clause (xiiib) of section 47 in sub-clause (iii) of clause (b) of the said Explanation, to provide that in case of succession of a private company or unlisted public company by a limited liability partnership, the actual cost of capital assets on which deduction has been allowed under section 35AD to the predecessor company shall be taken as 'nil' in case of the successor limited liability partnership.

Clause (6) of the aforesaid section defines the expression 'written down value'.

Sub-clause (b) proposes to amend clause (6) of the aforesaid section by inserting a new Explanation 2C to the said clause (6) so as to provide that in case of succession of private company or unlisted public company by limited liability partnership, the actual cost of the block of assets in case of successor limited liability partnership shall be the written down value of the block of assets as in the case of the predecessor company on the date of conversion.

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 14 of the Bill seeks to amend section 44AB of the Income-tax Act relating to audit of accounts of certain persons carrying on business or profession.

The existing provisions contained in clause (a) of the aforesaid section make it obligatory for every person carrying on business to get his accounts of any previous year relevant to the assessment year audited by an accountant before the specified date if the total sales, turnover or gross receipts in business for the previous year exceeds forty lakh rupees.

It is proposed to enhance the said limit from forty lakh rupees to sixty lakh rupees.

The existing provisions contained in clause (b) of the aforesaid section make it obligatory for every person carrying on profession

to get his accounts of any previous year relevant to the assessment year audited by an accountant before the said specified date if his gross receipts in profession for the previous year exceed ten lakh rupees.

It is proposed to enhance the said limit from ten lakh rupees to fifteen lakh rupees.

These amendments will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 15 of the Bill seeks to amend section 44AD of the Income-tax Act relating to special provision for computing profits and gains of business on presumptive basis.

The existing sub-clause (ii) of clause (b) of the Explanation to the aforesaid section defines the term "eligible business" to mean any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE and whose total turnover or gross receipts in previous year does not exceed forty lakh rupees for the purpose of computing profits and gains of business on presumptive basis.

It is proposed to enhance the said limit from forty lakh rupees to sixty lakh rupees.

This amendment will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 16 of the Bill seeks to amend section 44BB of the Income-tax Act relating to special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils.

Under the existing provisions contained in sub-section (1) of the aforesaid section, income of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils is computed at ten per cent. of the aggregate of the amounts paid or payable to the assessee or to any person on his behalf, whether in or out of India on account of the provisions of such services and facilities. The proviso to the said sub-section provides that the said sub-section shall not apply in a case where the provisions of section 42 or section 44D or section 115A or section 293A apply for the purposes of computing profits or gains or any other income referred to in those sections.

It is proposed to insert the reference of "section 44DA" in the proviso to the said sub-section (1) so as to clarify that the provisions of section 44BB shall also not apply in case where the provisions of section 44DA become applicable.

This amendment will take effect from 1st April, 2011, and will, accordingly, apply in relation to assessment year 2011-2012 and subsequent years.

Clause 17 of the Bill seeks to amend section 44DA of the Income-tax Act relating to special provision for computing income by way of royalties, etc., in case of non-residents.

The existing section 44DA provides the procedure for computing income by way of royalty or fees for technical services, in case the right, property or contract giving rise to such income are effectively connected with the permanent establishment of the non-resident, through which business is carried out in India.

It is proposed to insert a second proviso to the said section so as to clarify that the provisions of section 44BB shall not apply in respect of income referred to in the aforesaid section 44DA.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Clause 18 of the Bill seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

The existing provisions contained in the aforesaid section provide that certain transactions are not regarded as transfer for the purpose of section 45 of the Income-tax Act.

It is proposed to amend the aforesaid section so as to insert a new clause (xiiib) in section 47 which provides that any transfer of a capital asset or intangible asset by a company shall not be treated as transfer under section 45 where a private company or unlisted public company (hereinafter referred to as the company) is converted into a limited liability partnership in accordance with the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008.

It is also proposed to insert a proviso to the said clause which provides that (a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership; (b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership, and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion; (c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership; (d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent. at any time during the period of five years from the date of conversion; (e) the total sales, turnover or gross receipts in business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and (f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 19* of the Bill seeks to amend section 47A of the Income-tax Act relating to withdrawal of exemption in certain cases.

It is proposed to amend the aforesaid section so as to insert a new sub-section (4) which provides that where any of the conditions stipulated in the proviso to clause (xiiib) of section 47 are not complied with, the amount of profits or gains arising from the transfer of capital assets by the predecessor private company or unlisted public company to the successor limited liability partnership on succession shall be deemed to be the profits or gains chargeable to tax of the successor limited liability partnership for the previous year in which the conditions stipulated in the proviso to clause (xiiib) of section 47 are not complied with.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 20* of the Bill seeks to amend section 49 of the Income-tax Act relating to cost with reference to certain modes of acquisition.

The existing provisions contained in the aforesaid section provide that in certain circumstances the cost of acquisition of the assets shall be deemed to be the cost for which the previous owner of the asset acquired it.

Sub-clause (a) proposes to amend sub-clause (e) of clause (iii) of sub-section (1) of the aforesaid section so as to make a reference of clause (xiiib) of section 47 in the said sub-clause (e) to provide that in case of succession of a private company or unlisted public company by a limited liability partnership, the cost of acquisition of the assets for the successor limited liability partnership shall be deemed to be the cost for which the predecessor company acquired it.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Under the existing provision contained in sub-section (4) of section 49, where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii).

Sub-clause (b) proposes to amend the aforesaid sub-section so as to provide that the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purpose of clause (vii) of sub-section (2) of section 56 also.

This amendment is consequential to the amendment made *vide* sub-clause (b) of clause 21 of the Bill and will take effect from 1st June, 2010 and will, accordingly, apply to the assessment year 2011-2012 and subsequent years.

*Clause 21* of the Bill seeks to amend section 56 of the Income-tax Act relating to income from other sources.

Under the existing provisions contained in sub-clause (b) of clause (vii) of sub-section (2) of the aforesaid section, if an assessee being an individual or a Hindu undivided family receives any immovable property without consideration or for inadequate consideration, the value of the said property shall be treated as income in the hands of assessee and shall be liable to tax.

It is proposed to substitute the aforesaid sub-clause (b) of clause (vii) of sub-section (2) of the aforesaid section so as to provide that clause (vii) of sub-section (2) of section 56 would apply only if the immovable property is received without any consideration and to remove the stipulation as regards inadequate consideration.

This amendment will take effect retrospectively from 1st October, 2009, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Under the existing provisions contained in clause (d) of the *Explanation* to clause (vii) of sub-section (2) of the aforesaid section, certain properties have been enumerated within the definition of "property".

It is proposed to amend the aforesaid clause (d) of the *Explanation* to clause (vii) of sub-section (2) so as to specify that clause (vii) of sub-section (2) of the aforesaid section will have application to "property" which is in the nature of capital asset of the assessee.

This amendment will take effect retrospectively from 1st October, 2009, and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

It is also proposed to amend clause (d) of the said *Explanation* to insert a new sub-clause (ix) so as to include "bullion" within the specified categories of property.

This amendment will take effect from 1st June, 2010, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

Under the existing provisions contained in clause (vii) of sub-section (2) of the aforesaid section, if an assessee who is an individual or a Hindu undivided family receives specified property without consideration or for inadequate consideration from persons other than relatives defined in the said section, the value of the said property shall be treated as income in the hand of assessee and shall be taxed.

It is proposed to insert a new clause (viiia) in sub-section (2) of the aforesaid section so as to include the transactions undertaken in shares of a company not being a company in which the public are substantially interested where the recipient is a firm or a company not being a company in which the public are substantially interested.

This amendment will take effect from 1st June, 2010, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 22* of the Bill seeks to amend section 72A of the Income-tax Act, relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

Sub-clause (a) proposes to insert a new sub-section (6A) which provides that in case of succession of business, whereby, a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiib) of section 47, notwithstanding anything contained in any other provisions of the Act, the accumulated loss and the unabsorbed depreciation of the predecessor company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the successor limited liability partnership for the previous year in which business reorganisation was effected and the other provisions of the Act relating to set off and carry forward loss and allowance for depreciation shall apply accordingly. However, if the conditions stipulated in the proviso to clause (xiib) of section 47 are not complied with, the set off of loss or allowance of depreciation which had been allowed shall be deemed to be the income chargeable to tax of the successor limited liability partnership for the previous year in which the conditions stipulated in the proviso to clause (xiib) of section 47 are not complied with.

The existing provisions of clause (a) and clause (b) of sub-section (7) of the aforesaid section defines the expressions "accumulated loss" and "unabsorbed depreciation" respectively for the purpose of the aforesaid section.

Sub-clause (b) proposes to substitute the said clauses (a) and (b) to redefine the expressions as under:—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or conversion or amalgamation or demerger had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or conversion or amalgamation or demerger had not taken place.

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 23* of the Bill seeks to amend section 80A of the Income-tax Act, relating to deductions to be made in computing total income.

The existing provisions contained in the aforesaid section provide that the aggregate amount of deductions in computing the total income shall not, in any case, exceed the gross total income of the assessee.

It is proposed to amend the aforesaid section so as to insert a new sub-section (7) to provide that where a deduction under any provision of this Chapter under the heading "C.- Deductions in respect of certain incomes" is claimed and allowed in respect of

profits of any of the specified business referred to in clause (c) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 24* of the Bill seeks to insert a new section 80CCF in the Income-tax Act relating to deduction in respect of subscription to long-term infrastructure bonds.

It is proposed to insert a new section so as to provide that a sum of rupees twenty thousand in addition to the existing limit of rupees one lakh for tax savings under the Income-tax Act may be allowed as a specific deduction in computing the total income of an assessee being an individual or a Hindu undivided family if such sum is paid or deposited at any time during the previous year relevant to the assessment year beginning on 1st April, 2011 as subscription to long-term infrastructure bonds as may be notified by the Central Government.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012.

*Clause 25* of the Bill seeks to amend section 80D of the Income-tax Act, relating to deduction in respect of health insurance premia.

Under the existing provisions contained in clause (a) of sub-section (2) of the aforesaid section 80D, the whole of the amount paid by any mode, other than cash, in the previous year out of the income of the assessee, being an individual, to effect or keep in force an insurance on his health or the health of his family as does not exceed in the aggregate fifteen thousand rupees, is allowed to be deducted in computing the total income of the assessee.

It is proposed to amend the said clause (a) so as to also allow the benefit of the deduction in respect of a contribution made by the assessee during the previous year to the Central Government Health Scheme within the said limit.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 26* of the Bill seeks to amend section 80GGA of the Income-tax Act relating to deduction in respect of certain donations for scientific research or rural development.

Clause (aa) of sub-section (2) of the aforesaid section provides that donations made to a university, college or other institution to be used for research in social science or statistical research qualify for deduction under that section provided such university, college or institution is approved for the purposes of clause (iii) of sub-section (1) of section 35.

It is proposed to amend the aforesaid clause so as to also include a research association which has as its object undertaking of research in social science or statistical research and which for the time being is approved for the purposes of clause (iii) of sub-section (1) of section 35. Accordingly, any sum paid to such research association will be eligible for deduction under the aforesaid section.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 27* of the Bill seeks to amend section 80-IB of the Income-tax Act relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Under the existing provisions contained in sub-section (10) of the aforesaid section, hundred per cent. deduction is available in respect of profits derived by an undertaking from developing and building housing projects approved by a local authority before 31st

March, 2008. It is further provided in clause (a) that where a housing project has been, or, is approved by the local authority on or after 1st April, 2004, it should be completed within four years from the end of the financial year in which the housing project is approved by the local authority.

It is proposed to increase the period for completion of a housing project, approved on or after 1st April, 2005, from four years to five years.

Under the existing provisions contained in clause (d) of sub-section (10) of the aforesaid section, the built-up area of the shops and other commercial establishments included in the housing project should not exceed five per cent. of the aggregate built-up area of the housing project or 2,000 square feet, whichever is less.

It is proposed to revise the existing limit to three per cent. of the aggregate built-up area of the housing project or 5,000 square feet, whichever is higher.

These amendments will take effect, retrospectively, from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

*Clause 28* of the Bill seeks to amend section 80-ID of the Income-tax Act relating to deduction in respect of profits and gains from business of hotels and convention centres in specified area.

The existing clause (i) of sub-section (2) of the aforesaid section provides that the provisions of the said section apply to any undertaking engaged in the business of hotel located in the specified area, if such hotel is constructed and has started or starts functioning at any time during the period beginning on 1st April, 2007 and ending on 31st March, 2010.

It is proposed to extend the said period up to 31st July, 2010.

The existing clause (ii) of sub-section (2) of the aforesaid section provides that the provisions of the said section apply to any undertaking engaged in the business of building, owning and operating a convention centre, located in the specified area, if such convention centre is constructed at any time during the period beginning on 1st April, 2007 and ending on 31st March, 2010.

It is proposed to extend the said period up to 31st July, 2010.

These amendments will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 29* of the Bill seeks to amend section 115JAA of the Income-tax Act relating to tax credit in respect of tax paid on deemed income relating to certain companies.

The existing provisions contained in the aforesaid section provide that where any amount of tax is paid under sub-section (1) of section 115JB by a company for any assessment year beginning on or after 1st April, 2006, credit in respect of tax so paid shall be allowed to it in accordance with the provisions of section 115JAA.

It is proposed to insert a new sub-section (7) in the said section to provide that the provisions of section 115JAA shall not apply to a limited liability partnership which has been converted from a private company or unlisted public company under the Limited Liability Partnership Act, 2008.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 30* of the Bill seeks to amend section 115JB of the Income-tax Act relating to special provision for payment of tax by certain companies.

Under the existing provisions contained in sub-section (1) of the aforesaid section in case of a company, if the tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing

on or after 1st April, 2010, is less than fifteen per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be fifteen per cent. of such book profit.

It is proposed to amend sub-section (1) of the aforesaid section to provide that if the income-tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2011 is less than eighteen per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be eighteen per cent. of such book profit.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 31* of the Bill seeks to amend section 115WE of the Income-tax Act relating to assessment.

Under the existing provisions contained in sub-section (1B) of the aforesaid section, the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of the Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. However, no direction is to be issued after 31st March, 2010.

It is proposed to extend the time limit from 31st March, 2010 to 31st March, 2011.

This amendment will take effect retrospectively from 1st April, 2010.

*Clause 32* of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

Under the existing provisions contained in sub-section (4C) of the aforesaid section, every scientific research association referred to in clause (21) of section 10, shall, if the total income in respect of such scientific research association (without giving effect to the provisions of section 10) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year.

It is proposed to amend sub-section (4C) in order to require a research association having as its object undertaking research in social science or statistical research to also furnish its return of income.

These amendments will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 33* of the Bill seeks to amend section 142A of the Income-tax Act relating to estimate by Valuation Officer in certain cases.

The existing provisions contained in sub-section (1) of the aforesaid section provide that where an estimate of the value of any investment referred to in section 69 or section 69B or the value of any bullion, jewellery or other valuable article referred to in section 69A or section 69B is required for the purpose of making an assessment or re-assessment under the Act, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him.

It is proposed to amend the said sub-section (1) so as to also enable the Assessing Officer to make reference to the Valuation Officer for making an estimate of fair market value of any property referred to in sub-section (2) of section 56 of the Act.

This amendment will take effect from 1st July, 2010.

*Clause 34* of the Bill seeks to amend section 143 of the Income-tax Act relating to assessment.

Under the existing provisions contained in sub-section (1B) of the aforesaid section, the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of the Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. However, no direction is to be issued after 31st March, 2010.

Sub-clause (a) proposes to extend the time limit from 31st March, 2010 to 31st March, 2011.

This amendment will take effect retrospectively from 1st April, 2010.

Under the existing provisions contained in proviso to sub-section (3) of the aforesaid section, the assessing officer is under obligation to intimate the Central Government or the prescribed authority any contravention of provisions of clause (21) of section 10, by the association referred to in the said clause. The provisions also state that the assessing officer shall not withdraw exemption under section 10 unless the intimation has been given by him to the prescribed authority and the approval granted to the association has been withdrawn.

Sub-clause (b) proposes to amend the first proviso to sub-section (3) of the aforesaid section for giving effect to the proposed applicability of clause (21) of section 10 to a research association which has as its object undertaking research in social science or statistical research. Accordingly, the references to scientific research association are proposed to be substituted by references to research association.

These amendments will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 35* of the Bill seeks to amend section 194B of the Income-tax Act relating to winnings from lottery or crossword puzzle.

Under the existing provisions contained in the aforesaid section, any person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in excess of five thousand rupees is required to deduct income-tax on such payment at the rates in force.

It is proposed to enhance the said limit from five thousand rupees to ten thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 36* of the Bill seeks to amend section 194BB of the Income-tax Act relating to winnings from horse race.

Under the existing provisions contained in the aforesaid section, a bookmaker or a licensee for horse racing in any race course or for arranging any wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in excess of two thousand five hundred rupees is required to deduct income-tax on such payments at the rates in force.

It is proposed to enhance the said limit from two thousand five hundred rupees to five thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 37* of the Bill seeks to amend section 194C of the Income-tax Act relating to payments to contractors.

Under the existing provisions contained in sub-section (5) of the aforesaid section, no deduction of income-tax shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor if such sum does not exceed twenty thousand rupees. However, if the aggregate of such sums credited or paid or likely to be credited or paid during the

financial year exceeds fifty thousand rupees, the person responsible for paying such sums shall be liable to deduct income-tax.

It is proposed to enhance the said limit from twenty thousand rupees for a single transaction to thirty thousand rupees and from fifty thousand rupees for the aggregate transactions during the financial year to seventy five thousand rupees.

These amendments will take effect from 1st July, 2010.

*Clause 38* of the Bill seeks to amend section 194D of the Income-tax Act relating to insurance commission.

Under the existing provisions contained in the aforesaid section, no deduction of income-tax shall be made in a case where the amount of such income, or the aggregate of the amount of the income, relating to remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business, credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee does not exceed five thousand rupees.

It is proposed to enhance the said limit from five thousand rupees to twenty thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 39* of the Bill seeks to amend section 194H of the Income-tax Act relating to commission or brokerage.

Under the existing provisions contained in the aforesaid section, no deduction shall be made in a case where the amount of income or the aggregate of the amounts of income relating to commission or brokerage credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee does not exceed two thousand five hundred rupees.

It is proposed to enhance the said limit from two thousand five hundred rupees to five thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 40* of the Bill seeks to amend section 194-I of the Income-tax Act relating to rent.

Under the existing provisions contained in the aforesaid section, no deduction of income-tax shall be made where the amount of income or the aggregate of the amounts of income relating to rent credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee does not exceed one hundred and twenty thousand rupees.

It is proposed to enhance the said limit from one hundred and twenty thousand rupees to one hundred and eighty thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 41* of the Bill seeks to amend section 194J of the Income-tax Act relating to fees for professional or technical services.

Under the existing provisions contained in the aforesaid section, no deduction of income-tax shall be made where the amount of such sum or the aggregate of the amounts of such sums, relating to fees for professional or technical services or royalty or any sum referred to in clause (va) of section 28, credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee does not exceed twenty thousand rupees.

It is proposed to enhance the said limit from twenty thousand rupees to thirty thousand rupees.

This amendment will take effect from 1st July, 2010.

*Clause 42* of the Bill seeks to amend section 201 of the Income-tax Act relating to consequences of failure to deduct or pay tax.

Under the existing provisions contained in sub-section (1A) of the aforesaid section, the person, principal officer and the company referred to in sub-section (1) of the aforesaid section, in case of

failure of deduction or payment of tax, are liable to pay simple interest at one per cent. for every month or part of a month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid and such interest shall be paid before furnishing the statement in accordance with the provisions of sub-section (3) of section 200.

It is proposed to amend sub-section (1A) of the aforesaid section so as to increase the interest chargeable under that sub-section from one per cent. to one and one-half per cent. for every month or part of a month for tax deducted but not paid.

This amendment will take effect from 1st July, 2010.

*Clause 43* of the Bill seeks to amend section 203 of the Income-tax Act relating to certificate for tax deducted.

Under the existing provisions contained in sub-section (3) of the aforesaid section, where the tax has been deducted or paid in accordance with the provisions of Chapter XVII-B on or after 1st April, 2010, there is no requirement to furnish a certificate referred to in sub-section (1) or, as the case may be, under sub-section (2) of the aforesaid section, by the deductor to the deductee.

It is proposed to omit the aforesaid sub-section (3) of section 203 of the Income-tax Act.

This amendment will take effect retrospectively from 1st April, 2010.

*Clause 44* of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The existing provisions contained in the first proviso to sub-section (5) of the aforesaid section provides that on or after 1st April, 2010, no certificate shall be required to be furnished where the tax has been collected in accordance with the provisions of the aforesaid section.

It is proposed to omit the aforesaid proviso to sub-section (5) of section 206C of the Income-tax Act.

This amendment will take effect retrospectively from 1st April, 2010.

*Clause 45* of the Bill seeks to amend section 245A of the Income-tax Act relating to definitions.

Under the existing provisions contained in clause (b) of the aforesaid section, the expression "case" means any proceeding for assessment of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made. It, *inter alia*, provides that a proceeding of assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A and, in clause (b) of sub-section (1) of section 153B, in case of a person referred to in section 153A or section 153C, shall not be a proceeding for assessment for the purposes of this clause.

It is proposed to omit clauses (ii) and (iii) of the proviso to clause (b) of the aforesaid section so as to include within the definition of "case", a proceeding for assessment or reassessment referred to in clause (b) of sub-section (1) of section 153A, and clause (b) of sub-section (1) of section 153B, in case of a person referred to in section 153A or section 153C.

It is further proposed to amend the *Explanation* to specify the date on which the proceedings for assessment or reassessment shall be deemed to have commenced and concluded, in case of a person referred to in section 153A or section 153C.

These amendments will take effect from 1st June, 2010.

*Clause 46* of the Bill seeks to amend section 245C of the Income-tax Act relating to application for settlement of cases.

Under the existing provisions of the aforesaid section an application can be made before the Settlement Commission, if the additional amount of income-tax payable on the income disclosed in the application exceeds three lakh rupees.

It is proposed to substitute the proviso of the said section so as to provide that an application can be made before the Settlement Commission, in cases where proceedings for assessment or reassessment have been initiated as a result of search under section 132 or books of account, other documents or any assets requisitioned under section 132A, if the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees.

It is further proposed to provide that, in other cases, an application can be made before the Settlement Commission, if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

These amendments will take effect from 1st June, 2010.

*Clause 47* of the Bill seeks to amend section 245D of the Income-tax Act relating to the procedure on receipt of an application under section 245C.

Under the existing provisions of sub-section (4A) of the aforesaid section, the Settlement Commission shall pass an order within twelve months from the end of the month in which the application was made.

It is proposed to amend clause (ii) of the aforesaid sub-section so as to provide that the Settlement Commission shall, in respect of an application made on or after 1st June, 2007 but before 1st June, 2010, pass an order within the said period of twelve months.

It is further proposed to insert clause (iii) in the said sub-section so as to provide that the Settlement Commission shall, in respect of an application made on or after 1st June, 2010, pass an order within eighteen months from the end of the month in which the application was made.

These amendments will take effect from 1st June, 2010.

*Clause 48* of the Bill seeks to amend section 256 of the Income-tax Act relating to statement of case to the High Court.

The existing provision contained in sub-section (2) of the aforesaid section provides for a period of six months from the date of receipt of the order of Tribunal refusing to state the case on the ground that no question of law arises. The assessee or the Commissioner may within the said period apply to the High Court to require the Tribunal to state the case and to refer to it.

It is proposed to insert a new sub-section (2A) so as to empower the High Court to admit an application after the expiry of said period of six months, if it is satisfied that there was sufficient cause for not filing the same within the said period.

This amendment will take effect retrospectively from 1st June, 1981.

*Clause 49* of the Bill seeks to amend section 260A of the Income-tax Act relating to appeal to High Court.

The existing provision contained in clause (a) of sub-section (2) of the aforesaid section provides one hundred and twenty days from the date of receipt of the order appealed against, as the period of limitation for filing of an appeal to the High Court.

It is proposed to insert a new sub-section (2A) so as to empower the High Court to admit an appeal after the expiry of said period of one hundred and twenty days if it is satisfied that there was sufficient cause for not filing the appeal within the said period.

This amendment will take effect retrospectively from 1st October, 1998.

*Clause 50* of the Bill seeks to amend section 271B of the Income-tax Act relating to failure to get accounts audited.

The existing provisions contained in the aforesaid section provide that if any person fails to get his accounts audited in respect of any previous year relevant to an assessment year or furnish a report of such audit as required under section 44AB, the Assessing Officer may impose a penalty equal to one-half per cent. of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such previous year or a sum of one lakh rupees, whichever is less.

It is proposed to enhance the said limit from one lakh rupees to one lakh fifty thousand rupees.

This amendment will take effect from 1st April, 2011, and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

*Clause 51* of the Bill seeks to amend section 282B of the Income-tax Act relating to allotment of Document Identification Number.

Under the existing provisions contained in the aforesaid section, the income-tax authority is required to allot a computer generated Document Identification Number before issue 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. It also provides that every document, letter or correspondence received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number. The provisions of this section will come into force with effect from 1st October, 2010.

It is proposed to amend the provisions of the said section so as to provide that Document Identification Number will be required to be allotted on or after 1st July, 2011.

This amendment will take effect from 1st October, 2010.

*Clause 52* of the Bill seeks to amend rule 5 of the First Schedule to the Income-tax Act relating to computation of profits and gains of other insurance business.

Under the provisions contained in clause (b) of rule 5 of the said Schedule, as inserted by clause (ii) of section 80 of the Finance (No. 2) Act, 2009, adjustment shall be made by way of deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realisation of investments in accordance with the regulations made by the Insurance Regulatory and Development Authority. Adjustment shall also be made by way of increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realisation of investments in accordance with the regulations made by the Insurance Regulatory and Development Authority.

It is proposed to substitute the aforesaid clause (b) so as to provide that any gain or loss on realisation of investments shall be added or deducted, as the case may be, if such gain or loss is not credited or debited to the profit and loss account and any provision for diminution in the value of investment debited to the profit and loss account shall be added back.

This amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-2012 and subsequent years.

#### *Wealth-tax*

*Clause 53* of the Bill seeks to amend section 22A of the Wealth-tax Act relating to definitions.

Under the existing provisions contained in clause (b) of the aforesaid section, the word "case" means any proceeding for assessment of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 22C is made. It, *inter alia*, provides that a proceeding of assessment or reassessment for any of the assessment years which may be initiated on the basis of a search under section 37A

or requisition under section 37B shall not be a proceeding for assessment for the purpose of this clause.

It is proposed to omit clause (iii) of the proviso to clause (b) of the aforesaid section so as to include within the definition of "case", the proceedings of assessment or reassessment which may be initiated on the basis of a search under section 37A or requisition under section 37B.

The existing provisions of the *Explanation* to clause (b) of the aforesaid section provide for the date on which proceedings for assessment or reassessment shall be deemed to have commenced.

It is further proposed to amend the *Explanation* to specify the date on which the proceedings for assessment or reassessment shall be deemed to have been initiated and concluded pursuant to a search under section 37A or requisition made under section 37B.

These amendments will take effect from 1st June, 2010.

*Clause 54* of the Bill seeks to amend section 22D of the Wealth-tax Act relating to procedure on receipt of an application under section 22C.

Under the existing provisions of sub-section (4A) of the aforesaid section, Settlement Commission shall pass an order within twelve months from the end of the month in which the application was made.

It is proposed to amend the said sub-section so as to provide that the Settlement Commission shall pass an order in respect of an application made on or after 1st June, 2007 but before 1st June, 2010, within twelve months and in respect of application made on or after 1st June, 2010 within eighteen months from the end of the month in which the application was made.

This amendment will take effect from 1st June, 2010.

*Clause 55* of the Bill seeks to amend section 27 of the Wealth-tax Act relating to reference to High Court.

The existing provision contained in sub-section (3) of the aforesaid section provides for a period of ninety days, from the date of receipt of the order of Tribunal refusing to state the case on the ground that no question of law arises. The assessee or the Commissioner may within the said period apply to the High Court to require the Tribunal to state the case and to refer it.

It is proposed to insert a new sub-section (3B) so as to empower the High Court to admit an application after the expiry of said period of ninety days if it is satisfied that there was sufficient cause for not filing the appeal within the said period.

This amendment will take effect retrospectively from 1st June, 1981.

*Clause 56* of the Bill seeks to amend section 27A of the Wealth-tax Act relating to appeal to High Court.

The existing provision contained in sub-section (1) of the said section provides one hundred and twenty days, from the date of receipt of the order appealed against, as the period of limitation for filing an appeal to the High Court.

It is proposed to insert a new sub-section (1A) so as to empower the High Court to admit an appeal after the expiry of said period of one hundred and twenty days if it is satisfied that there was sufficient cause for not filing the same within that period.

This amendment will take effect retrospectively from 1st October, 1998.

#### *Customs*

*Clause 57* of the Bill seeks to amend section 127B of the Customs Act with a view to substitute the words "but excluding the goods not included in the entry made under this Act", with the words "or otherwise".

*Clause 58* of the Bill seeks to amend sub-section (6) of section 127C of the Customs Act to insert a proviso therein with a view to provide that the period specified under that sub-section may be extended by the Settlement Commission for a further period not exceeding three months, for reasons to be recorded in writing.

*Clause 59* of the Bill seeks to amend section 127L of the Customs Act with a view to make certain amendments in sub-section (1) and to omit sub-section (2) to provide that the assessee shall be entitled to apply for settlement in any matter before the Settlement Commission except in the circumstances specified therein.

*Clause 60* of the Bill seeks to amend notification numbers G.S.R. 118(E), dated 1st March, 2002 and G.S.R. 92(E), dated 1st March, 2006 issued under sub-section (1) of section 25 of the Customs Act retrospectively with effect from 26th June, 2009 so as to –

(a) increase customs duty from nil to 16%, on the removal of electrical energy from Special Economic Zone to Domestic Tariff Area or the non-processing areas of a Special Economic Zone and to provide that in respect of other supplies, the rate shall continue to be nil;

(b) exempt electrical energy from 4% Special Countervailing Duty leviable under sub-section (5) of section 3 of the Customs Tariff Act.

#### *Customs Tariff*

*Clause 61* of the Bill seeks to substitute the first proviso in sub-section (2) of section 3 of the Customs Tariff Act, so as to provide that in case of an article imported into India, where the like article is produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs is the goods in respect of which it is required under the provisions of Standards of Weights and Measures Act, 1976 or rules made thereunder, to declare the retail sale price on the imported article and is specified by the Central Government by notification in the Official Gazette under section 3 read with clause (1) of *Explanation III* of the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under clause (2) of the said *Explanation*.

*Clause 62* of the Bill seeks to amend the First Schedule to the Customs Tariff Act so as to amend the First Schedule in the manner specified in the Third Schedule so as to amend the entries relating to certain tariff items of Chapters 24 and 27.

#### *Excise*

*Clause 63* of the Bill seeks to amend sub-section (2B) of section 11A of the Central Excise Act so as to insert an *Explanation* therein to clarify that no penalty shall be imposed in respect of the voluntary payment of duty short-paid under that sub-section and interest thereon.

*Clause 64* of the Bill seeks to amend section 32E of the Central Excise Act with a view to substitute the words "but excluding the goods in respect of which no proper record has been maintained by the assessee in his daily stock register", with the words "or otherwise".

*Clause 65* of the Bill seeks to amend section 32F of the Central Excise Act with a view to provide that the period specified under that section may be extended by the Settlement Commission for a further period not exceeding three months, for reasons to be recorded in writing.

*Clause 66* of the Bill seeks to amend section 32-O of the Central Excise Act with a view to make certain amendments in sub-section (1) and to omit sub-section (2) to provide that the assessee shall be entitled to apply for settlement in any matter before the

Settlement Commission except in the circumstances specified therein.

*Clause 67* of the Bill seeks to insert a new clause (xiia) in sub-section (2) of section 37 of the Central Excise Act so as to empower the Central Government to make rules to provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit.

*Clause 68* of the Bill seeks to amend the Central Excise Rules, 1944 by inserting a new rule 57CCC in the manner specified in column (3) of Fourth Schedule with retrospective effect, on and from and up to the date specified in column (4) thereof, so as to provide for payment by manufacturer of an amount equal to credit of specified duty attributable to inputs used in or in relation to manufacture of final products not chargeable to duty or chargeable to nil rate of duty before or after clearance of goods along with interest at the rate of twenty-four per cent. per annum. The proposed amendment will apply to cases in respect of which a dispute relating to adjustment of credit on inputs in or in relation to exempted final products relating to the period beginning on the 1st day of September, 1996 to 31st day of March, 2000 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President.

*Clause 69* of the Bill seeks to amend rule 57AD of the Central Excise Rules, 1944 in the manner specified in column (3) of the Fifth Schedule with retrospective effect, on or from and up to date specified in column (4) thereof, so as to provide for payment by manufacturer of an amount equal to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods before or after clearance of such goods along with interest at the rate of twenty-four per cent. per annum. The proposed amendment will apply to cases in respect of which a dispute relating to adjustment of credit on inputs in or in relation to exempted final products relating to the period beginning on the 1st day of April, 2000 to 30th day of June, 2001 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President.

*Clause 70* of the Bill seeks to amend rule 6 of the CENVAT Credit Rules, 2001 in the manner specified in column (3) of the Sixth Schedule with retrospective effect, on or from and up to date specified in column (4) thereof, so as to provide for payment by manufacturer of an amount equal to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods before or after clearance of such goods along with interest at the rate of twenty-four per cent. per annum. The proposed amendment will apply to cases in respect of which a dispute relating to adjustment of credit on inputs in or in relation to exempted final products relating to the period beginning on the 1st day of July, 2001 to 28th day of February, 2002 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President.

*Clause 71* of the Bill seeks to amend rule 6 of the CENVAT Credit Rules, 2002 in the manner specified in column (3) of the Seventh Schedule with retrospective effect, on or from and up to date specified in column (4) thereof, so as to provide for payment by manufacturer of an amount equal to CENVAT credit attributable to inputs used in or in relation to manufacture of exempted goods or goods chargeable to nil rate of duty before or after clearance of such goods along with interest at the rate of twenty-four per cent. per annum. The proposed amendment will apply to cases in respect of which a dispute relating to adjustment of credit on inputs in or in relation to exempted final products relating to the period beginning on the 1st day of March, 2002 to 9th day of September, 2004 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President.

*Clause 72* of the Bill seeks to amend rule 6 of the CENVAT Credit Rules, 2004 in the manner specified in column (3) of the

Eighth Schedule with retrospective effect, on or from and up to date specified in column (4) thereof, so as to provide for payment by manufacturer of an amount equal to CENVAT credit attributable to inputs or inputs services used in or in relation to manufacture of exempted goods or goods chargeable to nil rate of duty before or after clearance of such goods along with interest at the rate of twenty-four per cent. per annum. The proposed amendment will apply to cases in respect of which a dispute relating to adjustment of credit on inputs in or in relation to exempted final products relating to the period beginning on the 10th day of September, 2004 to 31st day of March, 2008 (both days inclusive) is pending on the date on which the Finance Bill, 2010 receives the assent of the President.

Clause 73 of the Bill seeks to amend notification issued under rule 5 of the CENVAT Credit Rules, 2004 so as to substitute the words "used in" with the words "used in or in relation to" occurring in clauses (a) and (b) of the said rule 5. Further it proposes to omit the illustration occurring in condition 5 of the Appendix.

#### *Excise Tariff*

Clause 74 of the Bill seeks to amend the First Schedule to the Central Excise Tariff Act in the manner specified in the Ninth Schedule with a view to, –

(i) amend the tariff entries and effect changes in duty rate relating to certain entries against certain tariff items falling under the Chapter 24, Chapter 27, Chapter 48, Chapter 50 to Chapter 63, Chapter 90 and Chapter 95; and

(ii) insert Note to Chapters 68 and 76 to declare certain processes as amounting to manufacture.

#### *Service Tax*

Clause 75 of the Bill seeks to amend Chapter V of the Finance Act, 1994, relating to service tax in the following manner, namely:-

(1) sub-clause (A) seeks to amend section 65 so as to-

(a) define the terms "business entity" and "port services";

(b) modify the scope of certain taxable services by amending sub-clauses (zn), (ztc), (zt), (zsm), (zsq), (zzzh), (zzzn), (zzzo), (zzzz), (zzzze), (zzzzf) of clause (105);

(c) specify new taxable services by inserting sub-clauses (zzzzn) to (zzzzu) in clause (105);

(2) sub-clause (B) seeks to amend section 66 with effect from such date as the Central Government may, by notification in the Official Gazette, appoint so as to include the services mentioned in sub-clauses (zzzzn) to (zzzzu) as taxable services.

(3) sub-clause (C) seeks to amend sub-section (3) of section 73 of the Finance Act, 1994 so as to insert an *Explanation* therein with a view to provide that no penalty under any provision of this Act or rules made thereunder shall be imposed in respect of payment made under that sub-section.

(4) sub-clause (D) seeks to amend section 95 of the Finance Act, 1994 so as to empower the Central Government to issue orders for removal of difficulty in case of implementing, classifying or assessing the value of any taxable service incorporated by the proposed legislation in this Chapter up to one year from the date of enactment of the Finance Bill, 2010.

Clause 76 of the Bill seeks to validate certain action taken under sub-clause (zzzz) clause (105) of section 65 of the Finance Act, 1994, regarding the taxable service of renting of immovable property.

#### *Central Sales Tax*

Clause 77 of the Bill seeks to amend the Central Sales Tax Act, with a view to amend sub-section (2) of section 6A of the Central Sales Tax Act, so as to -

(i) provide that for making an order under that sub-section, the assessing officer shall, in addition to satisfying himself about the truthfulness of the particulars furnished by a dealer, shall also satisfy himself that no inter-State sales have been effected and also to provide that the deeming provision as contained therein to the effect that "the movement of goods have not occasioned as a result of sale", shall be subject to the provisions of sub-section (3); and

(ii) insert a new sub-section (3) so as to specify that nothing contained in sub-section (2) shall preclude reassessment by the assessing authority on the basis of new facts discovered or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law, and such reassessment or revision may be done in accordance with the provisions of general sales tax law of the State.

Clause 78 of the Bill seeks to insert a new Chapter VA in the Central Sales Tax Act, relating to appeals to the highest appellate authority of the State.

The proposed Chapter seeks to insert a new section 18A so as to make a provision for appeals to the highest appellate authority of every State against the orders made under sub-section (2) and sub-section (3) of section 6A including incidental issues relating to rate of tax, computation of assessable turnover and penalty and also procedure before such highest appellate authority.

Clause 79 of the Bill seeks to amend section 20 of the Central Sales Tax Act, by substituting sub-section (1) thereof to provide that an appeal shall lie to the Authority against any order passed by the highest appellate authority of a State under this Act determining issues relating to stock transfers or consignments of goods, in so far as they involve a dispute of inter-State nature and to omit the *Explanation* thereunder.

Clause 80 of the Bill seeks to amend section 22 of the Central Sales Tax Act, so as to -

(a) substitute the word "pre-deposit", wherever it occurs, with the word "deposit"; and

(b) to insert a new sub-section (1B) to provide for the authority to issue direction for refund of tax collected by a State.

Clause 81 of the Bill seeks to amend section 25 of the Central Sales Tax Act, so as to omit the proviso to sub-section (2) of that section.

#### *Clean Energy Cess*

Clause 82 of the Bill seeks to levy a cess to be called the Clean Energy Cess as duty of excise for the purposes of the Union on coal, lignite and peat produced in India.

Clause 83 of the Bill seeks to empower the Central Government to make rules to provide for manner of assessment, collection and utilisation of the cess and also in respect of any other matter relating to cess.

#### *Miscellaneous*

Clause 84 of the Bill seeks to amend section 3 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, so as to exclude goods produced or manufactured in Special Economic Zones from excise duty leviable under the Act.

Clause 85 of the Bill seeks to amend the Seventh Schedule to the Finance Act, 2001 in the manner specified in the Eleventh Schedule so as to amend certain entries relating to certain tariff items of Chapter 24.

Clause 86 of the Bill seeks to amend the Seventh Schedule to the Finance Act, 2005 in the manner specified in the Twelfth Schedule so as to amend certain entries relating to certain tariff items of Chapter 24.