

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 2012-2013. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2012-2013 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 2012-2013.

Rates of income-tax for the assessment year 2012-2013

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2012-2013. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2011, 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 2011-2012.

Rates for deduction of tax at source during the financial year 2012-2013 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 2012-2013 from income other than "Salaries". The rates are the same, as those specified in Part II of the First Schedule to the Finance Act, 2011 for the purposes of deduction of income-tax at source during the financial year 2011-2012. In view of the proposed insertion of new section 194LC, prescribing special rate of tax deduction at five per cent. in case of certain interest payments to non-residents by a specified Indian company engaged in prescribed business of infrastructure development, such income shall not be subject to deduction of tax at source at the rate of twenty per cent. which would otherwise have applied.

The amount of tax so deducted shall be increased by a surcharge in the case of every company other than a domestic company at the rate of two per cent. No surcharge will be levied in any other case.

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 2012-2013

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 2012-2013. It is proposed to remove the special category of individual taxpayer, being a woman resident in India, and below the age of sixty years.

Paragraph A of this Part specifies the rates of income-tax as under:—

(i) in the case of every individual [other than those specifically mentioned in sub-para (ii) and (iii)] 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 this Part applies:—

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

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than the age of eighty years at any time during the previous year:—

Up to Rs. 2,50,000	Nil;
Rs. 2,50,001 to Rs. 5,00,000	10 per cent.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

(iii) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year:—

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

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2012-2013. No surcharge will be levied.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2012-2013. 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 2012-2013. No surcharge will be levied.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In both the cases of domestic companies and companies other than domestic companies, the rate of tax will continue to be the same as that specified for the assessment year 2012-2013.

Surcharge in the case of domestic companies having income above one crore rupees shall continue to be levied at the rate of five per cent. In case of companies other than domestic companies, the surcharge shall continue to be levied at the rate of two per cent. Marginal relief will be provided.

In all other cases (including sections 115JB, 115-O, 115R, etc.) the surcharge will continue to be applicable at the rate of five 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 Education Cess and Secondary and Higher Education Cess on tax deducted or collected at source in the case of domestic company and any other person who is resident in India. Both the cesses would 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 company.

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

It is proposed to insert a new *Explanation* in clause (14) of the aforesaid section 2 so as to clarify the expression "property".

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-1963 and subsequent assessment years.

It is further proposed to amend clause (16) of the aforesaid section 2 so as to include the Director of Income-tax in the definition of the Commissioner.

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

It is also proposed to amend sub-clause (iv) of clause (19AA) of the aforesaid section 2 so as to exclude the requirement of issue of shares to the shareholders of the demerged company where resulting company itself in a scheme of demerger is a shareholder of the demerged company.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is also proposed to insert a new Explanation in clause (47) of the aforesaid section so as to clarify the expression "transfer".

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-1963 and subsequent assessment 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 of clause (i) of sub-section (1) of the aforesaid section 9 provide that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India shall be deemed to accrue or arise in India.

It is proposed to insert a new *Explanation 4* in the aforesaid clause so as to clarify the expression "through" used in the said sub-section.

It is further proposed to insert a new *Explanation 5* in the aforesaid clause (i) so as to clarify that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

These amendments will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-1963 and subsequent assessment years.

It is also proposed to insert a new *Explanation 4* in clause (vi) of the aforesaid sub-section so as to clarify that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

It is also proposed to insert a new *Explanation 5* in the aforesaid clause so as to clarify that the royalty includes and has always included consideration in respect of any right, property or information, whether or not —(a) the possession or control of such right, property or information is with the payer;(b) such right, property or information is used directly by the payer;(c) the location of such right, property or information is in India.

It is also proposed to insert a new *Explanation 6* in the aforesaid clause so as to clarify that the expression "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret.

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

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

The existing provisions of clause (10D) of the aforesaid section provide that any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy other than any sum received under sub-section (3) of section 80DD or any sum received under a Keyman insurance policy, or any sum received under an insurance policy for which the premium amount exceeds twenty per cent. of the actual capital sum assured, shall be exempt.

It is proposed to allow exemption of any sum received under an insurance policy issued on or after 1st April, 2012 only if the premium for the policy does not exceed ten per cent. of the actual capital sum assured.

This amendment will take effect from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is proposed to insert a new proviso after the sixteenth proviso to clause (23C) of the aforesaid section so as to provide that the income of a trust or institution referred to in sub-clause (iv) or sub-clause (v) shall be included in its total income of the previous year if the provisions of the first proviso to clause (15) of section 2 becomes applicable to such trust or institution in the said previous year, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded.

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

The existing provisions contained in clause (23FB) of the aforesaid section provide that any income of a venture capital company or venture capital fund from investment in a venture capital undertaking does not form part of its total income. The definitions of "venture capital company", "venture capital fund" and "venture capital undertaking" are provided in *Explanation 1* to clause (23FB). "Venture capital undertaking" has been defined in clause (c) of the said *Explanation* to mean such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in certain businesses or industries specified in said clause (c).

It is proposed to amend clause (c) of *Explanation 1* to the aforesaid clause so as to define the venture capital undertaking as the venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992.

This amendment will take effect from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is proposed to insert a new clause (48) in the aforesaid section so as to provide that any income of a foreign company received in India in Indian currency on account of sale of crude oil to any person in India subject to fulfilment of certain conditions specified in the said clause will also not be included in total income.

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

Clause 6 of the Bill seeks to amend section 13 of the Income-tax Act relating to section 11 not to apply in certain cases.

It is proposed to insert a new sub-section (8) in the aforesaid section 13 so as to provide that nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said 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 assessment years.

Clause 7 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation.

The existing provisions contained in clause (iia) of sub-section (1) of the aforesaid section 32, a further sum equal to twenty per cent. of the actual cost of new machinery or plant (other than ships and aircraft) acquired and installed after the 31st day of March, 2005 by an assessee engaged in the business of manufacture or production of any article or thing, is allowed as deduction as further depreciation.

It is proposed to amend aforesaid clause so as to allow deduction of a further sum equal to twenty per cent. of actual cost of any new machinery or plant (other than ships and aircraft) acquired and installed after 31st day of March, 2012, as further depreciation to an assessee engaged in the business of generation or generation and distribution of power.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 8 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

The existing provisions contained in sub-section (2AB) of the aforesaid section 35 provide that where a company engaged in the business of bio-technology or in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of Eleventh Schedule, incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of a sum equal to two times of the expenditure so incurred. However, no deduction is allowable under the said sub-section in respect of such expenditure incurred after 31st March, 2012.

It is proposed to amend clause (5) of the aforesaid sub-section (2AB) so as to allow deduction in respect of expenditure incurred up to 31st March, 2017.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years up to assessment year 2017-2018.

Clause 9 of the Bill seeks to amend section 35AD of the Income-tax Act relating to deduction in respect of expenditure on specified business.

The provisions of sub-section (1) of the aforesaid section 35AD, *inter alia*, allow one hundred per cent. deduction in respect of any capital expenditure incurred, other than expenditure incurred on the acquisition of any land or goodwill or financial instrument, during the year by the specified business subject to the provisions contained in that section.

The specified businesses eligible for the said deduction have been listed under clause (c) of sub-section (8).

It is proposed to insert sub-section (1A) to the aforesaid section so as to provide that where the specified business is of the nature referred to in sub-clause (i) or sub-clause (ii) or sub-clause (v) or sub-clause (vii) or sub-clause (viii) of clause (c) of sub-section (8) and has commenced its operations on or after the 1st day of April, 2012, the deduction under sub-section (1) shall be allowed of an amount equal to one and one-half times of the expenditure referred to therein.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is further proposed to amend the provisions of sub-sections (5) and (8) of the aforesaid section to include three new categories of business as specified business, namely, —(i) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962; (ii) bee-keeping and production of honey and beeswax; (iii) setting up and operating a warehousing facility for storage of sugar. It is also proposed that the date of commencement of operations of these three specified businesses for the purposes of the aforesaid deductions shall be on or after 1st April, 2012.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is also proposed to insert sub-section (6A) to the aforesaid section to provide that where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business of building and operating hotel.

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

Clause 10 of the Bill seeks to insert new sections 35CCC and 35CCD in the Income-tax Act relating to expenditure on agricultural extension project and expenditure on skill development project, respectively.

Sub-section (1) of the proposed new section 35CCC provides that where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure. Sub-section (2) of the aforesaid section provides that where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

Sub-section (1) of the proposed new section 35CCD provides that where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure. Sub-section (2) of the aforesaid section provides that where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

These amendments will take effect from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 11 of the Bill seeks to amend section 40 of the Income-tax Act relating to amounts not deductible.

It is proposed to insert a new proviso to sub-clause (ia) of clause (a) to the aforesaid section 40 so as to provide that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such

sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the purposes of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 12 of the Bill seeks to amend section 40A of the Income-tax Act relating to expenses or payments not deductible in certain circumstances.

The existing provisions of clause (a) of sub-section (2) of the aforesaid section 40A provides that where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of the said section and the Assessing Officer is of the opinion that such expenditure is excessive or unreasonable having regard to fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as deduction.

It is proposed to amend the aforesaid clause so as to provide that no disallowance under this clause, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F.

The existing provisions of clause (b) of the aforesaid sub-section defines the persons referred to in clause (a). Sub-clause (iv) of the said clause defines the persons in a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, relative of such director, partner or member.

It is proposed to amend the aforesaid clause (b) so as to include therein any other company carrying on a business or profession in which the company referred to in the aforesaid sub-clause has substantial interest.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 13 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 in clause (a) of the aforesaid section 44AB make it obligatory for every person carrying on business to get his account 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 sixty lakh rupees.

It is proposed to enhance the said limit from sixty lakh rupees to one crore 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 fifteen lakh rupees.

It is proposed to enhance the said limit from fifteen lakh rupees to twenty-five lakh rupees.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

The existing provisions contained in clause (ii) of the *Explanation* to the aforesaid section defines that expression "specified date" in relation to the accounts of the assessee of the previous year relevant to an assessment year, means the 30th day of September of the assessment year.

It is proposed to change the specified date from the 30th day of September of the assessment year to the due date for furnishing the return of income under sub-section (1) of section 139.

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

Clause 14 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.

It is proposed to insert a new sub-section (6) to the aforesaid section 44AD so as to provide that the provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to (i) a person carrying on profession as referred to in sub-section (1) of section 44AA; (ii) a person earning income in the nature of commission or brokerage; or (iii) a person carrying on any agency business.

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

The existing provisions in clause (b) of the *Explanation* to the aforesaid section 44AD 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 the previous year does not exceed sixty lakh rupees for the purpose of computing profits and gains of business on presumptive basis.

It is proposed to amend the aforesaid *Explanation* so as to enhance the said limit from sixty lakh rupees to one crore rupees.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 15 of the Bill seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

Under the existing provisions contained in sub-clause (a) of clause (vii) of the aforesaid section 47, in case of a merger, any transfer of capital asset being shares, held by a shareholder in the amalgamating company, shall not be regarded as transfer, if— (a) such transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company, and (b) the amalgamated company is an Indian Company.

It is proposed to amend the aforesaid sub-clause so as to provide that to the extent where the amalgamated company itself is the shareholder in the amalgamating company, it shall not be necessary for it to issue share or shares.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 16 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 49 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 assets acquired it.

Clause (xiii) of section 47, *inter alia*, provides for transfer of any capital asset or intangible asset by a firm to company as a result of succession of the firm by a company and clause (xiv) of section 47 provides, *inter alia*, for transfer of any capital asset or intangible asset by a sole proprietary concern to a company as a result of succession by a sole proprietary concern to a company.

It is proposed to amend sub-clause (e) of clause (iii) of sub-section (1) of the aforesaid section so as to bring the transfers referred to in clause (xiii) and clause (xiv) of section 47 within the scope of section 49 which deals with cost with reference to certain modes of acquisition.

This amendment will take effect retrospectively from 1st April, 1999 and will, accordingly, apply in relation to the assessment year 1999-2000 and subsequent assessment years.

Clause 17 of the Bill seeks to insert section 50D of the Income-tax Act relating to fair market value deemed to be full value of consideration in certain cases.

The existing provisions of the Income-tax Act provide that on the transfer of a capital asset, capital gains are calculated as the difference between the sale consideration and the cost of acquisition.

It is proposed to insert a new section 50D so as to provide that where the consideration received or accruing as a result of the transfer of a capital asset by an assessee, is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 18 of the Bill seeks to amend section 54B of the Income tax Act relating to capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.

The existing provisions contained in sub-section (1) of the aforesaid section 54B provide that if an assessee transfers land which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee or a parent of his for agricultural purposes, giving rise to capital gain and purchases any other land for being used for agricultural purposes, within two years after the date of such transfer, the capital gain is exempt to the extent such gain has been utilised for the aforesaid purpose.

It is proposed to amend the aforesaid sub-section so as to extend the benefit of exemption to the assessee being a Hindu undivided family.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 19 of the Bill seeks to insert a new section 54GB relating to capital gain on transfer of residential property not to be charged in certain cases.

The proposed new section 54GB seeks to provide that where the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee) and such assessee before the due date of furnishing of return of income under sub-section (1) of section 139 utilises the net consideration for subscription in the equity shares of an eligible company (herein referred to as the company) and such company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset then, instead of the capital gain being charged to income-tax as the income of the

previous year in which the transfer takes place, it shall be dealt with in accordance with the following provisions of this section, that is to say, if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year or if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.

It is further proposed to provide that the amount of the net consideration, which has been received by the company for issue of share to the assessee, to the extent it is not utilised by the company for the purchase of the new asset before the said due date of furnishing of the return of income by the assessee under section 139, shall be deposited by the company, before the due date of furnishing, in an account in any such bank or institution as may be specified and shall be utilised in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

It is also proposed to provide that for the purposes of sub-section (1), the amount, if any, already utilised by the company for the purchase of the new asset together with the amount deposited under sub-section (2) shall be deemed to be the cost of the new asset. However, if the amount so deposited is not utilised, wholly or partly, for the purchase of the new asset within the period specified in sub-section (1), then, the amount by which the amount of capital gain arising from the transfer of the residential property not charged under section 45 on the basis of the cost of the new asset, exceeds the amount that would not have been so charged had the amount actually utilised for the purchase of the new asset within the period specified in sub-section (1), been the cost of the new asset, shall be charged under section 45 as income of the assessee of the previous year in which the period of one year from the date of the subscription in equity shares by the assessee expires and the company shall be entitled to withdraw such amount in accordance with the scheme.

It is also proposed to provide that if the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (1) shall be deemed to be the income of the assessee chargeable under the head "capital gains" of the previous year in which such equity shares or such new asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.

It is also proposed to provide that the provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.

It is also proposed to define the expressions "eligible assessee", "eligible company", "net consideration" and "new asset" for the purpose of this section.

These amendments will take effect from the 1st day of April, 2013 and will, accordingly, apply in relation to the assessment years 2013-2014 and subsequent assessment years.

Clause 20 of the Bill seeks to amend section 55A of the Income- tax Act relating to reference to valuation officer.

The existing provisions contained in clause (a) of the aforesaid section 55A provide that an Assessing Officer with a view to ascertain the fair market value of a capital asset may refer the valuation of a capital asset to a Valuation Officer where, in his opinion the value of the asset as claimed by the assessee is less than its fair market value.

It is proposed to amend the aforesaid clause so as to provide that reference may be made to the Valuation Officer for ascertaining the fair market value of a capital asset in case such value is at variance with its fair market value instead of making a reference only when such value is less than its fair market value.

This amendment will take effect from 1st July, 2012.

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

The existing provisions of clause (vii) of sub-section (2) of the aforesaid section 56, *inter alia*, provide that where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person on or after the 1st day of October, 2009, the whole of the aggregate value of such money shall be chargeable to income-tax under the head "Income from other sources". The second proviso to the said clause provides that the provisions of this clause shall not apply to any sum of money or any property received from any relative. Clause (e) of *Explanation* to second proviso of the said clause provides that the definition of "relative" shall have the same meaning assigned to it in the *Explanation* to clause (vi) of sub-section (2) of the said section.

It is proposed to substitute the aforesaid clause (e) so as to provide that the definition of "relative" shall also include any sum or property received by a Hindu undivided family from its members apart from the persons referred to in the *Explanation* to clause (vi) of sub-section (2) of the said section.

This amendment will take effect retrospectively from 1st October, 2009.

It is proposed to insert a new clause (viib) in the aforesaid sub-section so as to provide that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head "Income from other sources". However, the said new clause shall not apply where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.

It is further proposed that the company receiving the consideration for issue of shares shall be provided an opportunity to substantiate its claim regarding the fair market value of the shares.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 22 of the Bill seeks to amend section 68 of the Income-tax Act relating to cash credits.

The existing provisions of the aforesaid section 68 provide that where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

It is proposed to insert two new provisos to the aforesaid section. The first proviso seeks to provide that where the assessee is a company, (not being a company in which the public are substantially interested) and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee

company shall be deemed to be not satisfactory, unless— (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and (b) such explanation in the opinion of Assessing Officer aforesaid has been found to be satisfactory.

The second proviso seeks to provide that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

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

The existing provision of the *Explanation* to sub-section (6) of the aforesaid section 80A provides the definition of expression "market value" in relation to any goods or services sold or supplied and in relation to goods or services acquired.

It is proposed to amend the aforesaid *Explanation* so as to provide that "market value" in relation to any goods or services sold, supplied or acquired, in case of a transaction being a domestic transaction referred to in section 92BA shall be the arm's length price as defined in clause (ii) of section 92F.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 24 of the Bill seeks to amend section 80C of the Income-tax Act relating to deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.

The existing provisions of sub-section (3) of the aforesaid section 80C provide that sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent. of the actual capital sum assured.

It is proposed to amend the aforesaid section so as to restrict the deduction for insurance policies issued on or after 1st April, 2012 to any premium or other payment made on such insurance policy as is not in excess of ten per cent. of the actual capital sum assured.

It is further proposed to define the expression "actual capital sum assured".

These amendments will take effect from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

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

The existing provisions of section 80D provide for deduction up to fifteen thousand rupees to an assessee, being an individual or a Hindu undivided family, who makes payment of the specified sum by any mode, other than cash, to effect or keep in force an insurance on—

(a) the health of the assessee or on the health of the wife or husband, or dependant children of the assessee where the assessee is an individual;

(b) the health of any member of the family where the assessee is a Hindu undivided family.

Further, a deduction up to fifteen thousand rupees is also allowed to keep in force an insurance on the health of parents.

It is proposed to amend the aforesaid section so as to allow for a deduction in respect of any payment made by an assessee on account of preventive health check-up of self, spouse, dependent children or parent during the previous year up to a limit of five thousand rupees within the existing limits prescribed in the section.

The existing provisions allow a higher deduction up to twenty thousand rupees in the case of senior citizen.

It is proposed to amend the *Explanation* to sub-section (4) of the aforesaid section so as to reduce the age for defining a senior citizen from sixty-five years to sixty years for the purposes of the said deduction.

It is also proposed that for the purposes of the aforesaid deduction, payment shall be made by — (i) any mode, including cash, in respect of any sum paid on account of preventive health check-up; (ii) any mode other than cash in all other cases.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 26 of the Bill seeks to amend section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

The existing provisions of the aforesaid section 80DDB provide for a deduction up to forty thousand rupees for medical treatment of a specified disease or ailment in case of an individual or his dependant. In case where the amount actually paid is in respect of any person who is a senior citizen, the deduction is allowed up to sixty thousand rupees in place of forty thousand rupees.

Clause (iv) of the *Explanation* to the aforesaid section provides that a senior citizen means an individual resident in India who is of the age of sixty five years or more at any time during the relevant previous year.

It is proposed to amend the aforesaid *Explanation* so as to reduce the age from sixty-five years to sixty years for qualifying as a senior citizen.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 27 of the Bill seeks to amend section 80G of the Income-tax Act relating to deduction in respect of donations to certain funds, charitable institutions, etc.

It is proposed to insert a new sub-section (5D) in the aforesaid section so as to provide that no deduction shall be allowed under this section in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 28 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.

It is proposed to insert a new sub-section (2A) in the aforesaid section so as to provide that no deduction shall be allowed under this section in respect of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 29 of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

The existing provisions contained in clause (iv) of sub-section (4) of the aforesaid section 80-IA provide that, a deduction shall be allowed to an undertaking which,- (a) is set up in any part of India for the generation or 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, 2012; (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, 2012; (c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2012.

It is proposed to amend the aforesaid clause so as to extend the time limit from 31st March, 2012 to 31st March, 2013.

The existing *Explanation* to sub-section (8) of the aforesaid section 80-IA provides for the definition of "market value" in relation to goods or services.

It is proposed to substitute the aforesaid *Explanation* so as to include the arm's length price as defined in clause (ii) of section 92F, where the transfer of such goods or services is "specified domestic transaction" referred to in section 92BA within the definition of "market value" in relation to any goods or services.

The existing provisions of sub-section (10) of the aforesaid section provide that where it appears to the Assessing Officer, owing to the close connection between the assessee carrying on the eligible business to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such eligible business, the Assessing Officer shall, in computing the profits and gains of such eligible business for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

It is proposed to insert a new proviso to the aforesaid sub-section so as to provide that in case the arrangement mentioned in the sub-section involves a specified domestic transaction referred to in section 92BA, and the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 30 of the Bill seeks to insert a new Part "CA- Deductions in respect of other incomes" in Chapter VI-A containing section 80TTA therein relating to deduction in respect of interest on deposits in savings account.

Under the proposed new section, a deduction up to an extent of ten thousand rupees in aggregate shall be allowed to an assessee, being an individual or a Hindu undivided family, in respect of any income by way of interest on deposits (not being time deposits) in a savings account with –

(i) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(ii) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(iii) a post office as defined in clause (k) of section (2) of the Indian Post Office Act, 1898.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 31 of the Bill seeks to amend section 90 of the Income-tax Act relating to agreement with foreign countries or specified territories.

The existing provisions of the aforesaid section 90 confers power upon the Central Government to enter into agreement with the Government of any specified territory outside India in addition to entering into agreement with foreign countries.

It is proposed to insert a new sub-section (2A) in the aforesaid section 90 so as to provide that the provisions of newly inserted Chapter X-A shall apply even if such provisions are not beneficial to the assessee.

It is further proposed to insert a new sub-section (4) in the aforesaid section so as to provide that an assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate, containing prescribed particulars, of his being a resident in any country outside India or specified territory outside India, as the case may be, is obtained by him from the Government of that country or specified territory.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

The existing sub-section (3) of the aforesaid section provides that any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

It is proposed to insert an *Explanation* after *Explanation 2* in the aforesaid section so as to provide that for the removal of doubts, it is hereby declared that where any term is used in any agreement entered into under sub-section (1) and not defined in the agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and such notification issued thereunder being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force.

This amendment will take effect retrospectively from 1st October, 2009.

Clause 32 of the Bill seeks to amend section 90A of the Income-tax Act relating to adoption by Central Government of agreement between specified associations for double taxation relief.

The existing provisions of the aforesaid section 90A provides that any specified association in India may enter into agreement with any specified association in a specified territory outside India and the Central Government may, by notification in the Official Gazette, make the necessary provisions for adopting and implementing such agreement for grant of double taxation relief, for avoidance of double taxation or exchange of information for the prevention of evasion of avoidance of income-tax or for recovery of income-tax. It further provides that in relation to any assessee to whom the agreement referred to in the said section applies, the provisions of the Income-tax Act shall apply to the extent they are more beneficial to the assessee. It also provides that any term used but not defined in the income-tax Act or the said agreement shall have the same meaning as assigned to it in the notification issued by the Central Government, unless the context otherwise requires and it is not inconsistent with the provisions of the Income-tax Act or the said agreement.

It is proposed to insert a new sub-section (2A) in the aforesaid section 90A so as to provide that the provisions of newly inserted Chapter X-A shall apply even if such provisions are not beneficial to the assessee.

It is further proposed to insert a new sub-section (4) in the aforesaid section so as to provide that an assessee, not being a resident, to whom the agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate, containing prescribed particulars, of his being a resident in any specified territory outside India is obtained by him from the Government of that specified territory.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

The existing sub-section (3) of the aforesaid section provides that any term used but not defined in the Income-tax Act or in the said agreement shall have the same meaning as assigned to it in the notification issued by the Central Government, unless the context otherwise requires and it is not inconsistent with the provisions of the Income-tax Act or the said agreement.

It is proposed to insert an *Explanation* in the aforesaid section so as to provide that for the removal of doubts, it is hereby declared that any term used in any agreement, where such agreement is entered into under sub-section (1) and not defined under the agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and the notification issued thereunder being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force.

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

Clause 33 of the Bill seeks to amend section 92 of the Income-tax Act relating to computation of income from international transaction having regard to arm's length price.

The existing provisions of the aforesaid section 92 provide that income arising from an international transaction shall be computed having regard to arm's length price.

It is proposed to amend the aforesaid section to insert a new sub-section (2A) so as to provide that any allowance for an expenditure or interest or allocation of any cost or expense or any income in relation to the specified domestic transaction shall be computed having regard to the arm's length price.

It is further proposed to amend sub-sections (2) and (3) of the aforesaid section to substitute the expression "international transaction or specified domestic transaction" in place of "international transaction" so as to include therein the specified domestic transaction and apply the provisions of sub-sections (2) and (3) to specified domestic transactions.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 34 of the Bill seeks to amend section 92B of the Income-tax Act relating to meaning of international transaction.

The existing provisions of the aforesaid section 92B provide the definition of "international transaction" for the purposes of the said section and sections 92, 92C, 92D and 92E.

It is proposed to insert an *Explanation* to the aforesaid section so as to clarify the definition of the expressions "international transaction" and "intangible property".

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

Clause 35 of the Bill seeks to insert a new section 92BA in the Income-tax Act relating to meaning of specified domestic transaction.

The proposed new section 92BA provides for meaning of "specified domestic transaction" with reference to which the income is computed under section 92 having regard to arm's length price.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 36 of the Bill seeks to amend section 92C of the Income-tax Act relating to computation of arm's length price.

The existing provisions of sub-section (2) of the aforesaid section 92C provide that where more than one price is determined by the most appropriate method, then, the arm's length price shall be taken to be arithmetical mean of such price. Further, the second proviso to the said sub-section provides that if the variation between the arm's length price as determined and price at which the international transaction has actually been undertaken does not exceed such percentage as may be notified by the Central Government in this behalf, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.

The provisions contained in the first proviso to sub-section (2) of section 92C, as it stood before its amendment by the Finance (No. 2) Act, 2009 provides that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices, or, at the option of the assessee, a price which may vary from the arithmetical mean by an amount not exceeding five per cent. of such arithmetical mean.

The existing provisions of second proviso to sub-section (2) of the aforesaid section 92C provides that the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed such percentage of latter as may be notified by the Central Government in the Official Gazette in this behalf, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.

It is proposed to amend the aforesaid second proviso so as to confer power upon the Central Government to notify the limit of percentage as not exceeding three per cent. of the latter in case of the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is further proposed to insert an *Explanation* after the second proviso to sub-section (2) of the aforesaid section so as to clarify that the provisions of the second proviso shall also be applicable to any assessment or reassessment proceedings for computation of arm's length price, if pending as on the 1st day of October, 2009 before an Assessing Officer.

This amendment will take effect retrospectively from 1st October, 2009.

It is also proposed to insert new sub-section (2A) to the aforesaid section so as to provide that where the first proviso to sub-section (2) as it stood before its amendment by the Finance (No. 2) Act, 2009, is applicable in respect of an international transaction for an assessment year and the variation between the arithmetical mean referred to in said proviso and the price at which such transaction has actually been undertaken exceeds five per cent. of the arithmetical mean, then, the assessee shall not be entitled to exercise the option as referred to in the said proviso.

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

It is also proposed to insert new sub-section (2B) to the aforesaid section so as to provide that nothing contained in sub-section (2A) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154 for any assessment year the proceedings of which have been completed before the 1st day of October, 2009.

This amendment will take effect from 1st July, 2012.

Clause 37 of the Bill seeks to amend Chapter X of the Income-tax Act relating to special provisions relating avoidance of tax.

The existing provisions of the aforesaid Chapter X makes special provisions relating to avoidance of tax. Sections 92C, 92D and 92E under the aforesaid Chapter provide for meaning of international transaction, maintenance and keeping of information and document by persons entering into an international transaction and report from an accountant to be furnished by person entering into international transaction.

It is proposed to amend the aforesaid sections to substitute the words "international transaction or specified domestic transaction", for the words "international transaction" wherever they occur so as to extend the provisions of the aforesaid sections to the specified domestic transaction.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 38 of the Bill seeks to amend section 92CA of the Income-tax Act relating to reference to Transfer Pricing Officer.

The existing provisions of the aforesaid section 92CA provide for reference to Transfer Pricing Officer for computation of arm's length price in relation to an international transaction.

It is proposed to amend sub-sections (1), (2) and (3) of the aforesaid section to substitute the expression "international transaction or specified domestic transaction" in place of "international transaction" so as to include in the aforesaid section the specified domestic transaction for the purposes of computation of arm's length price.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is further proposed to insert a new sub-section (2B) in the aforesaid section so as to provide that where in respect of an international transaction, the assessee has not furnished the report under section 92E and such transaction comes to the notice of the Transfer Pricing Officer in the course of proceeding before him, then he shall be empowered to take into account such transaction as if it is an international transaction referred to him by the Assessing Officer under sub-section (1) and all the provisions of Chapter X of the Income-tax Act shall apply accordingly.

This amendment will take effect retrospectively from 1st June, 2002.

It is also proposed to insert a new sub-section (2C) so as to provide that nothing contained in this sub-section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year commencing on or before 1st April, 2012.

This amendment will take effect from 1st July, 2012.

Clause 39 of the Bill seeks to insert new sections 92CC and 92CD in the Income-tax Act relating to advance pricing agreement and effect to advance pricing agreement.

The aforesaid new section 92CC is proposed to provide that the Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the arm's length price, specifying the manner in which arm's length price is to be determined, in relation to an international transaction, to be entered into by that person.

It is further proposed to provide that the manner of determination of arm's length price referred to in sub-section (1) may include the methods, as referred to in sub-section (1) of section 92C or any other method, with such adjustments or variations, as may be necessary or expedient so to do.

It is also proposed to provide that the arm's length price of any international transaction, in respect of which the advance pricing agreement has been entered into, notwithstanding anything contained in section 92C or section 92CA, shall be determined in accordance with the advance pricing agreement so entered.

It is also proposed to provide that the agreement referred to in sub-section (1) shall be valid for such period as specified in the agreement which in no case shall exceed five consecutive previous years.

It is also proposed to provide that the advance pricing agreement entered into shall be binding on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into and on the Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction. However, the agreement shall not be binding if there is a change in law or facts having bearing on the agreement so entered.

It is also proposed to provide that the Board may with the approval of the Central Government, by an order, declare an agreement to be void *ab initio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.

It is also proposed to provide that upon declaring the agreement void *ab initio* all the provisions of the Act shall apply to the person as if such agreement had never been entered into and notwithstanding anything contained in the Act, for the purpose of computing any period of limitation under this Act, the period beginning with the date of such agreement and ending on the date of the order under sub-section (7) shall be excluded. However, where immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

It is also proposed to provide that the Board may, for the purposes of this section, prescribe a Scheme specifying therein the manner, form, procedure and any other matter generally in respect of the advance pricing agreement.

It is also proposed to provide that where an application is made by a person for entering into an agreement referred to in sub-section (1), proceedings shall be deemed to be pending in the case of the person for purposes of the Act.

The aforesaid new section 92CD is proposed to provide that notwithstanding anything to the contrary contained in section 139, where any person has entered into an agreement and prior to the date of entering into the agreement any return of income has been furnished under the provisions of section 139 for any assessment year relevant to a previous year to which such agreement applies, such person shall furnish, within a period of three months from the end of the month in which the said agreement was entered into, a modified return in accordance with and limited to the agreement.

It is further proposed to provide that save as otherwise provided in this section, all the other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 139.

It is also proposed to provide that if the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the agreement applies have been completed before the expiry of period allowed for furnishing of modified return under sub-section (1) and the Assessing Officer shall, in a case where modified return is filed in accordance with the provisions of sub-section (1), proceed to assess or reassess or re-compute the total income of the relevant assessment year having regard to and in accordance with the agreement.

It is also proposed to provide that where the assessment or reassessment proceedings for an assessment year relevant to the previous year to which the agreement applies are pending on the date of filing of modified return in accordance with the provision of sub-section (1), the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so furnished.

It is also proposed to provide that notwithstanding anything contained in section 153 or section 153B or section 144C the order of assessment, reassessment or re-computation of total income under sub-section (2) shall be passed within a period of one year from the end of the financial year in which the modified return under sub-section (1) is furnished and the period of limitation as provided in section 153 or section 153B or section 144C, for completion of pending assessment or reassessment proceedings referred to in sub-section (3) shall be extended by a period of twelve months.

It is also proposed to define the expressions "agreement" and the deemed provision relating to completion of assessment or reassessment proceedings for an assessment year.

These amendments will take effect from 1st July, 2012.

Clause 40 of the Bill seeks to insert a new Chapter X-A consisting of new sections 95, 96, 97, 98, 99, 100, 101 and 102 in the Income-tax Act relating to general anti-avoidance rule.

The provisions of the proposed new section 95 provide that an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and consequences in relation to tax of such a declaration can be determined.

The proposed section 96 provides the definition and conditions under which an arrangement can be declared to be an impermissible avoidance arrangement. The section also provides for circumstances under which an arrangement shall be presumed to be entered into or carried out for main purpose of obtaining tax benefit.

The proposed section 97 provides for circumstances under which an arrangement shall be deemed to lack commercial substance.

The proposed section 98 provides for method of determination of consequences in relation to tax of an arrangement after it is declared to be an impermissible avoidance arrangement. It provides for certain illustrative but not exhaustive methods for determination of tax consequences.

The proposed section 99 provides that for determining tax benefits for the purposes of the newly inserted Chapter X-A parties who are connected may be treated as one and same person, accommodating party may be disregarded; any accommodating or other party to an arrangement may be treated as one and the same person; and an arrangement may be looked through.

The proposed section 100 provides that provisions of newly inserted Chapter X-A can be applied in alternative to or in addition to any other basis of determination of tax liability.

The proposed section 101 provides for power to prescribe guidelines for application of provisions of newly inserted Chapter X-A.

The proposed section 102 provides definition of certain terms relevant for newly inserted Chapter X-A.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 41 of the Bill seeks to amend section 111A of the Income-tax Act relating to tax on short-term capital gains in certain cases.

Under the existing provisions contained in sub-section (1) of the aforesaid section 111A, a special rate of tax of fifteen per cent. is provided on short-term capital gain arising from the transfer of a certain capital asset, being an equity share in a company or a unit of an equity oriented fund, where such transaction is chargeable to securities transaction tax.

The proviso to the aforesaid sub-section provides that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the rate of ten per cent. It is proposed to amend the aforesaid proviso of the said sub-section so as to increase the tax on the balance of such short-term capital gains to fifteen per cent. instead of ten per cent.

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

Clause 42 of the Bill seeks to amend section 115A of the Income-tax Act, relating to tax on dividends, royalty and technical service fees in the case of foreign companies.

The existing provisions of sub-section (1) of the aforesaid section 115A provides the rates at which income-tax shall be payable, where a total income of non-resident (not being a company) or a foreign company, includes any income by way of dividends (other than dividends referred to in section 115-O); or interest received from Government or an Indian concern on monies borrowed or debt incurred by the Government or the Indian concern in foreign currency; or interest received from an infrastructure debt fund referred to in clause (47) of section 10; or income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10 of the Unit Trust of India.

It is proposed to amend clause (a) of the aforesaid sub-section to insert a new sub-clause (iiaa) so as to provide the rates at which income-tax shall be payable, where the total income of a non-resident (not being a company) or a foreign company includes income received from the interest of the nature and extent referred to in section 194LC. Such income from interest shall be taxable at the rate of five per cent. It is further proposed to make consequential amendments in aforesaid clause to make reference of the said sub-clause (iiaa).

This amendment will take effect from 1st July, 2012.

Clause 43 of the Bill seeks to amend section 115BBA of the Income-tax Act relating to tax on non-resident sportsmen or sports associations.

The existing provisions of section 115BBA provides for imposition of ten per cent. tax where the total income of an assessee being a sportsman (including an athlete) who is not citizen of India and is a non-resident, includes any income received or receivable by way of participation in India in any game (other than a game the winnings wherefrom are taxable under section 115BB) or sport or advertisement or contribution of articles relating to any game or sport in India in newspapers, magazines or journals or being a non-resident sports association or institution includes any amount guaranteed to be paid or payable to such associations or institutions in relation to any games (other than a game the winnings wherefrom are taxable under section 115BB) or sport played in India, the income-tax payable by the assessee on such income shall be the aggregate of the amount of income tax calculated on income at the rate of ten per cent.

It is proposed to insert a new clause (c) in sub-section (1) of the aforesaid section so as to include any income received or receivable by an entertainer, who is not a citizen of India and is a non-resident, from his performance in India and also to increase the tax on income referred to in this section from ten per cent. to twenty per cent.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 44 of the Bill seeks to amend section 115BBD of the Income-tax Act relating to tax on certain dividends received from foreign companies.

The existing provisions of aforesaid section 115BBD provide that where the total income of an assessee, being an Indian company, for the previous year relevant to the assessment year beginning on the 1st day of April, 2012, includes any income by way of dividends declared, distributed or paid by a subsidiary foreign company, the income-tax payable shall be the aggregate of the amount of income-tax calculated on the income by way of such dividends at the rate of fifteen per cent. and the amount of income-tax with which the assessee would have been chargeable had its total income been reduced by the amount of aforesaid income by way of dividends. It is further provided that no deductions in respect of any expenditure or allowance shall be allowed for computing its income by way of dividend.

It is proposed to extend the applicability of taxation provisions in respect of foreign dividends to the income by way of dividends received during the financial year 2012-2013 also.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014.

Clause 45 of the Bill seeks to insert a new section 115BBE in the Income-tax Act relating to tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

Sub-section (1) of the proposed new section 115BBE provides that where the total income of an assessee includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, the income-tax payable shall be the aggregate of- (a) the amount of income-tax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of thirty per cent.; and (b) the amount of income-tax with which the assessee would have been chargeable had his total income being reduced by the amount of income referred to in clause (a) of the said sub-section.

Sub-section (2) of the aforesaid new section provides that notwithstanding anything contained in the Act, no deduction in respect of any expenditure or allowance shall be allowed to the

assessee under any provisions of this Act in computing his income referred to in clause (a) of sub-section (1).

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 46 of the Bill seeks to amend section 115JB of the Income-tax Act relating to special provision for payment of tax by certain companies.

The existing provisions of sub-section (2) of aforesaid section 115JB provide that every assessee being a company shall prepare its profit and loss account in accordance with the provisions of Part-II and Part-III of Schedule VI to the Companies Act.

It is proposed to amend the aforesaid sub-section so as to provide that every assessee, (a) being a company, other than a company to which the proviso to sub-section (2) of section 211 of the Companies Act, 1956 is applicable, shall, for the purposes of the aforesaid section, prepare its profits and loss account for the relevant previous year in accordance with the provisions of Part II of Schedule VI to the Companies Act, 1956; or (b) being a company, to which the proviso to sub-section (2) of section 211 of the Companies Act, 1956 is applicable, shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of the Act governing such company.

Explanation 1 to the aforesaid section provides "book profit" means the net profit as shown in the profit and loss account for the relevant previous year under sub-section (2) of the aforesaid section as increased by the amount specified in clause (a) to clause (i).

It is proposed to amend the aforesaid *Explanation* to insert a new clause after clause (i) so as to provide that the book profit shall be increased by the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset, if not credited to the profit and loss account.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 47 of the Bill seeks to amend the heading of Chapter XII-BA of the Income-tax Act relating to special provisions relating to certain limited liability partnerships.

The existing heading of the aforesaid Chapter XII-BA provides for special provisions relating to certain limited liability partnerships. It is proposed to substitute the words "PERSONS OTHER THAN A COMPANY" in place of the words "LIMITED LIABILITY PARTNERSHIPS" so as to make the special provisions under the said Chapter relating to certain persons other than a company.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 48 of the Bill seeks to substitute section 115JC of the Income-tax Act relating to special provisions for payment of tax by certain limited liability partnerships.

The existing provisions of the aforesaid section 115JC provide that where the regular income-tax payable for a previous year by any 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 per cent. It further provides that the adjusted total income shall be the total income before giving effect to the Chapter XII-BA as increased by 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.

It is proposed to substitute the aforesaid section so as to provide that where the regular income-tax payable for a previous year by any person, other than a company, 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 person and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

For the purpose of the aforesaid provision, the adjusted total income shall be the total income before giving effect to the Chapter XII-BA as increased by deductions claimed under any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" and deduction claimed under section 10AA.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 49 of the Bill seeks to amend section 115JD of the Income-tax Act relating to tax credit for alternate minimum tax.

The existing provisions of sub-section (1) of the aforesaid section 115JD provide that the credit for tax paid by limited liability partnership under section 115JC shall be the excess of the alternate minimum tax paid over the regular income-tax payable.

It is proposed to substitute "a person under section 115JC shall be allowed to him" in place of "a limited liability partnership under section 115JC shall be allowed to it" used in the aforesaid section so as to provide that the credit for tax paid by a person under section 115JC shall be allowed to him in accordance with the provision of said section.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 50 of the Bill seeks to amend section 115JE of the Income-tax Act relating to application of other provisions of this Act.

The existing provisions of the aforesaid section 115JE provide that save as provided in Chapter XII-BA, all other provisions of the Income-tax Act shall apply to a limited liability partnership.

It is proposed to substitute "a person" in place of "a limited liability partnership" used in the aforesaid section so as to provide that save as provided in Chapter XII-BA, all other provisions of the Income-tax Act shall apply to a person referred to in the said Chapter.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 51 of the Bill seeks to insert a new section 115JEE relating to application of Chapter XII-BA to certain persons.

Sub-section (1) of the proposed new section 115JEE provides that the provisions of Chapter XII-BA shall apply to a person who has claimed any deduction under any section (other than section 80P) included in Chapter VI-A under the heading "C.—Deductions in respect of certain incomes"; or section 10AA.

Sub-section (2) of the aforesaid new section provides that the provisions of Chapter XII-BA shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2, if the adjusted total income of such person does not exceed twenty lakh rupees.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 52 of the Bill seeks to amend section 115JF of the Income-tax Act relating to interpretation in Chapter XII-BA.

The existing provisions of the aforesaid section 115JF define the expressions "accountant", "alternate minimum tax", "limited liability partnership" and "regular income-tax" for the purposes of Chapter XII-BA.

It is proposed to omit clause (c) relating to the definition of "limited liability partnership".

It is further proposed to substitute "a person on his total income" in place of "a limited liability partnership on its total income" used in clause (d) thereof.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 53 of the Bill seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

The existing provisions in sub-section (1A) of the aforesaid section 115-O provide that the amount of dividends referred to in sub-section (1) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, if (a) such amount of dividend is received from its subsidiary; (b) the subsidiary has paid tax under this section on such dividend; and (c) the domestic company is not a subsidiary of any other company. The said sub-section also provides that the same amount of dividend shall not be reduced more than once.

It is proposed to amend clause (i) of aforesaid sub-section (1A) so as to provide that in case domestic company receives during the year any dividend from any of its subsidiary and the subsidiary has paid dividend distribution tax, which is payable, on such dividend, then the said amount, if it is distributed as dividend by the domestic company being the holding company in the same year, shall not be subject to dividend distribution tax under the aforesaid section. It is also proposed to omit sub-clause (c), so as to remove the condition that such domestic company is not a subsidiary of any other company.

This amendment will take with effect from 1st July, 2012.

Clause 54 of the Bill seeks to amend section 115U of the Income-tax Act relating to tax on income in certain cases.

The existing provisions of sub-section (1) of the aforesaid section 115U provide that any income received by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income-tax in the same manner as if it were the income received by such person had he made investments directly in the venture capital undertaking.

It is proposed to amend the aforesaid sub-section (1) to substitute the words "income received" with the words "income accruing or arising to or received" so as to provide that any income accruing or arising to or received by a person out of investment made in a venture capital company or a venture capital fund shall be taxed as if it were income accrued, arisen to or received by such person from investment directly in the venture capital undertaking.

The existing provisions of sub-section (2) of the aforesaid section provide that the person responsible for making payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time as may be prescribed, to the person receiving such income and to the prescribed income-tax

authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid during the previous year and such other relevant details as may be prescribed.

It is proposed to amend the aforesaid sub-section (2) so as to provide that the person responsible for crediting or making payment of the income on behalf of a venture capital company or venture capital fund and the venture capital company or venture capital fund shall furnish a statement in the prescribed form, giving details of the nature of the income paid or credited during the period, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority.

The existing provisions of sub-section (3) of the aforesaid section provide that the income paid by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person receiving such income as it had been received by, or had accrued to, the venture capital company or the venture capital fund, as the case may be, during the previous year.

It is proposed to amend the aforesaid sub-section (3) so as to provide that the income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) as it had been received by, or had accrued or arisen to, the venture capital company or the venture capital fund, as the case may be, during the previous year.

The existing provisions of sub-section (4) of the aforesaid section provide that the provisions of Chapter XII-D or Chapter XII-E or Chapter XVII-B shall not apply to the income paid by a venture capital company or venture capital fund under the Chapter "Special Provisions Relating to Tax on Income Received from venture capital companies and venture capital funds".

It is proposed to substitute the aforesaid sub-section so as to provide that the income accruing or arising to or received by the venture capital company or venture capital fund, during a previous year, from investments made in venture capital undertaking if not paid or credited to the person referred to in sub-section (1) shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is also proposed to insert a new *Explanation* so as to clarify that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the venture capital fund or venture capital company.

This amendment will take effect from 1st July, 2012.

Clause 55 of the Bill seeks to amend section 115VG of the Income-tax Act relating to computation of tonnage income.

The existing Table in sub-section (3) of the aforesaid section provides for the amount of daily tonnage income of a qualifying ship.

It is proposed to substitute the aforesaid Table so as to increase the amount of daily tonnage income of a qualifying ship.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 56 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

The existing provisions of sub-section (1) of the aforesaid section 139 provide that every person, if his total income or the total income of any other person in respect of which he is assessable under the Income-tax Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

It is proposed to amend the aforesaid sub-section by inserting a proviso after the third proviso so as to provide that a person, being a resident, who is not required to furnish a return under this sub-section and who during the previous year has any asset (including any financial interest in any entity) located outside India or signing authority in any account located outside India, shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.

The existing provisions of clause (a) of *Explanation 2* to sub-section (1) of the aforesaid section 139 provides the due date for filing return of income, in the case of company other than a company referred to in clause (aa); or a person "other than a company" whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force; or a working partner of a firm whose accounts are required to be audited under the Income-tax Act or under any other law for time being in force shall be the 30th day of September of the assessment year.

Clause (aa) of the aforesaid *Explanation* provides that in the case of assessee which is a company, which is required to furnish a report from an accountant by persons entering into international transaction under section 92E, the due date for filing return of income shall be the 30th day of November of the assessment year.

It is proposed to amend the aforesaid clauses (a) and (aa) so as to extend the due date for filing return of income in case of all the persons who are required to furnish a report referred to section 92E.

These amendments will take effect retrospectively from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent assessment years.

Clause 57 of the Bill seeks to amend section 140A of the Income-tax Act relating to self-assessment.

The existing provisions of sub-section (1) of the aforesaid section 140A provide that the assessee is liable to pay tax after taking into account the amount specified in clause (i) to clause (v) together with the interest payable under any provision of the Act before furnishing the return of income.

It is proposed to insert "or section 115JD" after "section 115JAA" in clause (v) of sub-section (1); sub-clause (e) of clause (i) of sub-section (1A) and clause (iv) of the *Explanation* to sub-section (1B) of the aforesaid section so as to provide that credit available to be set off in accordance with the provisions of section 115JD will also be taken into account under section 140A for the purposes of computing tax payable, and interest chargeable under sections 234A and 234B, before furnishing the return of income.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 58 of the Bill seeks to amend section 143 of the Income-tax Act relating to assessment.

The existing provision of aforesaid section 143, *inter alia*, provides that where a return has been made in section 139 or in response to a notice under sub-section (1) of section 142, such return shall be processed in the manner provided therein.

It is proposed to insert a new sub-section (1D) in the aforesaid section so as to provide that notwithstanding anything contained in sub-section (1), processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2).

This amendment will take effect from 1st July, 2012.

It is further proposed to insert a new proviso to sub-section (3) of the aforesaid section so as to provide that notwithstanding anything contained in the first and the second proviso, no effect shall be given by the Assessing Officer to the provisions of clause (23C) of section 10 in case of a trust or institution for a previous year, if the provisions of first proviso to clause (15) of section 2 become applicable in the case of such person in such previous year whether or not the approval granted to such trust or institution or notification issued in respect of such trust or institution has been withdrawn or rescinded.

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

Clause 59 of the Bill seeks to insert a new section 144BA in the Income-tax Act relating to reference to Commissioner in certain cases.

The proposed sub-section (1) of the aforesaid new section 144BA provides that the Assessing Officer, if at any stage of assessment or reassessment proceedings considers it necessary to invoke provisions of the newly inserted Chapter X-A, shall refer the matter to the Commissioner.

The proposed sub-section (2) of the aforesaid new section provides that on receipt of reference from Assessing Officer if Commissioner is of the opinion that the provisions of newly inserted Chapter X-A are required to be invoked, he shall issue notice to the assessee seeking objections within the time specified in notice. It is provided that the time given in notice shall not exceed sixty days and notice shall disclose reasons and basis of proposed action.

The proposed sub-section (3) of the aforesaid new section provides that if the assessee does not object or respond to the notice the Commissioner may issue such directions as he deems fit regarding declaration of an arrangement as an impermissible avoidance arrangement.

The proposed sub-section (4) of the aforesaid new section provides that if the assessee object to invocation of provisions of Chapter X-A and Commissioner is not satisfied with reply of assessee and having heard the assessee, refer the matter to an Approving Panel.

The proposed sub-section (5) of the aforesaid new section provides that if, after hearing the assessee, the Commissioner is satisfied that it is not a fit case for invoking provisions of Chapter X-A, he may pass an order in writing with copy to the Assessing Officer and the assessee.

The proposed sub-section (6) of the aforesaid new section provides that Approving Panel on receipt of reference from Commissioner shall issue such directions as it deems fit in respect of declaration of an arrangement as an impermissible avoidance arrangement. It may also provide in direction the previous year or years to which such direction shall apply.

The proposed sub-section (7) of the aforesaid new section provides that a direction prejudicial either to assessee or revenue shall not be issued unless opportunity of being heard has been granted to assessee or the Assessing Officer, as the case may be.

The proposed sub-section (8) of the aforesaid new section provides that Approving Panel may before issuing directions call for records or evidences and direct Commissioner to carry out further inquiry and submit report.

The proposed sub-section (9) of the aforesaid new section provides that in case of difference in opinion on an issue the direction shall be issued according to majority opinion.

The proposed sub-section (10) of the aforesaid new section provides that every direction issued by Approving Panel or Commissioner shall be binding on Assessing Officer and Assessing Officer shall complete the proceeding in accordance with such directions and provisions of newly inserted Chapter X-A.

The proposed sub-section (11) of the aforesaid new section provides that if direction is applicable to any other previous year other than in respect of which reference was made, then, while completing assessment or reassessment proceedings for such other previous years, Assessing Officer shall be bound by directions and provisions of Chapter X-A and fresh reference on the issue would not be required.

The proposed sub-section (12) of the aforesaid new section provides that assessment or reassessment order where provisions of Chapter X-A are invoked shall be passed by the Assessing Officer only with prior approval of the Commissioner.

The proposed sub-section (13) of the aforesaid new section provides the limitation of six months from end of month of receipt of reference, by approving panel for issue of directions.

The proposed sub-section (14) of the aforesaid new section provides for constitution of Approving Panel by the Board consisting of income-tax authorities of rank of Commissioner or above and consisting of not less than three members.

The proposed sub-section (15) of the aforesaid new section provides the power to Board to frame rules for purpose of efficient functioning of the Approving Panel.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 60 of the Bill seeks to amend section 144C of the Income-tax Act relating to reference to dispute resolution panel.

The existing provisions contained in sub-section (4) of the aforesaid section 144C provide that the Assessing Officer shall, notwithstanding anything contained in section 153 of the Income-tax Act, pass the assessment order under sub-section (3) within one month from the end of the month in which the acceptance is received or the period of filing of objections under sub-section (2) expires.

It is proposed to amend the aforesaid sub-section so as to give the reference of section 153B also in the said sub-section.

This amendment will take effect retrospectively from 1st October, 2009.

The existing provisions of sub-section (8) of the aforesaid section 144C provide that the Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

It is proposed to insert an *Explanation* in the aforesaid sub-section so as to clarify that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.

This amendment will take effect retrospectively from 1st April, 2009.

The existing provisions of sub-section (13) of the aforesaid section 144C provide that upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in aforesaid section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

It is proposed to amend the aforesaid sub-section so as to give the reference of section 153B also in the said sub-section.

This amendment will take effect retrospectively from 1st October, 2009.

It is proposed to insert a new sub-section (14A) in the aforesaid section 144C so as to provide that provisions of section 144C shall not apply to an assessment or reassessment order passed by the Assessing Officer with the approval of the Commissioner in accordance with sub-section (12) of newly inserted section 144BA.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 61 of the Bill seeks to amend section 147 of the Income-tax Act relating to income escaping assessment.

The existing provisions of the aforesaid section 147 enable the Assessing Officer to assess or re-assess income which has escaped assessment for any assessment year, after recording reasons for doing so. It is further provided that once an assessment is reopened, any other income which has escaped assessment and which comes to the notice of the Assessing Officer subsequently in the course of the proceeding under this section, can also be included in the assessment.

The first proviso to the aforesaid section provides that if an assessment has been made for the relevant assessment year under sub-section (3) of section 143 or this section, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless the income has escaped assessment due to the failure on the part of the assessee to file a return under section 139 or 142(1) or 148 or to disclose fully and truly all material facts necessary for his assessment.

Explanation 2 to the aforesaid section clarifies the cases which shall also be deemed to be the cases where income chargeable to tax has escaped assessment.

It is proposed to insert a proviso to the aforesaid section so as to provide that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year.

It is further proposed to insert a new sub-clause (ba) to the aforesaid *Explanation*, so as to include therein the case where the assessee has failed to furnish a report in respect of any international transaction which he was required under section 92E for the purposes of deemed cases where income chargeable to tax has escaped assessment under the aforesaid section.

It is also proposed to insert a new clause (d) to *Explanation 2* so as to provide that income shall be deemed to have escaped assessment where a person is found to have any asset (including financial interest in any entity) located outside India.

The provisions of section 147 are procedural in nature. However, it is clarified by inserting a new *Explanation 4* to the aforesaid section that the above amendments shall also be applicable to the proceedings initiated under this section for any assessment year beginning on or before 1st April, 2012.

These amendments will take effect from 1st July, 2012.

Clause 62 of the Bill seeks to amend section 149 of the Income-tax Act relating to time-limit for notice.

The existing provisions of sub-section (1) of the aforesaid section 149 provide that the time limit for reopening an assessment on account of income escaping assessment is six years where the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year.

It is proposed to insert a new clause (c) to the aforesaid sub-section so as to provide that if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

The existing provisions of sub-section (3) of the aforesaid section 149 provide that if the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or re-computation to be made in pursuance of the notice is to be made by him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of two years from the end of the relevant assessment year.

It is proposed to amend the aforesaid sub-section to substitute the words "two years" with the words "six years" so as to provide that the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year.

The provisions of section 149 are procedural in nature. However, it is clarified by inserting a new *Explanation* to the aforesaid section that the provisions of sub-sections (1) and (3) of this section as amended by the Finance Act 2012, shall also be applicable to the proceedings initiated under this section for any assessment year beginning on or before 1st April, 2012.

These amendments will take effect from 1st day of July, 2012.

Clause 63 of the Bill seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessments and reassessments.

The existing provisions of the aforesaid section 153, *inter alia*, provide for time limit for completion of assessments and reassessments of total income by the Assessing Officer.

It is proposed to amend the aforesaid section so as to revise the time limits wherever specified for completion of assessments and reassessments. The revised time limits shall be the time limits specified under the aforesaid section, as respectively increased by three months.

The existing provisions contained in *Explanation 1* to the aforesaid section 153 provide that certain periods specified therein are to be excluded while computing the period of limitation laid down in the said section for completion of assessments and reassessments.

It is proposed to amend clause (viii) of the aforesaid *Explanation* so as to extend the period specified therein from six months to one year.

These amendments will take effect from 1st July, 2012.

It is proposed to insert a new clause (ix) in *Explanation 1* of the aforesaid section 153 so as to provide for exclusion of time period starting from receipt of reference by the Commissioner under sub-section (1) of newly inserted section 144BA and ending on date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of newly inserted section 144BA is received by the Assessing Officer.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 64 of the Bill seeks to amend section 153A of the Income-tax Act relating to assessment in case of search or requisition.

It is proposed to insert a third proviso to the aforesaid sub-section so as to provide that the Central Government may by rules made by it and published in the Official Gazette, (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made.

This amendment will take effect from 1st July, 2012.

Clause 65 of the Bill seeks to amend section 153B of the Income-tax Act relating to time limit for completion of assessment under section 153A.

The existing provisions of sub-section (1) of section 153B provide for time limit for completion of assessment and reassessment by the Assessing Officer.

It is proposed to amend the aforesaid sub-section so as to revise the time limits specified in the aforesaid section for completion of assessments or reassessment in case of search or requisition. The revised time limits shall be the time limits wherever specified under the aforesaid section, as respectively increased by three months.

The existing provisions contained in the *Explanation* to the aforesaid section 153B provide that certain periods specified therein are to be excluded while computing the period of limitation laid down in sub-section (1) of the said section for completion of assessments under section 153A.

It is proposed to amend clause (viii) of the aforesaid *Explanation* so as to extend the period specified therein from six months to one year.

These amendments will take effect from 1st July, 2012.

It is proposed to insert a new clause (ix) in the *Explanation* of the aforesaid section so as to provide for exclusion of time period starting from receipt of reference by the Commissioner under sub-section (1) of newly inserted section 144BA and ending on date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of newly inserted section 144BA is received by the Assessing Officer.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 66 of the Bill seeks to amend section 153C of the Income-tax Act relating to assessment of income of any other person.

It is proposed to insert a second proviso to the aforesaid section 153C so as to provide that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.

This amendment will take effect from 1st July, 2012.

Clause 67 of the Bill seeks to amend section 154 of the Income-tax Act relating to rectification of mistake.

It is proposed to insert a new clause (c) in sub-section (1) of the aforesaid section so as to provide that an income-tax authority may amend any intimation issued under sub-section (1) of section 200A.

It is further proposed to amend sub-section (2) of the aforesaid section so as to substitute the words "by the assessee" with the words "by the assessee or by the deductor".

It is also proposed to amend sub-section (3) of the aforesaid section so as to substitute the words "the assessee", wherever they occur, with the words "the assessee or the deductor".

The existing provisions of sub-section (5) of the aforesaid section provide that subject to the provisions of section 241, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make any refund which may be due to such assessee.

It is proposed to substitute the aforesaid sub-section so as to provide that where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor, the Assessing Officer shall make any refund which may be due to such assessee or the deductor.

It is further proposed to amend sub-section (6) of the aforesaid section so as to provide that where any amendment has the effect of enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee or the deductor, the Assessing Officer shall serve on the assessee or the deductor, as the case may be, a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

It is also proposed to amend sub-section (8) of the aforesaid section so as to substitute the words "by the assessee" with the words "by the assessee or the deductor".

These amendments will take effect from 1st July, 2012.

Clause 68 of the Bill seeks to amend section 156 of the Income-tax Act relating to notice of demand.

The existing provisions contained in the proviso to the aforesaid section provide that where any sum is determined to be payable by the assessee under sub-section (1) of section 143, the intimation under that sub-section shall be deemed to be a notice of demand for the purposes of this section.

It is proposed to substitute the aforesaid proviso to section 156 so as to provide that where any sum is determined to be payable by the assessee or by the deductor under sub-section (1) of section 143 or sub-section (1) of section 200A, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.

This amendment will take effect from 1st July, 2012.

Clause 69 of the Bill seeks to amend section 193 of the Income-tax Act relating to interest on securities.

Under the existing provisions contained in clause (v) of the aforesaid section 193, no tax is required to be deducted from any interest payable to an individual who is resident in India, on debentures issued by a company in which the public are substantially interested, if such debentures are listed on a recognised stock exchange in India; the interest is paid by the company by an account payee cheque; and the aggregate amount of interest payable by the company to such individual does not exceed two thousand and five hundred rupees.

It is proposed to substitute the aforesaid clause so as to provide that no deduction of income tax shall be made on any interest payable to an individual or a Hindu undivided family, who is resident

in India, on any debenture issued by a company in which the public are substantially interested, if the interest is paid by the company by an account payee cheque and the amount of such interest or, as the case may be, the aggregate of the amounts of such interest paid or likely to be paid during the financial year by the company to such individual or a Hindu undivided family does not exceed five thousand rupees.

This amendment will take effect from 1st July, 2012.

Clause 70 of the Bill seeks to amend section 194E of the Income-tax Act relating to payments to non-resident sportsmen or sports associations.

The existing provisions in section 194E provide that where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) who is a non-citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

It is proposed to amend the aforesaid section to make it also applicable to a non-resident entertainer who is a non-citizen and to increase the tax deduction at source on income referred to in the section from ten per cent. to twenty per cent.

This amendment will take effect from 1st July, 2012.

Clause 71 of the Bill seeks to amend section 194J of the Income-tax Act relating to fees for professional or technical services.

The existing provisions in sub-section (1) of the aforesaid section 194J provide that a person, not being a individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of fees for professional services, fees for technical services royalty or sums referred to in clause (va) of section 28 shall deduct an amount equal to ten per cent. of such sum as income tax.

It is proposed to amend the aforesaid sub-section (1) to insert a new clause (ba) so as to provide that the person referred to in sub-section (1) of the aforesaid section who is responsible for paying to a director of a company any sum by way of any remuneration or fees or commission, by whatever name called (other than those on which tax is deductible under section 192), shall deduct an amount equal to ten per cent. of such sum as income-tax in accordance with the provisions of the aforesaid section.

This amendment will take effect from 1st July 2012.

Clause 72 of the Bill seeks to amend section 194LA of the Income-tax Act relating to payment of compensation on acquisition of certain immovable property.

The existing provisions contained in the aforesaid section 194LA provide that any person responsible for paying to a resident any sum being in the nature of compensation or the enhanced consideration or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land) shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax. However, the proviso to the aforesaid section provides that no tax will be required to be deducted where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees.

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

This amendment will take effect from 1st July, 2012.

Clause 73 of the Bill seeks to insert a new section 194LAA in the Income-tax Act relating to payment on transfer of certain immovable property other than agricultural land.

It is proposed to insert a new section 194LAA to provide that any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land) shall deduct an amount equal to one per cent. of such sum as income-tax at the time of credit of such sum to the account of transferor or at the time of payment of such sum in cash or by issue of cheque or by draft or by any other mode, whichever is earlier.

It is further proposed to provide that no deduction shall be made where the consideration paid or payable for the transfer of such property is less than fifty lakh rupees in case such property is situated in a specified area or is less than twenty lakh rupees in case such property is situated in any area other than the specified area.

It is also proposed to provide that if the consideration paid or payable for the transfer of such property is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of transfer of such property, the value so adopted or assessed or assessable shall, for the purposes of the aforesaid sub-section (1) or sub-section (2) be deemed to be the consideration paid or payable for the transfer of such property.

It is also proposed to provide that where any document required to be registered under clause (a) to clause (e) of sub-section (1) or sub-section (1A) of section 17 of the Indian Registration Act, 1908 purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any immovable property and in respect of which tax is required to be deducted under the aforesaid sub-section (1), no registering officer appointed under that Act shall register any such document unless the transferee furnishes the proof of deduction of income-tax in accordance with the provisions of this section and payment of sum so deducted to the credit of the Central Government in the prescribed form.

It is also proposed to provide that the provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

It is also proposed to provide an *Explanation* defining the expressions "agricultural land", "immovable property" and "specified area".

This amendment will take effect from 1st October, 2012.

Clause 74 of the Bill seeks to insert a new section 194LC in the Income-tax Act, relating to income by way of interest from Indian company engaged in certain business.

The proposed new section 194LC provides that where any income by way of interest is payable to a non-resident, not being a company or to a foreign company by a specified company, the person responsible for making the payment shall deduct income-tax thereon at the rate of five per cent. at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

It further provides that the interest shall be income by way of interest payable by the specified company in respect of any monies borrowed by it at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2015; in foreign currency, from a source outside India under a loan agreement approved by the Central Government in this behalf; to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

It also defines the expressions "foreign currency" and "specified company" for the purpose of the aforesaid section.

This amendment will take effect from 1st July, 2012.

Clause 75 of the Bill seeks to amend section 195 of the Income-tax Act relating to other sums.

It is proposed to provide that sub-section (1) of the aforesaid section 195 providing the rate of deduction in respect of interest payment shall not apply to interest referred to in sections 194LB and 194LC for which separate rate of deduction is provided.

This amendment will take effect retrospectively from 1st April, 2012.

It is further proposed to insert a new Explanation in sub-section (1) of the aforesaid section 195 so as to clarify that the obligation to comply with sub-section (1) and make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident whether or not the non-resident person has a residence or place of business or business connection in India or any other presence in any manner whatsoever in India.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to assessment year 1962-1963 and subsequent assessment years.

It is also proposed to insert a new sub-section (7) in the aforesaid section so as to provide that notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

This amendment will take effect from 1st July, 2012.

Clause 76 of the Bill seeks to amend section 197A of the Income-tax Act relating to no deduction to be made in certain cases.

The existing provisions in sub-section (1C) of section 197A provide that no deduction of tax shall be made under section 193 or section 194 or section 194A or section 194EE or section 194K in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year, if such individual furnishes to the person responsible for paying any income of the nature referred to in the aforesaid sections, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

It is proposed to amend the aforesaid sub-section so as to reduce the qualifying age for an individual resident from sixty-five years to sixty years.

This amendment will take effect from 1st July, 2012.

Clause 77 of the Bill seeks to amend section 201 of the Income-tax Act relating to consequences of failure to deduct or pay.

It is proposed to insert a new proviso in sub-section (1) of the aforesaid section 201 so as to provide that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident —

(i) has furnished his return of income under section 139;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed.

It is further proposed to insert a new proviso to sub-section (1A) of the aforesaid section so as to provide that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default under the first proviso of sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.

This amendment will take effect from 1st July, 2012.

The existing provisions of sub-section (3) of the aforesaid section 201 provide that no order shall be made under sub-section (1) of the said section deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of two years from the end of the financial year in a case in which the statement referred to in section 200 has been filed, and in any other case four years from the end of the financial year in which payment is made or credit is given.

It is proposed to amend clause (ii) of the aforesaid sub-section so as to extend the period of four years to six years.

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

It is also proposed to insert an *Explanation* after sub-section (4) of the aforesaid section so as to define the expression "accountant".

This amendment will take effect from 1st July, 2012.

Clause 78 of the Bill seeks to amend section 204 of the Income-tax Act relating to meaning of "person responsible for paying".

It is proposed to amend the aforesaid section 204 to insert a new clause so as to provide that in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the Government of a State, the drawing and disbursing officer or any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum shall be the person responsible for paying within the meaning of definition under this section.

This amendment will take effect from 1st July, 2012.

Clause 79 of the Bill seeks to amend section 206C of the Income-tax Act relating to the profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The existing provisions of sub-section (1) of the aforesaid section 206C provide that every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax.

It is proposed to amend the aforesaid sub-section so as to insert a new serial number (vii) relating to minerals, being coal or lignite or iron ore in the Table in said sub-section to provide for collection of tax at source at the rate of one per cent. in case of minerals, being coal or lignite or iron ore.

It is further proposed to insert a new sub-section (1D) in the aforesaid section to provide that every person, being a seller, who receives any amount in cash as consideration for sale of bullion or

jewellery, shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent. of sale consideration as income-tax, if the sale consideration exceeds two hundred thousand rupees.

It is also proposed to amend sub-sections (2), (3) and (9) of the aforesaid section which are consequential in nature.

It is also proposed to insert a new proviso to sub-section (6A) of the aforesaid section so as to provide that any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

(i) has furnished his return of income under section 139;

(ii) has taken into account such amount for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and also furnishes a certificate to this effect from an accountant in such form as may be prescribed.

It is also proposed to insert a new proviso to sub-section (7) of the aforesaid section so as to provide that in case any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee.

It is also proposed to amend the *Explanation* to the aforesaid section so as to provide the meaning of "buyer" with respect to sub-section (1) and sub-section (1D) of the said section and meaning of jewellery.

It is also proposed to insert a new clause in the aforesaid *Explanation* so as to define the expression "accountant".

It is also proposed to insert sub-section (1D) in clause (c) of the aforesaid *Explanation*.

These amendments will take effect from 1st July, 2012.

Clause 80 of the Bill seeks to amend section 207 of the Income-tax Act relating to liability for payment of advance tax.

The existing provisions contained in the aforesaid section 207 provide that the tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year.

It is proposed to amend the aforesaid section so as to insert a new sub-section (2) to provide that the provisions of the aforesaid section shall not apply to an individual resident in India who does not have any income chargeable under the head "Profits and gains of business or profession" and is of the age of sixty years or more at any time during the previous year.

This amendment will take effect retrospectively from 1st April, 2012.

Clause 81 of the Bill seeks to amend section 209 of the Income-tax Act relating to computation of advance tax.

The existing provisions contained in the aforesaid section 209, *inter alia*, provides that where advance tax is payable, the assessee shall himself compute the advance tax payable on his current income at the rates in force in the financial year and deposit the same whether or not he has been earlier assessed to tax or not. It further provides that in all the cases the tax calculated at the rates in force in the financial year shall be reduced by the amount deductible at source or collectible at source from any income which has been taken into account in the computation of current income.

It is proposed to amend clause (d) of sub-section (1) of the aforesaid section 209 so as to insert a proviso to provide that for computing liability for advance tax, income-tax calculated under clause (a) or clause (b) or clause (c) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without deduction of tax or it has been received or debited by person responsible for collecting tax without collection of such tax.

This amendment will take effect retrospectively from 1st April, 2012.

Clause 82 of the Bill seeks to amend section 234A of the Income-tax Act relating to interest for defaults in furnishing return of income.

The existing provisions of sub-section (1) of the aforesaid section 234A provides that the assessee is liable to pay simple interest at the rate of one per cent. for every month or part of a month on the amount of the tax on the total income as reduced by the advance tax, if any, paid; any tax deducted or collected at source; any relief of tax allowed under section 90 on account of tax paid in a country outside India; any relief of tax allowed under section 90A on account of tax paid in a specified territory outside India referred to in that section; any deduction, from the Indian income-tax payable, allowed under section 91; and any credit allowed to be set off in accordance with the provisions of section 115JAA.

It is proposed to insert "or section 115JD", after "section 115JAA" in clause (vi) of sub-section (1) of the aforesaid section so as to provide for reduction of tax credit allowed to be set off under section 115JD from the tax on total income.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 83 of the Bill seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

The existing provisions of sub-section (1) of the aforesaid section 234B provides that the assessee is liable to pay simple interest at the rate of one per cent. for every month or part of the month on the amount of advance tax which falls short of assessed tax. *Explanation 1* to the said sub-section defines the "assessed tax" which means the tax on the total income determined under sub-section (1) of section 143 and where a regular assessment is made, the tax on the total income determined under such regular assessment as reduced by the amount of any tax deducted or collected at source; any relief of tax allowed under section 90; any relief of tax allowed under section 90A; any deduction from the Indian income-tax payable, allowed under section 91; and any tax credit allowed to be set off in accordance with the provisions of section 115JAA.

It is proposed to insert "or section 115JD", after "section 115JAA" in clause (v) of *Explanation 1* to sub-section (1) of the aforesaid section so as to provide for reduction of tax credit allowed to be set off under section 115JD from the assessed tax.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 84 of the Bill seeks to amend section 234C of the Income-tax Act relating to interest for deferment of advance tax.

The existing provisions of sub-section (1) of the aforesaid section 234C provides that the assessee is liable to pay simple interest at the rate of one per cent. per month on the amount of shortfall from the specified percentages of the tax due on the returned income. The *Explanation* to the said section defines the "tax due on the returned income" to mean the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on 1st April immediately following the financial year in which the advance tax is paid or payable, as reduced by the amount of any tax deductible or collectible at source; any relief of tax allowed under section 90; any relief of tax allowed under section 90A; any deduction from the Indian income-tax payable, allowed under section 91; and any tax credit allowed to be set off in accordance with the provisions of section 115JAA.

It is proposed to insert "or section 115JD", after "section 115JAA" in clause (v) of the *Explanation* to sub-section (1) of the aforesaid section so as to provide for reduction of tax credit allowed to be set-off under section 115JD from the tax due on the returned income.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-2014 and subsequent assessment years.

Clause 85 of the Bill seeks to insert a new *Explanation* to section 234D of the Income-tax Act relating to interest on excess refund.

The existing provisions of sub-section (1) of the aforesaid section 234D provides that where any refund is granted to the assessee under sub-section (1) of section 143 and no refund is due on regular assessment, or the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment, then, the assessee shall be liable to pay simple interest at the rate of one-half per cent. on the whole or the excess amount so refunded for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

The *Explanation* to the aforesaid section provides that where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of the said section.

It is proposed to insert a new *Explanation* so as to clarify that the provisions of this section shall also apply to an assessment year commencing before the 1st day of June, 2003 if the proceedings in respect of such assessment year is completed after the said date.

This amendment will take effect retrospectively from 1st June, 2003.

Clause 86 of the Bill seeks to insert a new sub-heading "G.—Levy of fee in certain cases" and a new section 234E in the Income-tax Act relating to fee for defaults in furnishing statements.

It is proposed to insert a new section 243E so as to provide that—

(1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.

(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

This amendment will take effect from 1st July, 2012.

Clause 87 of the Bill seeks to amend section 245C of the Income-tax Act relating to application for settlement of cases.

The existing provisions of clause (ia) of the proviso to sub-section (1) of the aforesaid section 245C provide that no application shall be made unless, in a case where the applicant is related to the person referred to in clause (i) who has filed an application; and the proceedings for assessment or reassessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated, the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

The *Explanation* to the aforesaid clause defines the expressions "applicant in relation to the specified person" and "substantial interest" for the purposes of the said clause.

Clause (b) of the said *Explanation* provides that a person shall be deemed to have a substantial interest in a business or profession, if –

(A) in a case where the business or profession is carried on by a company, such person is at any time during the previous year, the beneficial owner of shares (not being share entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power; and

(B) in any other case, such person is, at any time during the previous year beneficially entitled to not less than twenty per cent. of the profits of such business or profession.

It is proposed to amend the aforesaid clause (b) so as to provide that the person shall be deemed to have substantial interest, if such person is beneficial owner on the date of search.

This amendment will take effect from 1st July, 2012.

Clause 88 of the Bill seeks to amend section 245Q of the Income-tax Act relating to application for advance ruling.

The provisions contained in sub-section (2) of the aforesaid section 245Q provide that the application for an advance ruling shall be made in quadruplicate and be accompanied by a fee of two thousand five hundred rupees.

It is proposed to amend the aforesaid sub-section so as to enhance the fee from two thousand five hundred rupees to ten thousand rupees or such fee as may be prescribed in this behalf, whichever is higher.

This amendment will take effect from 1st July, 2012.

Clause 89 of the Bill seeks to amend section 246A of the Income-tax Act relating to appealable orders before Commissioner (Appeals).

The existing provisions of the aforesaid section 246A provide for appeal by an assessee to the Commissioner (Appeals) against an order under sections 143(3), 147, 150, etc.

It is proposed to include the reference of "deductor" after the word "assessee" in sub-section (1) and in clause (a) of the said sub-section so as to enable him to file an appeal under the aforesaid section.

It is further proposed to amend clause (a) of sub-section (1) so as to provide that the deductor may appeal to the Commissioner (Appeals) against an intimation issued under sub-section (1) of section 200A.

These amendments will take effect from 1st July, 2012.

It is proposed to amend clauses (a), (b), (ba) and (c) of sub-section (1) of the aforesaid section 246A to provide that an order of assessment or reassessment passed with approval of Commissioner under sub-section (12) of newly inserted section 144BA or any order under section 154 or section 155 passed in relation to such an order shall not be appealable before Commissioner (Appeals).

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

The existing provisions contained in clause (ba) of sub-section (1) of the aforesaid section 246A provide that any assessee aggrieved by an order of the assessment or reassessment under section 153A may appeal to the Commissioner.

It is proposed to amend the aforesaid clause (ba) so as to provide that any assessee aggrieved by an order of the assessment or reassessment under section 153A [except an order passed in pursuance of the directions of the Dispute Resolution Panel] may appeal to the Commissioner.

This amendment will take effect retrospectively from 1st October, 2009.

It is also proposed to insert a new clause (bb) in sub-section (1) of the aforesaid section 246A to provide that any assessee aggrieved by an order of assessment under sub-section (3) of section 92CD may appeal to the Commissioner (Appeals). The proposed amendment is of consequential nature.

The existing provisions contained in sub-section (1) of the aforesaid section 246A provide that an appeal shall lie to the Commissioner (Appeals) against the orders specified in said sub-section (1).

It is proposed to amend sub-clause (B) of clause (j) of aforesaid sub-section (1) so as to provide that an appeal against the order of penalty passed under section 271AAB shall also lie before the Commissioner (Appeals).

This amendment will take effect from 1st July, 2012.

Clause 90 of the Bill seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

The existing provisions contained in clause (ba) of sub-section (1) of the aforesaid section 253 provide that any assessee aggrieved by an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order may appeal to the Appellate Tribunal.

It is proposed to amend clause (d) of the aforesaid sub-section (1) so as to provide that any assessee aggrieved by an order passed by an Assessing Officer under section 153A or section 153C in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order may also appeal to the Appellate Tribunal.

This amendment will take effect retrospectively from 1st October, 2009.

It is further proposed to amend the aforesaid sub-section (1) to insert clause (e) in the said sub-section to provide that an order of assessment or reassessment passed with approval of the Commissioner under sub-section (12) of newly inserted section 144BA or an order under section 154 or section 155 passed in respect of such an order against which appeal lies before the Appellate Tribunal.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

It is also proposed to insert a new sub-section (2A) in the aforesaid section so as to provide that the Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel under sub-section (5) of section 144C in respect of any objection filed on or after the 1st day of July, 2012, by the assessee under sub-section (2) of section 144C in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

It is also proposed to insert a new sub-section (3A) in the aforesaid section so as to provide that every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel under sub-section (5) of section 144C.

It is also proposed to amend sub-section (4) so as to provide that an appeal can also be filed by the Assessing Officer against the order passed by him in pursuance of the directions of the Dispute Resolution Panel.

These amendments will take effect from 1st July, 2012.

Clause 91 of the Bill seeks to amend section 254 of the Income-tax Act relating to Orders of Appellate Tribunal.

It is proposed to amend sub-section (2A) of the aforesaid section 254, so as to insert therein a reference of sub-section (2A) of section 253. The proposed amendment is consequential in nature in view of the amendment to section 253.

This amendment will take effect from 1st July, 2012.

Clause 92 of the Bill seeks to amend section 271 of the Income-tax Act relating to failure to furnish return, comply with notice, concealment of income, etc.

The existing provision of *Explanation 7* of the aforesaid section 271 provides that where in the case of an assessee who has entered into an international transaction, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, the amount so added or disallowed shall be deemed to represent the income in respect of which particulars have been concealed or inaccurate particulars have been furnished unless the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) or the Commissioner that the price charged or paid in such transaction was computed in good faith and with due diligence in accordance with the provisions contained in section 92C and the manner prescribed thereunder.

It is proposed to amend the aforesaid *Explanation* so as to include therein the reference of a specified domestic transaction for the purposes of said *Explanation*.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 93 of the Bill seeks to substitute section 271AA of the Income-tax Act relating to penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.

The existing provisions of the aforesaid section 271AA provide that if a person, who has entered into international transaction as defined in section 92B, fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct such person shall pay, by way of penalty, a sum equal to two per cent. of the value of each international transaction entered into by such person.

It is proposed to substitute the aforesaid section so as to provide the levy of penalty under the said section also in case where such person fails to report such transaction which he is required to do so; or maintains or furnishes an incorrect information or document.

This amendment will take effect from 1st July, 2012.

Clause 94 of the Bill seeks to amend section 271AA of the Income-tax Act (as substituted by clause 93 of this Bill) relating to penalty for failure to keep and maintain information and document in respect of international transaction.

The existing provision of the aforesaid section 271AA provides that if any person fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of each international transaction entered into by such person.

It is proposed to amend the aforesaid section so as to include therein the reference of "specified domestic transaction" to provide that in the cases where information and document in respect of specified domestic transaction has not been maintained, or such specified domestic transaction has not been reported, or the assessee maintains or furnishes incorrect information or documents, a penalty of two per cent. of the value of the specified domestic transaction shall be levied.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 95 of the Bill seeks to amend section 271AAA of the Income-tax Act relating to penalty where search has been initiated.

The existing provision contained in sub-section (1) of the aforesaid section 271AAA provides that in a case where the search has been initiated under section 132 on or after the 1st day of June, 2007, the assessee shall be liable to pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year.

It is proposed to amend sub-section (1) of the aforesaid section so as to provide that the provisions of the said section shall be applicable in respect of cases where a search has been initiated under section 132 on or after the 1st day of June, 2007 but before 1st day of July, 2012.

This amendment will take effect retrospectively from 1st April, 2012.

Clause 96 of the Bill seeks to insert a new section 271AAB in the Income-tax Act relating to penalty where search has been initiated.

It is proposed to provide in the aforesaid new section 271AAB that in a case where search has been initiated under section 132 on or after the 1st day of July, 2012, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him, a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year, if such assessee - (i) in the course of the search, in a statement under sub-section (4) of section 132 admits the undisclosed income and specifies the manner in which such income has been derived; (ii) substantiates the manner in which the

undisclosed income was derived; and (iii) on or before the specified date,—(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and (B) furnishes the return of income for the specified previous year declaring such undisclosed income therein.

It is further proposed to provide that the assessee shall pay by way of penalty, in addition to tax, if any payable by him, a sum computed at the rate of twenty per cent. of the undisclosed income of the specified previous year, if such assessee - (i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; (ii) on or before the specified date,—(A) declares such income in the return of income furnished for the specified previous year; and (B) pays the tax, together with interest, if any, in respect of the undisclosed income.

It is also proposed to provide that the assessee shall pay by way of penalty, in addition to tax, if any payable by him, a sum which shall not be less than thirty per cent. but which shall not exceed ninety per cent. of the undisclosed income of the specified previous year, if it is not covered by clauses (a) and (b).

It is also proposed to provide that no penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

It is also proposed to provide that the provisions of section 274 and section 275 shall, as far as may be, apply in relation to the penalty leviable under the proposed new section.

It is also proposed to define the expressions “undisclosed income”, “specified previous year” and “specified date” for the purposes of the said section.

These amendments will take effect from 1st July, 2012.

Clause 97 of the Bill seeks to amend section 271G of the Income-tax Act relating to penalty for failure to furnish information or document under section 92D.

The existing provision of the aforesaid section 271G provides that if any person who has entered into an international transaction fails to furnish any such information or document as required by sub-section (3) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of the international transaction for each such failure.

It is proposed to amend the aforesaid section to include therein the reference of “specified domestic transaction” so as to provide in the cases where the assessee fails to furnish any document or information as required by section 92D, a penalty of two per cent. of the value of the specified domestic transaction shall be levied in such cases.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 98 of the Bill seeks to insert a new section 271H in the Income-tax Act relating to penalty for failure to furnish statements, etc.

It is proposed to insert a new section 271H so as to provide that without prejudice to the provisions of the Act, a person shall be liable to pay penalty if he fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C; or furnishes incorrect information in the statement which is required to be delivered or cause to be delivered under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

It is further proposed to provide that the penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

It is also proposed to provide that notwithstanding anything contained in the foregoing provisions of this section, no penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of one year from the time prescribed for delivering or causing to be delivered such statement.

It is also proposed to provide that the provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

This amendment will take effect from 1st July, 2012.

Clause 99 of the Bill seeks to amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, return or statement, allow inspections, etc.

The existing provisions of sub-section (2) of the aforesaid section provide for levy of penalty if any person fails to comply with the requirements referred to in clauses (a) to (l) of the said sub-section.

It is proposed to insert a new proviso to sub-section (2) of the aforesaid section so as to provide that no penalty shall be levied under this section for the failure referred to in clause (k) if such failure relates to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012.

This amendment will take effect from 1st July, 2012.

Clause 100 of the Bill seeks to amend section 273B of the Income-tax Act relating to penalty not to be imposed in certain cases.

The existing provisions of the aforesaid section provide that no penalty shall be imposable on the person or the assessee, for failure referred to in sections mentioned therein if he proves that there was reasonable cause for the said failure.

It is proposed to amend the aforesaid section so as to insert there the reference of newly inserted section 271H. The proposed amendment is consequential in nature.

This amendment will take effect from 1st July, 2012.

Clause 101 of the Bill seeks to amend section 276C of the Income-tax Act relating to wilful attempt to evade tax, etc.

The existing provisions of sub-section (1) of the aforesaid section 276C provide that if a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under the Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of the Act, be punishable in case where the amount sought to be evaded exceeds one hundred thousand rupees with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine; and in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

It is proposed to amend the aforesaid sub-section so as to increase the limit of amount sought to be evaded from one hundred thousand rupees to twenty-five hundred thousand rupees and to reduce the maximum imprisonment from three years to two years.

The existing provisions of sub-section (2) of the aforesaid section provides that if a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under the Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of the Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in discretion of the court, also with fine.

It is proposed to amend the aforesaid sub-section so as to reduce the maximum imprisonment from three years to two years.

These amendments will take effect from 1st July, 2012.

Clause 102 of the Bill seeks to amend section 276CC of the Income-tax Act relating to failure to furnish return of income.

The existing provisions of the aforesaid section 276CC provide that if a person wilfully fails to furnish in due time the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under clause (i) of sub-section (1) of section 142 or section 148 or section 153A, he shall be punishable in case where the amount of tax which would have been evaded if the failure had not been discovered exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine; and in any other case, with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

It is proposed to amend the aforesaid section so as to increase the limit of amount of tax which would have been evaded if the failure had not been discovered, from one hundred thousand rupees to twenty-five hundred thousand rupees and to reduce the maximum imprisonment from three years to two years.

These amendments will take effect from 1st July, 2012.

Clause 103 of the Bill seeks to amend section 277 of the Income-tax Act relating to false statement in verification, etc.

The existing provisions of the aforesaid section 277 provide that if a person makes a statement in any verification under the Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable in a case where the amount of tax which would have been evaded if the statement or account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine; and in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

It is proposed to amend the aforesaid section so as to increase the limit of amount of tax which would have been evaded from one hundred thousand rupees to twenty-five hundred thousand rupees and to reduce the maximum imprisonment from three years to two years.

These amendments will take effect from 1st July, 2012.

Clause 104 of the Bill seeks to amend section 277A of the Income-tax Act relating to falsification of books of account or document, etc.

The existing provisions of the aforesaid section 277A provide that if any person (the first person) wilfully and with intent to enable any other person (the second person) to evade any tax or interest or penalty chargeable and imposable under this Act, makes or causes to be made any entry or statement which is false, and which the first person either knows to be false or does not believe to be true, in any books of account or other document relevant to or useful in any proceeding against the first person or the second person, under the Act, the first person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

It is proposed to amend the aforesaid section so as to reduce the maximum imprisonment from three years to two years.

This amendment will take effect from 1st July, 2012.

Clause 105 of the Bill seeks to amend section 278 of the Income-tax Act relating to abetment of false return, etc.

The existing provisions of the aforesaid section 278 provide that if any person abets or induces in any manner another person to make and deliver an account or make a statement or declaration relating to any income or any fringe benefit chargeable to tax which is false and which he either knows to be false or does not believe to be true or to commit an offence under sub-section (1) of section 276C, he shall be punishable in a case where the amount of tax, penalty or interest which would have been evaded if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine; and in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

It is proposed to amend the aforesaid section so as to increase the limit of amount of tax, penalty or interest which would have been evaded from one hundred thousand rupees to twenty-five hundred thousand rupees and to reduce the maximum imprisonment from three years to two years.

These amendments will take effect from 1st July, 2012.

Clause 106 of the Bill seeks to insert new sections 280A, 280B, 280C and section 280D in the Income-tax Act relating to Special Courts, offences triable by Special Court, trial of offences as summons case and application of the Code of Criminal Procedure, 1973 to proceedings before Special Court.

The proposed new section 280A provides that the Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under Chapter-XXII, by notification, designate one or more courts of Magistrates of the first class as Special Court for such area or areas or for such cases or class or group of cases as may be specified in the notification.

It further explains that "High Court" means the High Court of the State in which a Magistrate of first class designated as Special Court was functioning immediately before such designation.

It also provides that while trying an offence under the Income-tax Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

The proposed new section 280B provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, (a) the offences punishable under Chapter-XXII shall be triable only by the Special Court if so designated for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed. However, a court competent to try

offences under section 292, (i) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation; (ii) which has not been designated as a Special Court may continue to try such offence pending before it till its disposal; or (b) a Special Court may, upon a complaint made by an authority authorised in this behalf under the Income-tax Act take cognizance of the offence for which the accused is committed for trial.

The proposed new section 280C provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court, shall try, an offence under Chapter-XXII punishable with imprisonment not exceeding two years or with fine or with both, as a summons case, and the provisions of the Code of Criminal Procedure, 1973 as applicable in the case of trial of summons case, shall apply accordingly.

The proposed new section 280D provides that the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor.

It further provides that a person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor unless he has been in practice as an advocate for not less than seven years requiring special knowledge of law.

It also provides that every person appointed as a Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and the provisions of that Code shall have effect accordingly.

These amendments will take effect from 1st July, 2012.

Clause 107 of the Bill seeks to insert section 292CC in the Income-tax Act relating to authorisation and assessment in case of search or requisition.

It is proposed to insert aforesaid new section 292CC so as to provide that notwithstanding anything contained in this Act, it shall not be necessary to issue an authorisation under section 132 or make a requisition under section 132A separately in the name of each person.

It is further proposed that where an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

It is also proposed to provide that notwithstanding that an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.

These amendments will take effect retrospectively from 1st April, 1976 and will, accordingly, apply to the assessment year 1976-1977 and subsequent assessment years.

Clause 108 of the Bill seeks to amend section 296 of the Income-tax Act relating to rules and certain notifications to be placed before Parliament.

The existing provisions of the aforesaid section 296 provide for laying of rules and certain notifications before Parliament.

It is proposed to amend the aforesaid section so as to provide that the rules made by the Central Government under the third proviso to sub-section (1) of section 153A or under the second proviso to sub-section (1) of section 153C are laid before Parliament.

This amendment will take effect from 1st July, 2012.

Wealth-tax

Clause 109 of the Bill seeks to amend section 2 of the Wealth-tax Act relating to definitions.

The existing provisions of clause (ea) of the aforesaid section 2 provide that in the case where a house is allotted for residential purposes by a company to an employee or an officer or director who is in the whole time employment having a gross annual salary of less than five lakh rupees, such house shall not be included in the definition of assets on which wealth-tax is charged.

It is proposed to amend item (1) of sub-clause (i) of the aforesaid clause so as to raise the aforesaid gross annual salary limit of employee or an officer or director who is in the whole time employment from five lakh rupees to ten lakh rupees.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent assessment years.

Clause 110 of the Bill seeks to amend section 17 of the Wealth-tax Act relating to wealth escaping assessment.

The existing provisions of sub-section (1) of the aforesaid section 17 enable the Assessing Officer to assess or re-assess wealth which has escaped assessment for any assessment year, after recording reasons for doing so. It is further provided that once an assessment is reopened, any other wealth which has escaped assessment and which comes to the notice of the Assessing Officer subsequently in the course of the proceedings under this section, can also be included in the assessment.

The first proviso to the aforesaid sub-section provide that if an assessment has been made for the relevant assessment year under sub-section (3) of section 16 or this section, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless the wealth has escaped assessment due to the failure on the part of the assessee to file a return under section 14 or section 15 or in response to a notice issued under sub-section (4) of section 16 or this section or to disclose fully and truly all material facts necessary for his assessment.

It is proposed to insert a proviso to the aforesaid sub-section so as to provide that nothing contained in the first proviso shall apply in a case where any net wealth in relation to any asset (including financial interest in any entity) located outside India chargeable to tax, has escaped assessment for any assessment year.

These amendments will take effect from 1st July, 2012.

It is further proposed to amend sub-section (1A) of the aforesaid section so as to insert a new clause (c) to the aforesaid sub-section so as to provide that if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the net wealth in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year.

It is also proposed to amend the *Explanation* to the aforesaid sub-section so as to insert a clause which provides that where a person is found to have any asset (including financial interest in any entity) located outside India, it shall also be deemed to be a case where net wealth chargeable to tax has escaped assessment.

It is also proposed to insert a new *Explanation 2* so as to provide that the provisions of the aforesaid section (as amended by the Finance Act, 2012) shall also be applicable for the assessment years beginning on or before the 1st day of April, 2012.

These amendments will take effect from 1st day of July, 2012.

Clause 111 of the Bill seeks to amend section 17A of the Wealth-tax Act relating to time limit for completion of assessment and reassessment.

The existing provisions of the aforesaid section 17A, *inter alia*, provide for time limit for completion of assessments and reassessments of net wealth by the Assessing Officer.

It is proposed to amend the aforesaid section so as to revise the time limits for completion of assessment and reassessment. The revised time limits shall be the time limits specified under the aforesaid section, as respectively increased by three months.

These amendments will take effect from 1st July, 2012.

Clause 112 of the Bill seeks to amend section 45 of the Wealth-tax Act relating to Act not to apply in certain cases.

The existing provisions of the aforesaid section 45 provide that Wealth-tax shall not be levied in respect of the net wealth of entities enumerated in that section.

It is proposed to insert a new clause (k) in the aforesaid section so as to provide that tax shall not be levied in respect of net wealth of the Reserve Bank of India.

This amendment will take effect retrospectively from 1st April, 1957, and will, accordingly, apply in relation to the assessment year 1957-1958 and subsequent assessment years.

Clause 113 of the Bill seeks to provide for validation of demand, etc., under Income-tax Act, 1961 in certain cases in respect of income accruing or arising through or from the transfer of a capital asset situate in India in consequence of transfer of a share or shares of a company registered or incorporated outside India or in consequence of any agreement or otherwise outside India.

This clause will take effect from the date on which this Bill receives the assent of the President

Customs

Clause 114 of the Bill seeks to amend clause (10) of section 2 of the Customs Act so as to modify the definition of "customs airport".

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 115 of the Bill seeks to amend clause (aa) of sub-section (1) of section 7 of the Customs Act so as to substitute the words "container depots" with the words "container depots or air freight stations".

This amendment will take effect from the date of which this Bill receives the assent of the President.

Clause 116 of the Bill seeks to insert a new section 28AAA in the Customs Act to provide for recovery of duties in certain cases relating to utilisation of instruments, such as duty credit scrips issued under the Foreign Trade (Development and Regulation) Act, 1992 where the instrument was obtained by means of collusion or wilful misstatement or suppression of facts made by the person to whom it was issued or his agent or employee, and was utilised by another person who acquired it from the original holder, then the duties, relating to the utilisation, shall be recovered from the person to whom the instrument had been issued.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 117 of the Bill seeks to amend section 28BA of the Customs Act relating to provisional attachment of property to protect revenue in certain cases so as to make it applicable also to the proposed clause 28AAA.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 118 of the Bill seeks to amend sub-section (2) of section 47 of the Customs Act so as to insert a new proviso therein to provide that the Central Government may, by notification in the Official Gazette, specify the class or classes of importers who shall pay the duty electronically.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 119 of the Bill seeks to amend sub-section (2) of section 75A of the Customs Act so as to substitute the reference to "section 28AB" with "section 28AA", with retrospective effect from the 8th day of April, 2011.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 120 of the Bill seeks to substitute sub-sections (3) and (4) of section 104 of the Customs Act with new sub-sections (3) to (6).

Sub-section (3) of the aforesaid section provides that where an officer of customs has arrested any person under sub-section (1), for any offence (other than an offence punishable for a term of imprisonment of three years or more under section 135), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has, and is subject to, under the Code of Criminal Procedure, 1973.

Sub-section (4) thereof seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act (except an offence punishable for a term of imprisonment of three years or more under section 135) shall be bailable.

Sub-section (5) thereof seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act except an offence punishable for a term of imprisonment of three years or more under section 135 shall be non-cognizable.

Sub-section (6) thereof seeks to provide that offence punishable for a term of imprisonment of three years or more under section 135 shall be cognizable.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 121 of the Bill seeks to insert a new section 104A in the Customs Act relating to bail for offence punishable for a term of imprisonment of three years or more under section 135 not to be granted without hearing Public Prosecutor.

Sub-section (1) of aforesaid section seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable for a term of imprisonment of three years or more under section 135 shall be released on bail or on his own bond unless –

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the Public Prosecutor opposes the application, the Magistrate is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

It further seeks to insert a proviso so as to provide that a person who is under the age of eighteen years or is a woman or is sick or infirm may be released on bail if the Magistrate so directs.

Sub-section (2) thereof seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer shall, save as otherwise provided under this Act, investigate into an offence under this Act unless specifically authorised by the Central Government by a general or special order, and subject to such conditions as may be specified in the order.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 122 of the Bill seeks to amend clause (b) of section 122 of the Customs Act so as to substitute the words “two lakh” with the words “five lakh” and to amend clause (c) thereof to substitute the words “ten thousand” with the words “fifty thousand”.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 123 of the Bill seeks to substitute a new section for section 138 of the Customs Act to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under this Chapter (other than the offence punishable for a term of imprisonment of three years or more under section 135) may be tried summarily by a Magistrate.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 124 of the Bill seeks to amend clause (a) of section 153 of the Customs Act so as to substitute the words “to the person for whom it is intended or to his agent” with the words “or by such courier services as may be approved by the Commissioner of Customs”.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 125 of the Bill seeks to exempt the item specified in column (1) of the Second Schedule from the whole of additional duty of customs with retrospective effect from the 1st day of March, 2011 up to the 16th day of March, 2012.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Customs Tariff

Clause 126 of the Bill seeks to amend section 8C of the Customs Tariff Act, so as to align the provisions of the section with the Transitional Product Specific Safeguard Mechanism under Chinese Accession Protocol.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 127 of the Bill seeks to amend the First Schedule to the Customs Tariff Act in the manner specified in the Third Schedule so as to,—

- (a) align the classification of certain entries with that of revised ISRI code of classification;
- (b) incorporate changes in description of certain tariff items;
- (c) revise the rate of customs duty on certain tariff items; and
- (d) insert a Chapter Note relating to classification of certain tariff items.

Clause 128 of the Bill seeks to amend the Second Schedule to the Customs Tariff Act so as to increase the rate of export duty on chromium ore and concentrates of all sorts from the existing Rs.3000 per tonne to 30% *ad valorem* as specified in the Fourth Schedule.

Excise

Clause 129 of the Bill seeks to amend clause (i) of the *Explanation* to clause (b) of sub-section (3) of section 4 of the Central Excise Act, so as to incorporate the definition of the expression “inter-connected undertakings” on the lines of the Monopolies and Restrictive Trade Practices Act, 1969, in view of its repeal by section 66 of Act 12 of 2003.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 130 of the Bill seeks to amend section 9 of the Central Excise Act so as to substitute the words “one lakh” with the words “thirty lakh”.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 131 of the Bill seeks to amend section 9A of the Central Excise Act so as to substitute sub-section (1) thereof to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under that Act except an offence punishable for a term of imprisonment of three years or more under section 9 shall be non-cognizable.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 132 of the Bill seeks to amend sub-section (5) of section 11A of the Central Excise Act, so as to substitute certain words therein. It further seeks to substitute sub-section (8) of said section 11A so as to provide for exclusion of the period of stay granted by court or tribunal in respect of service of notice in computing the period referred to in clause (a) of sub-section (1) or sub-section (4) or sub-section (5).

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 133 of the Bill seeks to amend clauses (a) and (b) of sub-section (1) of section 11AC of the Central Excise Act so as to insert certain words therein. It further seeks to amend clause (c) of said sub-section (1) so as to provide that the benefit of reduced penalty shall be available only if such amount of penalty is paid within the said period of thirty days.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 134 of the Bill seeks to amend section 12F of the Central Excise Act so as to substitute sub-section (2) thereof to provide that the provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the words “Commissioner of Central Excise” were substituted.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 135 of the Bill seeks to substitute new sections 13 and 13A for section 13 of the Central Excise Act.

The proposed section 13 seeks to provide for power to arrest.

Sub-section (1) of aforesaid section seeks to provide that if an officer of Central Excise empowered in this behalf by general or special order of the Commissioner of Central Excise has reason to believe that any person has committed an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

Sub-section (2) of aforesaid section seeks to provide that every person arrested under sub-section (1) for an offence shall, without unnecessary delay, be taken to a Magistrate.

Sub-section (3) of aforesaid section seeks to provide that where an officer of Central Excise has arrested any person under sub-section (1), for any offence (other than an offence punishable for a term of imprisonment of three years or more under section 9), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police-station has, and is, subject to, under the Code of Criminal Procedure, 1973.

Sub-section (4) of aforesaid section seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, (except an offence punishable for a term of imprisonment of three years or more under section 9) shall be bailable.

Sub-section (5) of aforesaid section seeks to provide that offences punishable for a term of imprisonment of three years or more under section 9 shall be cognizable.

The proposed new section 13A seeks to provide that bail for offence punishable for a term of imprisonment of three years or more under section 9 shall not be granted without hearing Public Prosecutor.

Sub-section (1) of the proposed section seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable for a term of imprisonment of three years or more under section 9 shall be released on bail or on his own bond unless –

(i) the public prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the public prosecutor opposes the application, the Magistrate is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

It further seeks to insert a proviso to provide that a person who is under the age of eighteen years or is a woman or is sick or infirm may be released on bail if the Magistrate so directs.

Sub-section (2) thereof seeks to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer shall, save as otherwise provided under this Act, investigate into an offence under this Act unless specifically authorised by the Central Government by a general or special order, and subject to such conditions as may be specified in the order.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 136 of the Bill seeks to substitute a new section for section 18 of the Central Excise Act so as to provide that all searches under this Act or the rules made thereunder and all arrests under this Act shall, save as otherwise provided under this Act, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating respectively to searches and arrests under that Code.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 137 of the Bill seeks to omit section 19 of the Central Excise Act relating to disposal of persons arrested.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 138 of the Bill seeks to amend section 20 of the Central Excise Act so as to omit the words and figures “under section 19”. It further seeks to insert the words “in accordance with the provisions of this Act” after the words “such Magistrate”.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 139 of the Bill seeks to amend the notification issued under sub-section (1) of section 5A of the Central Excise Act bearing number G.S.R.62 (E), dated the 6th February, 2010 in the manner specified in the Fifth Schedule so as to provide that the period of exemption of ten years for units undertaking substantial expansion under the said notification shall be computed from the date of commencement of commercial production from the expanded capacity.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 140 of the Bill seeks to amend the Third Schedule to the Central Excise Act in the manner specified in the Sixth Schedule so as to insert S.No. 26A relating to tariff items 2402 20 10 to 2402 20 90 with a view to provide that these items shall be covered under sub-clause (iii) of clause (f) of section 2 relating to deemed manufacture.

Central Excise Tariff

Clause 141 of the Bill seeks to amend the First Schedule to the Central Excise Tariff Act in the manner specified in the Seventh Schedule so as to,—

(a) align the classification of certain entries with that of revised ISRI code of classification;

(b) incorporate changes in description of certain tariff items;

(c) revise tariff rates in respect of certain tariff items;

(d) insert Chapter Notes relating to classification of certain tariff items and to deem that certain processes shall amount to manufacture.

Clause 142 of the Bill seeks to insert a new Chapter Note 1A in Chapter 54 of the Central Excise Tariff Act so as to provide that notwithstanding anything contained in Note 1, man-made fibre such as polyester staple fibre and polyester filament yarn manufactured from plastic and plastic waste including waste polyethylene terephthalate bottles shall be classified as textile material under Chapter 54 or Chapter 55, as the case may be”, with retrospective effect from the 29th June, 2010.

Sub-clause (2) of the said clause seeks to validate any action taken for the recovery of duty of excise during the period commencing from the 29th June, 2010 and ending with the date on which the Finance Bill, 2012 receives the assent of the President. It further seeks to provide a time limit of one month to pay the duty of excise and in case of failure, interest at the rate of twenty-four per cent. per annum shall be payable along with the duty of excise.

It also seeks to provide that in computing the amount of duty which is recoverable as above, the assessee shall be entitled to take into account the benefit of CENVAT Credit under the CENVAT Credit Rules, 2004, if the same has not been availed by such assessee for reason of such goods being treated as non-excisable or exempted goods.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Service tax

Clause 143 of the Bill seeks to amend Chapter V of the Finance Act, 1994, relating to service tax, with a view to replace the existing system of taxation of services based on specified description of services with a new system of taxation of all services other than the services specified in the negative list, in the following manner—

Sub-clause (A) seeks to insert a proviso in section 65 so as to provide that the provisions of that section shall not apply with effect

from such date as the Central Government may, by notification, appoint.

Sub-clause (B) seeks to insert a new sub-section (3) in section 65A so as to provide that the provisions of that section shall not apply with effect from such date as the Central Government may, by notification, appoint.

Sub-clause (C) seeks to insert a new section 65B with effect from such date as the Central Government may, by notification, appoint so as to define the following expressions—

actionable claim, advertisement, agriculture, agricultural extension, agricultural produce, Agricultural Produce Marketing Committee or Board, aircraft, airport, amusement facility, Appellate Tribunal, approved vocational education course, assessee, associated enterprise, authorised dealer of foreign exchange, betting or gambling, Board, business entity, Central Electricity Authority, Central Transmission Utility, courier agency, customs station, declared service, electricity transmission or distribution utility, entertainment event, goods, goods transport agency, India, information technology software, inland waterway, interest, local authority, metered cab, money, negative list, non-taxable territory, notification, person, port, prescribed, process amounting to manufacture or production of goods, renting, Reserve Bank of India, securities, service, Special Economic Zone, stage carriage, State Electricity Board, State Transmission Utility, support services, tax, taxable service, taxable territory, vessel, works contract.

This amendment shall have effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

Sub-clause (D) seeks to insert a proviso in section 66 so as to provide that the provisions of that section shall not apply with effect from such date as the Central Government may, by notification, appoint.

Sub-clause (E) seeks to insert a new sub-section (3) in section 66A so as to provide that the provisions of that section shall not apply with effect from such date as the Central Government may, by notification, appoint.

Sub-clause (F) seeks to insert new sections 66B, 66C, 66D, 66E and 66F with effect from such date as the Central Government may, by notification, appoint.

Proposed section 66B seeks to levy service tax at the rate of twelve per cent. on the value of services, other than services specified in the negative list, provided or agreed to be provided in the taxable territory by a person to another.

Proposed section 66C seeks to empower the Central Government to make rules to determine the place of provision of service having regard to the nature and description of various services.

Proposed section 66D seeks to specify the following list of services as the negative list:—

(a) services by Government or a local authority excluding the following services to the extent they are not covered elsewhere,—

(i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;

(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;

(iii) transport of goods or passengers; or

(iv) support services, other than services covered under clauses (i) to (iii) above, to business entities;

(b) services by the Reserve Bank of India;

(c) services by a foreign diplomatic mission located in India;

(d) services relating to agriculture by way of:—

(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;

(ii) supply of farm labour;

(iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;

(iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;

(v) loading, unloading, packing, storage or warehousing of agricultural produce;

(vi) agricultural extension services;

(vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;

(e) trading of goods;

(f) any process amounting to manufacture or production of goods;

(g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television;

(h) service by way of access to a road or a bridge on payment of toll charges;

(i) betting, gambling or lottery;

(j) admission to entertainment events or access to amusement facilities;

(k) transmission or distribution of electricity by an electricity transmission or distribution utility;

(l) services by way of—

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by law;

(iii) education as a part of an approved vocational education course;

(m) services by way of renting of residential dwelling for use as residence;

(n) services by way of:—

(i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;

(ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange to deal in foreign exchange or foreign securities or amongst banks and such dealers;

(o) service of transportation of passengers, with or without accompanied belongings, by—

- (i) a stage carriage;
- (ii) railways in a class other than—
 - (A) first class; or
 - (B) an air-conditioned coach;
- (iii) metro, monorail or tramway;
- (iv) inland waterways;
- (v) public transport, other than predominantly for tourism purpose, in a vessel of less than fifteen tonne net; and
- (vi) metered cabs, radio taxis or auto rickshaws;
- (p) services by way of transportation of goods—
 - (i) by road except the services of—
 - (A) a goods transportation agency; or
 - (B) a courier agency;
 - (ii) by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or
 - (iii) by inland waterways;
- (q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

Proposed section 66E seeks to declare the following activities as declared services which shall constitute services for the purpose of Chapter V of the Finance Act, 1994:—

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of certificate of completion by the competent authority and to define “competent authority” and “construction” by way of explanations.
- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- (f) transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
- (g) activities in relation to delivery of goods on hire purchase or any system of payment by instalments;
- (h) service portion in the execution of a works contract;
- (i) service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity;

Proposed section 66F seeks to provide for principles of interpretation of specified descriptions of services or bundled services.

Sub-clause (G) seeks to amend section 67, so as to omit clause (b) of the *Explanation* thereto.

The amendments made by sub-clauses (A), (B), (C), (D), (E), (F) and (G) will come into force from a date to be notified by the Central Government.

Sub-clause (H) proposes to insert new section 67A, with a view to provide for date of determination of rate of tax, value of taxable service and rate of exchange.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (I) seeks to amend section 68 with a view to insert a proviso in sub-section (2), for the purpose of empowering the Central Government to notify the services and the extent of service tax payable.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (J) seeks to insert new section 72A with a view to provide for a special audit to be carried out by a chartered accountant or cost accountant nominated by the Commissioner. The special audit shall be ordered where the service tax assessee has failed to declare or determine the value of taxable service or has availed and utilised credit of duty or tax beyond the normal limit or by means of, collusion or wilful mis-statement or he is having operations spread out in multiple locations. It is further proposed to provide that the chartered accountant or as the case may be, the cost accountant shall submit a report to the Commissioner on completion of the audit and such audit may be ordered even though such accounts had been audited under any other law for the time being in force. Before initiating proceedings on the basis of the report, a reasonable opportunity of being heard shall be given to the service tax assessee so audited.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (K) seeks to amend section 73, with a view to increase the period of issue of notice from one year to eighteen months. It is further proposed to insert sub-section (1A) with a view to provide that where a notice or notices have been served under sub-section (1), service of a statement of details of service tax not levied, or not paid or short levied or short paid or erroneously refunded, on the person chargeable with service tax, shall be deemed to be service of notice on such person if the grounds relied upon are the same.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (L) seeks to amend section 80 with a view to provide for penalty waiver on the service tax payable on service of renting of immovable property as on the 6th day of March, 2012, subject to the condition that the service tax and interest are paid in full within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (M) seeks to amend section 83 with a view to make certain provisions of the Central Excise Act applicable to the service tax.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (N) seeks to amend section 85 to provide for the period of limitation for filing appeal before the Commissioner (Appeals) as two months extendable by one month from the date of receipt of decision or order of the adjudicating authority. The period of limitation extended by this sub-clause shall be applicable for all decisions or orders passed by the adjudicating authority on or after the date on which the Finance Bill, 2012 receives the assent of the President.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (O) seeks to amend section 86 with a view to provide for the period of limitation for filing appeal before the Tribunal as four months from the date of receipt of order by the Committee of Chief Commissioners or Committee of Commissioners. The period

of limitation extended by this sub-clause shall be applicable for all decisions or orders passed after the date on which the Finance Bill, 2012 receives the assent of the President.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (P) seeks to amend section 88 to substitute the word 'duty' with the word 'tax'.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (Q) seeks to amend section 89, with a view to make evasion of payment of service tax knowingly committed, a punishable offence.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (R) seeks to amend section 93A, so as to provide for rebate of service tax on taxable services used for export of goods, after the stage of manufacture, processing or removal.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (S) seeks to insert a new section 93B in the Finance Act, 1994 with a view to provide that all the rules made under section 94 and applicable to taxable services shall also be applicable to services other than taxable services in so far as they are relevant to the determination of any tax liability, refund, credit of service tax or duties paid on inputs and input services or for carrying out the provisions of Chapter V of the Finance Act, 1994.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (T) seeks to amend sub-section (2) of section 94, to omit clause (ee), to amend clause (hhh) and to insert new clauses (i) and (j) relating to power to make rules.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (U) seeks to amend section 95 of the said Act, so as to empower the Central Government to issue orders for removal of difficulty in case of certain provisions inserted by the proposed legislation in this Chapter, up to two years from the date of enactment of the Finance Bill, 2012.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (V) seeks to amend sub-section (2) of section 96C so as to substitute clause (e) thereof to provide for admissibility of credit of duty or tax in terms of rules made in this regard.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Sub-clause (W) seeks to insert section 97 and 98, with a view to extend service tax exemption retrospectively for repair of roads and non-commercial Government buildings for the period specified in the respective sections.

These amendments will take effect from the date on which this Bill receives the assent of the President.

Clause 144 of the Bill seeks to give retrospective effect to sub-rule (6A) of rule 6, inserted *vide* the notification of the Government of India number G.S.R. 134(E), dated the 1st March, 2011, in the CENVAT Credit Rules, 2004, from the 10th day of February, 2006 in the manner specified in the Eighth Schedule.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 145 of the Bill, seeks to give retrospective effect to the notification of the Government of India number G.S.R. 566(E), dated the 25th July, 2011, from the 16th day of June, 2005, so as to allow the service tax exemption to a club or association service provided by a club or association, including cooperative societies, in relation to the project, under the said notification. The notification explains the expression "project" to mean common facility set up for treatment of effluents and solid wastes, with the Central Government's or State Government's financial assistance.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Fiscal Responsibility and Budget Management

Chapter VI (containing clauses 146-150) provides for amendments in the Fiscal Responsibility and Budget Management Act, 2003. Clause 146 seeks to amend section 2 of the aforesaid Act so as to insert the new clauses (aa) and (bb) defining the expressions of "effective revenue deficit" and "grants for creation of capital assets". Clause 147 seeks to amend section 3 of the aforesaid Act relating to fiscal policy statements to be laid before Parliament. It is proposed to amend sub-section (1) of the said section so as to insert a new clause (d) relating to the Medium-term Expenditure Framework Statement which is also a statement of fiscal policy in addition to the statements of the fiscal policy specified therein. It further seeks to insert new sub-sections (1A) and (1B) in the aforesaid section so as to provide that the statements referred to in clauses (a) to (c) of sub-section (1) shall be followed up with the Medium-term Expenditure Framework Statement with detailed analysis of underlying assumptions. The proposed new sub-section (1B) provides that the Central Government shall lay the Medium-term Expenditure Framework Statement referred to in clause (d) of sub-section (1) before both Houses of Parliament, immediately following the Session of Parliament in which the policy statements referred to in clauses (a) to (c) were laid under sub-section (1). It also seeks to insert a new sub-section (6A) in the aforesaid section so as to provide that (a) the Medium-term Expenditure Framework Statement shall set forth a three-year rolling target for prescribed expenditure indicators with specification of underlying assumptions and risk involved; (b) the Medium-term Expenditure Framework Statement shall, *inter alia*, contain the expenditure commitment of major policy changes involving new service, new instruments of service, new schemes and programmes; the explicit contingent liabilities, which are in the form of stipulated annuity payments over a multi-year time-frame; and the detailed breakup of grants for creation of capital assets. It also seeks to amend sub-section (7) of the aforesaid section so as to include the "Medium-term Expenditure Framework Statement" in the said sub-section for the purpose of prescribing the form with respect to the said Statement.

Clause 148 seeks to amend section 4 of the aforesaid Act relating to fiscal management principles. The existing provisions of sub-section (1) of the aforesaid section provide that the Central Government shall take appropriate measures to reduce the fiscal deficit and revenue deficit so as to eliminate revenue deficit by the 31st March, 2009 and thereafter build up adequate revenue surplus. Sub-section (2), *inter alia*, provides that the Central Government shall, by rules made by it, specify the annual targets for reduction of fiscal deficit and revenue deficit during the period beginning with the commencement of this Act and ending on 31st March, 2009. It is proposed to amend the aforesaid sub-section (1) so as to provide that the Central Government shall take appropriate measures to reduce the fiscal deficit, revenue deficit and effective revenue deficit to eliminate the effective revenue deficit by the 31st March, 2015 and thereafter build up adequate effective revenue surplus and also to reach revenue deficit of not more than two per cent. of Gross Domestic Product by the 31st

March, 2015 and thereafter as may be prescribed by rules made by the Central Government. It further seeks to amend the aforesaid sub-section (2) so as to include therein the expression "effective revenue deficit" and enhance the existing time period from 31st March, 2009 to 31st March, 2015.

Clause 149 seeks to insert a new section 7A in the aforesaid Act relating to laying of review report before Parliament. It provides that the Central Government may entrust the Comptroller and Auditor-General of India to review periodically as required, the compliance of the provisions of this Act and such reviews shall be laid on the table of both Houses of Parliament.

Clause 150 seeks to amend sub-section (2) of section 8 of the aforesaid Act relating to power to make rules. It proposes to make certain amendments which are consequential in nature.

This clause will take effect from the date on which this Bill receives the assent of the President.

Miscellaneous

Clause 151 of the Bill seeks to amend the Schedule to the Oil Industry (Development) Act, 1974 so as to increase the rate of cess levied on crude oil.

Clause 152 of the Bill seeks to amend the Seventh Schedule to the Finance Act, 2001 so as to make certain amendments as specified in the Ninth Schedule.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 153 of the Bill seeks to amend section 98 of the Finance (No. 2) Act, 2004 relating to charge of securities transaction tax. It is proposed to amend the Table below the said section which specifies the rates at which the securities transaction tax shall be charged. It is proposed to reduce the rates of securities transaction tax from 0.125 per cent. to 0.1 per cent. in respect of the taxable

securities transactions of the equity shares or units of equity oriented fund of the nature referred to in column (2) of the said Table against serial numbers 1 and 2 thereof. This amendment will take effect from 1st July, 2012.

Clause 154 of the Bill seeks to amend the Seventh Schedule to the Finance Act, 2005 so as to make certain amendments as specified in the Tenth Schedule.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 155 of the Bill seeks to amend section 73 of the Finance Act, 2010 with a view to substitute the word "inputs" with the words "inputs or input services" with retrospective effect from the 8th day of May, 2010.

This amendment will take effect from the date on which this Bill receives the assent of the President.

Clause 156 of the Bill seeks to amend the Finance Act, 2011 so as to provide for a deeming clause that with effect from the date of coming into force of the Finance Act, 2011, clause (b) of section 73 under the heading "Central Excise Tariff" shall be deemed to have been inserted as section 70A under the heading "Excise". It further seeks to amend the Twelfth Schedule to the said Finance Act so as to substitute brackets, words, figures and letter "[See section 73(b)]

In the Third Schedule to the Central Excise Tariff Act" with the words "[see section 70A],

In the Third Schedule to the Central Excise Act".

This amendment will take effect from the date on which this Bill receives the assent of the President.