Profits tax income salary house property business profession other sources savings investments deductions exemptions limits inflation capital gains shares interest government finance act regulations

INCOME TAX | FINANCE BILL'2014

R.K. MAHAJAN *(ADVOCATE)*
ABHISHEK MAHAJAN *(C.A.)*

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We hope that our handbook shall be useful and shall serve as a handy professional tool.
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Kindly reach us at
E-mail *desk.caabhishekmahajan@gmail.com*
Phone *+91-97967-55555, +91-9419191336*
Address *111-North Block A1, Bahu Plaza, Jammu (J&K)-180014.*

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Warm regards,
RK MAHAJAN *(Advocate)*
ABHISHEK MAHAJAN *(CA)*

SLAB RATES

I. Rates of income-tax in respect of income liable to tax for the assessment year 2014-2015.

(a) In case of every Individual [other than those covered in part (b) or (c) below] or Hindu Undivided Family or AOP/BOI (other than a co-operative society) whether incorporated or not, or every artificial judicial person.

Upto Rs 2,50,000	Nil
2,50,001 to Rs 5,00,000	10%
Rs 5,00,001 to Rs 10,00,000	20%
Above Rs 10,00,000	30%

(b) In case of every individual, being a resident in India, who is of the age of 60 years or more but less than 80 years at any time during the previous year.

Upto Rs 3,00,000	Nil
Rs 3,00,001 to Rs 5,00,000	10%
Rs 5,00,001 to Rs 10,00,000	20%
Above Rs 10,00,000	30%

(c) In 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.

Upto Rs 5,00,000	Nil
Rs 5,00,001 to Rs10,00,000	20%
Above Rs 10,00,000	30%

There is no change in surcharge for income exceeding Rs. 1 crore (10 per cent) and education cess (3 per cent), and marginal relief shall continue to be allowed.

CHARITABLE/ RELIGIOUS TUSTS AND INSTITUTIONS

Section 11
Under section 11 of the Income-tax Act, after sub-section (*5*), the following sub-sections shall be inserted with effect from the 1st day of April, 2015, namely:—
"(*6*) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of

depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(*7*) Where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) of section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (*1*) and clause (*23C*) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year."

Section 12A

Under section 12A of the Income-tax Act, in sub-section (*2*), the following provisos shall be inserted with effect from the 1st day of October, 2014, namely:—

"Provided that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA."

Section 12AA

Under section 12AA of the Income-tax Act, after sub-section (*3*), the following sub-section shall be inserted with effect from the 1st day of October, 2014, namely:—

"(*4*) Without prejudice to the provisions of sub-section (*3*), where a trust or an institution has been granted registration under clause (*b*) of sub-section (*1*) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (*1*) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner."

INCOME FROM HOUSE PROPERTY

Section 24:

The interest on loan deduction in respect of the self occupied house property as stipulated in the clause (b) in the second proviso of the section 24 shall be read as "two lakh rupees" instead of "one lakh fifty thousand rupees".

PROFITS AND GAINS FROM BUSINESS AND PROFESSION

Section 32AC:

The following sub-sections are inserted:

(1A): Where an assessee, being a **compan**y, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets acquired and installed during any previous year exceeds **twenty-five crore** rupees, then, there shall be allowed a deduction of a sum equal to *fifteen per cent* of the actual cost of such new assets for the assessment year relevant to that previous year:

Provided that no deduction under this sub-section shall be allowed for the assessment year commencing on the 1st day of April, 2015 to the assessee, which is eligible to claim deduction under sub-section (*1*) for the said assessment year.

(*1B*): No deduction under sub-section (*1A*) shall be allowed for any assessment year commencing on or after the 1st day of April, 2018.";

(*ii*) in sub-section (*2*), after the words, brackets and figure "allowed under sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted.

Section 35AD:

-Under sub-section (*3*), after the words "no deduction shall be allowed under the provisions of", the words "section 10AA and" shall be inserted.

-The following have been newly inserted as the "***Specified Business":***

1. laying and operating a slurry pipeline for the transportation of iron ore.
2. setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed;

-The following new sub-sections are inserted:

(*7A*) Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of *eight years* beginning with the previous year in which such asset is acquired or constructed.

(*7B*) Where any asset, in respect of which a deduction is claimed and allowed under this section, is used for a *purpose other than the specified business* during the period specified in sub-section (*7A*), otherwise than by way of a mode referred to in clause (*vii*) of section 28, the total amount of deduction so claimed and allowed in one or more previous years, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

(*7C*) Nothing contained in sub-section (*7B*) shall apply to a company which has become a sick industrial company under sub-section (*1*) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985, during the period specified in sub-section (*7A*).

Section 37:

The newly inserted explanation clarifies that "any expenditure incurred by an assessee on the activities relating to *corporate social responsibility* referred to in section 135 of the Companies Act, 2013 shall **not** be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession."

Section 40:

-Where earlier, any interest, royalty, fees for technical services or other sum chargeable under this Act, payable *outside India or in India to a non-resident*, not being a company or to a foreign company, was disallowed under the head "Profits and gain from business and profession" if the TDS was not deducted thereon or deducted but not paid during the previous year or in the subsequent year before the time limit contained Section 200(1); Now, the time expiry limits are substituted with the words ***"on or before the due dates specified Section 139(1)"*** instead of the former.

Consequently, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (*1*) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid."

-Also, where earlier: any interest, commission or brokerage, [rent, royalty,] fees for professional services or fees for technical services payable to a **resident**, or amounts payable to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work), on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified Section 139(1) was **Completely disallowed** under the head "Profits and gain from business and profession"; Now after the amendment it reads as follows:

"**thirty per cent** of **any** sum payable to a resident on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid on or before the due date specified Section 139(1)" shall be disallowed under the head "Profits and gain from business and profession"

Consequently in the first proviso, after the words, brackets and figures "sub-section (*1*) of section 139," the words "*thirty per cent of*" shall be inserted.

Section 43:

In section 43 of the Income-tax Act, in clause (*5*), in the proviso, in clause (*e*), for the words "recognised association", the words and figures "recognised association, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013" shall be substituted.

Section 44AE:

Presumptive taxation for assessee who is engaged in the business of plying, hiring or leasing goods carriages and not owning more than ten goods carriages at any time during the previous year has been amended.

for sub-section (*2*), the following sub-section shall be substituted, namely:—
"(*2*) For the purpose of sub-section (*1*), the profits and gains from each goods carriage shall be an amount equal to **seven thousand five hundred rupees** for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from the vehicle, whichever is higher."
The expression "goods carriage" shall have the meaning assigned to it in section 2 of the Motor Vehicles Act, 1988.

CAPITAL GAINS

Section 45:
A new proviso has been added in the sub section 5 dealing with the *Enhanced/Further Compensation* received on the transfer by way of compulsory acquisition under any law of a capital asset. It states that "Provided that any amount of compensation received in pursuance of an interim order of a court,
Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains"
of the previous year in which the **final order** of such court, Tribunal or other authority is made".

Section 47:
This section dealing with "*certain transactions not regarded as transfers*" has the following insertions to it:
(*a*) after clause (*viia*), the following shall be inserted, namely:—
(*viib*) **any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident.**
Explanation.—For the purposes of this clause, "Government Security" shall have the meaning assigned to it in clause (*b*) of section 2 of the Securities Contracts (Regulation) Act, 1956;
(*b*) after clause (*xvi*), the following shall be inserted, namely:—
(*xvii*) **any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.**
Explanation.—For the purposes of this clause, the expression "special purpose vehicle" shall have the meaning assigned to it in the *Explanation* to clause (*23FC*) of section 10.

Section 48:
Under section 48 of the Income-tax Act, in the *Explanation*, in clause (*v*), for the words "Consumer Price Index for urban non-manual employees", the words and brackets "Consumer Price Index (Urban)" shall be substituted with effect from the 1st day of April, 2016. The existing provisions contained in section 48 prescribe the mode of computation of income chargeable under the head "Capital gains". Clause (v) of the Explanation to the said section defines the term "Cost Inflation Index" (CII) which in relation to a previous year means such index as may be notified by the Government having regard to seventy-five percent of average rise in the Consumer Price Index (CPI) for urban non-manual employees (UNME) for the immediately preceding previous year to such previous year.
The release of CPI for UNME has been discontinued. Accordingly, it is proposed to amend the said clause (v) of the Explanation to section 48 to provide that "Cost Inflation Index" in relation to a previous year means such index as may be notified by the Central Government having regard to seventy-five percent of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year.

Section 49:
Under section 49, after sub-section (*2AB*), the following sub-section shall be inserted with effect from the 1st day of April, 2015,—
"(*2AC*) Where the capital asset, being a unit of a **business trust**, became the property of the assessee in consideration of a transfer as referred to in clause (*xvii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause."

Section 51:
It is proposed to tax any sum of money received as an advance in the course of negotiation for transfer of a capital asset, if such money is forfeited and the negotiations do not result in transfer of capital asset. The amount will be taxed under the head **'Income from other sources'**. Under the existing provisions, such amount shall be reduced from the cost of acquisition of the asset while determining capital gains.

Section 54/ 54F:
As per the existing provisions, long-term capital gain arising from transfer of a capital asset is exempt under Section 54/54F if invested in purchase of a house property, subject to certain conditions. It has now been clarified that the investment should be made in **one residential house property situated in India**.

Section 54EC:
The existing provisions contained in sub-section (1) of section 54EC of the Act provide that where capital gain arises from the transfer of a long-term capital asset and the assessee has, within a period of six months, invested the whole or part of capital gains in the long-term specified asset, the proportionate capital gains so invested in the long-term specified asset, out of the whole of the capital gain, shall not be charged to tax. The proviso to the said sub-section provides that the investment made in the long-term specified asset during any financial year shall not exceed **fifty lakh** rupees.

SET OFF AND CARRY FORWARD OF LOSSES

Section 73:
This section dealing with the set off and carry forward of speculation loss has the following amendment in its *Explanation:*
For the words "the principal business of which is the business of banking", the words "the principal business of which is the business of trading in shares or banking" shall be substituted with effect from the 1st day of April, 2015.

DEDUCTIONS

-The deduction limit under Section 80C, 80CCC and sub section (1) of Section 80CCD from the existing limit of Rs. 1 lakh has been raised to **Rs.1.5 lakh**. Also, to address the concerns of decline in savings rate and to increase tax exempt earnings, the annual ceiling limit under the PPF scheme is proposed to be enhanced to Rs. 1.5 lakh per annum from Rs. 1 lakh*. (In view of the same, consequential amendments are proposed in sections 80CCE and 80CCD of the Act).*

Section 80CCD:
Under the existing provisions contained in sub-section (1) of section 80CCD of the Act, if an individual, employed by the Central Government or any other employer on or after 1st January, 2004, has paid or deposited any amount in a previous year in his account under a notified pension scheme, a deduction of such amount not exceeding ten per cent. of his salary is allowed.
Similarly, the contribution made by the Central Government or any other employer to the said account of the individual under the pension scheme is also allowed as deduction under sub-section (2) of section 80CCD, to the extent it does not exceed ten per cent. of the salary of the individual in the previous year.
Considering the fact that for employees in the private sector, the date of joining the service is not relevant for joining the New Pension Scheme (NPS), it is proposed to amend the provisions of section 80CCD to provide that the condition of the date of joining he service on or after 1.1.2004 is not applicable to them for the purposes of deduction under the said section, hereby, **extending the tax benefits under section 80CCD to private sector employees.**

Section 80IA:
The 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 the 1st day of April, 1993 and ending on the 31st day of March 2014.
(*b*) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on the 1st day of April, 1999 and ending 31st day of March 2014. Provided that the deduction under this section to an [undertaking] under sub-clause (*b*) shall be allowed only in relation to the profits derived from laying of such network of new lines for transmission or distribution;
(*c*) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on 31st day of March 2014.
For the words, figures and letters "the 31st day of March, 2014", the words, figures and letters "**the 31st day of March, 2017**" shall respectively be substituted.

TRANSFER PRICING

Section 92B:
The existing provisions of section 92B provide for the meaning of "international transaction" for the purposes of applicability of transfer pricing regime. Sub-section (1) defines "International transaction". Sub-section (2) of the said section provides for deeming of a transaction between an enterprise and unrelated third party as

a transaction between two associated enterprises subject to the condition that there exists a prior agreement in relation to the relevant transaction between the third party and associated enterprise or the terms of the relevant transaction are determined in substance between such third party and the associated enterprise. It is proposed to amend the said sub-section (2) so as to provide that the relevant transaction shall be deemed to be an international transaction, where the enterprise or the associated enterprise or both of them are non-residents irrespective of whether such other person is a non-resident or not.

Section 92CC:
Section 92CC of the Act provides for Advance Pricing Agreement (APA). It empowers the Central Board of Direct Taxes, with the approval of the Central Government, to enter into an APA with any person for determining the Arm's Length Price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction which is to be entered into by the person. The agreement entered into is valid for a period, not exceeding 5 previous years, as may be mentioned in the agreement. Once the agreement is entered into, the ALP of the international transaction, which is subject matter of the APA, would be determined in accordance with such an APA.
In many countries the APA scheme provides for "*roll back*" mechanism for dealing with ALP issues relating to transactions entered into during the period prior to APA. The "roll back" provisions refers to the applicability of the methodology of determination of ALP, or the ALP, to be applied to the international transactions which had already been entered into in a period prior to the period covered under an APA. However, the "roll back" relief is provided on case to case basis subject to certain conditions. Providing of such a mechanism in Indian legislation would also lead to reduction in large scale litigation which is currently pending or may arise in future in respect of the transfer pricing matters. Therefore, it is proposed to amend the Act to provide roll back mechanism in the APA scheme. The APA may, subject to such prescribed conditions, procedure and manner, provide for determining the arm's length price or for specifying the manner in which arm's length price is to be determined in relation to an international transaction entered into by a person during any period not exceeding four previous years preceding the first of the previous years for which the advance pricing agreement applies in respect of the international transaction to be undertaken in future.
This amendment will take effect from 1st October, 2014**.**

RATE OF TAX

Section 111A:
Concessional rate of tax shall apply to the transfer of a unit of a business trust as they apply in case of a unit of an equity oriented fund. It is further proposed that the provisions of this sub-section shall not apply in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in consideration of a transfer referred to in clause (xvii) of section 47.

Section 112:
The existing provisions contained in section 112 provide for tax payable in the case of income arising from the transfer of a long-term capital asset. The proviso to sub-section (1) provides that where the tax payable in respect of any income arising from transfer of a long-term capital asset, being listed securities or unit or zero coupon bond exceeds ten per cent. of the amount of capital gains without indexation adjustment, such excess shall be ignored.
It is proposed to amend the aforesaid proviso so as to provide that where the tax payable in respect of any income arising from transfer of a long-term capital asset being listed securities *(other than a unit)* or zero coupon bond exceeds ten per cent. of the amount of capital gains without indexation adjustment, such excess shall be ignored.

Section 115A:
It is proposed to amend clause (a) of sub-section (1) of section 115A to insert a new sub-clause (iiac) so as to provide that where the total income of a non-resident (not being a company) or a foreign company includes distributed income being interest referred to in sub-section (2) of section194LBA such income shall be taxable at the rate of five per cent. Consequential amendments in item (BA) and item (D) of clause (a) of sub-section (1) of section 115A are made.

Section 115BBC:
The existing provisions of section 115BBC of the Income-tax Act provide for computation of income-tax payable by an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (iiiad) or sub-clause (vi) or any hospital; or other institution referred to in sub-clause (iiiae) or sub-clause (via) or any fund or institution referred to in sub-clause (v) of clause (23C) of section 10 or any trust or institution referred to in section 11, where such income includes any income by way of anonymous donation.

It is proposed to amend clause (ii) of the said section to provide that the income-tax payable shall be the aggregate of-
(i) the amount of income-tax calculated at the rate of thirty per cent. on the aggregate of anonymous donations received in excess of the higher of the following, namely:–

(A) five per cent. of the total donations received by the assessee; or

(B) one lakh rupees; and

(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations received in excess of the amount referred to in sub-clause (A) or sub-clause (B) of clause (i), as the case may be.

Section 115BBD:
It is proposed to amend section 115BBD to provide that the provisions of taxation of foreign dividends shall continue to apply to foreign dividends received during the financial year 2014-15 and subsequent years.

Section 115JC:
The existing provisions of section 115JC provide that the total income shall be increased by deductions claimed under Part C of Chapter VI-A and deductions claimed under section 10AA to arrive at adjusted total income.
It is proposed to insert a new clause (iii) in sub-section (2) so that the total income shall be increased by the deduction claimed under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 to arrive at adjusted total income.

Section 115JEE:
The existing provisions of sub-section (1) of section 115JEE of the Act provide that the provisions of Chapter-XII BA shall be applicable to any person who has claimed a deduction under part C of Chapter VI-A or claimed a deduction Section 10AA. Further the present provisions of sub-section (2) of section 115JEE provide that the Chapter shall not be applicable to an individual or an HUF or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person if the adjusted total income does not exceed twenty lakh rupees. This has created difficulty in claim of credit of alternate minimum tax under section 115JD in an assessment year where the income is not more than twenty lakh rupees or there is no claim of any deduction under section 10AA or Chapter VI-A. With a view to enable an assessee who has paid alternate minimum tax in any earlier previous year to claim credit of the same, in any subsequent year, it is proposed to amend this section so as to provide that the credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD, notwithstanding the conditions mentioned in sub-section(1) or (2) of section 115JEE.
This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

Section 115-O/ 115R:
Section 115-O of the Act provides that a domestic company shall be liable for payment of additional tax at the rate of 15 percent. on any amount declared, distributed or paid by way of dividends to its shareholders. This tax on distributed profits is final tax in respect of the amount declared, distributed or paid as dividends and no credit in respect of it can be claimed by the company or the shareholder.

Section 115 R of the Act similarly provides for levy of additional income-tax in respect of income distributed by the mutual funds to its investors at the rates provided.

Prior to introduction of dividend distribution tax (DDT), the dividends were taxable in the hands of the shareholder. The gross amount of dividend representing the distributable surplus was taxable, and the tax on this amount was paid by the shareholder at the applicable rate which varied from 0 to 30%. However, after the introduction of the DDT, a lower rate of 15% is currently applicable but this rate is being applied on the amount paid as dividend after reduction of distribution tax by the company.

Therefore, the tax is computed with reference to the net amount. Similar case is there when income is distributed by mutual funds.

Due to difference in the base of the income distributed or the dividend on which the distribution tax is calculated, the effective tax rate is lower than the rate provided in the respective sections.

In order to ensure that tax is levied on proper base, the amount of distributable income and the dividends which are actually received by the unit holder of mutual fund or shareholders of the domestic company need to be grossed up for the purpose of computing the additional tax.

Therefore, it is proposed to amend section 115-O in order to provide that for the purposes of determining the tax on distributed profits payable in accordance with the section 115-O, any amount by way of dividends referred to in sub-section (1) of the said section, as reduced by the amount referred to in sub-section (1A) [referred to as net distributed profits], shall be increased to such amount as would, after reduction of the tax on such increased amount at the rate specified in sub-section (1), be equal to the net distributed profits.
Thus, where the amount of dividend paid or distributed by a company is Rs. 85, then DDT under the amended provision would be calculated as follows:

Dividend amount distributed = Rs. 85
Increase by Rs. 15 [i.e. (85*0.15)/(1-0.15)]
Increased amount = Rs. 100
DDT @ 15% of Rs. 100 = Rs. 15
Tax payable Section 115-O is Rs. 15
Dividend distributed to shareholders = Rs. 85

Similarly, it is proposed to amend section 115R to provide that for the purposes of determining the additional income-tax payable in accordance with sub-section (2) of the said section, the amount of distributed income shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified in sub-section (2), be equal to the amount of income distributed by the Mutual Fund.

These amendments will take effect from 1st October, 2014.

Section 115TA:
The existing provisions contained in sub-section (3) of section 115TA provides that the person responsible for making payment of the income distributed by the securitisation trust shall, on or before the 15th September in each year, furnish to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving the details of the amount of income distributed to investors during the previous year, the tax paid thereon and such other relevant details as may be prescribed.
In the case of the Mutual Funds and securitisation trusts the requirement of filing of statements before an income-tax authority is proposed to be dispensed with by omitting sub-section (3A) of section 115R and sub-section (3) of section 115TA.
These amendments will take effect from 1st April, 2015.

INCOME TAX AUTHORITIES

In view of the creation of new income-tax authorities, it is proposed to amend the aforesaid section 116 of the Act so as to include the newly created income-tax authorities. It is further proposed to insert clauses (34A), (34B), (34C) and (34D) in section 2 of the Act so as to define the terms "**Principal Chief Commissioner of Income-tax", "Principal Commissioner of Income-tax", "Principal Director General of Income-tax" and "Principal Director of Income-tax"** to mean a person appointed to be an income-tax authority under section 117 of the Act. It is also proposed to make consequential amendments in clauses (15A), (16) and (21) of section 2 of the Act and in other sections of the Act.
These amendments will take effect *retrospectively* from 1st June, 2013.

SURVEY

The existing provision contained in section 133A empowers the income-tax authority to enter a premises in which business or profession is carried out for the purposes of survey.
It is proposed to amend section 133A so as to insert subsection (2A) after sub-section (2) so as to provide that without prejudice to the provisions of sub-section (1), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset, any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,-
(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and
(*ii*) to furnish such information as he may require in relation to such matter.

Under the existing provisions of clause (b) of the proviso to clause (ia) of sub-section (3) of the aforesaid section 133A, an income-tax authority acting under the section may retain in his custody any such books of account or other documents only for a period of ten days (exclusive holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.

It is proposed to substitute the aforesaid clause (b) of the proviso to clause (*ia*) in sub-section (*3*) of aforesaid section 133A so as to provide that an income-tax authority under the said section shall not retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General or Principal Commissioner or Commissioner or Principal Director or Director therefor, as the case may be.

It is also proposed to insert a new proviso in sub-section *(3)* so as to provide that no action under clause (ia) or clause (ii) shall be taken by an income-tax authority acting under subsection *(2A).*

These amendments will take effect from 1st October, 2014.

Section 133C:

Bill seeks to insert a new section 133C in the Income-tax Act relating to power to call for information by prescribed income-tax authority. It is proposed to insert a new section 133C so as to provide that for the purposes of verification of information in its possession relating to any person, prescribed income-tax authority, may, issue a notice to such person requiring him, on or before a date to be specified, to furnish information or documents, verified in the manner specified therein which may be useful for, or relevant to, any enquiry or proceeding under this Act.

This amendment will take effect from 1st October, 2014.

RETURN OF INCOME

Section 139:

The existing provisions contained in sub-section (*4C*) of section 139, *inter alia,* provide for filing return of income by certain entities whose income is exempt under section 10 of the Act. It is proposed to amend sub-section (*4C*) of section 139 so as to provide that **Mutual Fund** referred to in clause (*23D*) of section 10 and **securitisation trust** referred to in clause (*23DA*) of section 10 and **Venture Capital Company or Venture Capital Fund** referred to in clause *(23FB)* of section 10 shall, if the total income in respect of which such fund, trust or company is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of the Act, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of the said section 139.

It is also proposed to insert a new sub-section (*4E*) in section 139 so as to provide for filing of return of income by **business trust**.

Section 140:

Section 140 of the Act relates to return by *whom to be signed* and verified. It is proposed to amend section 140 of the Act, so as to dispense with the condition of signing the income-tax return and accordingly to omit the statutory requirement of **signing** such return. With this amendment, only the condition of **verifying** of the income-tax return will apply.

ASSESSMENTS

SECTION 142A:

Under the existing provisions contained in the said section, the Assessing Officer may, for the purpose of making an assessment or reassessment, require the Valuation Officer to make an estimate of the value of any investment, any bullion, jewellery or fair market value of any property. On receipt of the report of the Valuation Officer, the Assessing Officer may after giving the assessee an opportunity of being heard take into account, such report for the purposes of assessment or reassessment.

The amended provisions would provide for the following:

Assessing Officer may, (*whether or not he is satisfied about the correctness or completeness of the accounts of the assessee*) for the purposes of assessment or reassessment, make a reference to a Valuation Officer to estimate the value, including fair market value, of **any asset**, property or investment and submit a copy of report to him. The Valuation Officer, on such reference made shall, for the purpose of estimating the value of the asset, property or investment, have all the powers that he has under section 38A of the Wealth-tax Act. Valuation Officer shall, estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered,

after giving an opportunity of being heard to the assessee. The Valuation Officer may resort to *best Judgement*, if the assessee does not co-operate or comply with his direction.
The Valuation Officer shall send a copy of the report to the Assessing Officer and the assessee, within a period of *six months from the end of the month* in which a reference is made by the Assessing Officer.
The Assessing Officer on receipt of the report from the Valuation Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

Section 145:
The existing provisions contained in sub-section *(2)* of the said section provide that the Central Government may notify in the Official Gazette from time to time, the **accounting standards** to be followed by any class of assessees or in respect of any class of income.
The existing provision of sub-section *(3)* of the said section provides that where the Assessing Officer is not satisfied about the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section *(1)* or accounting standards as notified under sub-section *(2)*, have not been regularly followed by the assessee, the Assessing Officer may make an assessment in the manner provided in section 144 (best judgement).
It is proposed to amend sub-section (2) of section 145 to provide that the Central Government may notify in the Official Gazette from time to **time income computation and disclosure standards** to be followed by any class of assessees or in respect of any class of income.
It is also proposed to amend sub-section (3) of the aforesaid section to provide that where the Assessing Officer is not satisfied with the correctness or completeness of the accounts of the assessee, or where the method of accounting provided in sub-section (1), has not been regularly followed by the assessee, or income has not been computed in accordance with the ***standards*** notified under sub-section (2), the Assessing Officer may make an assessment in the manner provided in section 144.

Section 153 and 153B:
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 contained in *Explanation* 1 to section 153 provide that certain periods specified therein are to be **excluded** while computing the *period of limitation* for the purposes of the said section.
It is proposed to insert a new clause *(iv)* in *Explanation* 1 so as to provide that the period commencing from the date on which the Assessing Officer makes a reference to Valuation Officer under sub-section *(1)* of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer shall be excluded in computing the period of limitation for the purposes of section 153.

A similar amendment has been carried out under section 153B (which sets out the time limit for completion of Assessment under section 153A).

Section 153C:
Section 153C relates to assessment of income of any other person.
The sub-section (1) of the aforesaid section provides that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A***, if, suchAssessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A. (Words in bold-italics added by the Bill)***

DEDUCTION/COLLECTION OF TAX AT SOURCE

Section 194A:
It is proposed to insert a new clause *(xi)* in sub-section *(3)* of section 194A so as to **exempt** from deduction of tax at source, the *interest income payable by special purpose vehicle to a business trust*. This amendment will take effect from 1st October, 2014.

Section 194DA:

The Bill seeks to insert a new section 194DA in the Income-tax Act relating to payment in respect of life insurance policy. Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (10D) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of two per cent. No deduction shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees. This amendment will take effect from 1st October, 2014.

Section 194LBA:
The Bill seeks to insert a new section 194LBA in the Income-tax Act which relates to certain income from business trust. The said new section proposes to provide for deduction of tax at the rate of five per cent. in case of non-resident unit holders and at the rate of ten per cent. in case of resident unit holders of business trust on that portion of distributed income of the trust which is taxable in the hands of unit holder. This amendment will take effect from 1st October, 2014.

Section 194LC:
The existing provisions of section 194LC of the Act provide for lower withholding tax rate of 5 per cent. on interest paid by an Indian company to non-residents on monies borrowed by it in foreign currency from a source outside India under a loan agreement or through issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2015 subject to certain conditions.
In order to further incentivise low cost long-term foreign borrowings by Indian companies, it is proposed to amend section 194LC to extend the benefit of this concessional rate of withholding tax to borrowings by way of issue of any *long-term bond*, and not limited to a long term infrastructure bond.
It is further proposed to extend by two years the period of borrowing for which the said benefit shall be available. The concessional rate of withholding tax will now be available in respect of borrowings made before 1st day of July, 2017.
Section 206AA of the Act provides for levy of higher rate of withholding tax in case the recipient of income does not provide permanent account number to the deductor. An exception from applicability of section 206AA in respect of payment of interest on long-term infrastructure bonds eligible for benefit under section 194LC is currently provided in sub-section (7) of this section.
Consequential amendment is also proposed in section 206AA to ensure that this benefit of exemption is extended to payment of interest on any long-term bond referred to in section 194LC.
These amendments will take effect from 1st October, 2014.

Section 200/ 200A/ 201/ 271H:
Currently, there does not exist any express provision in the Act for enabling a deductor to file correction statement. In order to bring clarity in the matter relating to filing of correction statement, it is proposed to amend section 200 of the Act to allow the deductor to file correction statements. Consequently, it is also proposed to amend provisions of section 200A of the Act for enabling processing of correction statement filed. The existing provisions of section 201(1) of the Act provide for passing of an order deeming a payer as assessee in default if he does not deduct or does not pay or after deduction fails to pay the whole or part of the tax as per the provisions of Chapter XVII-B of the Act. Section 201(3) of the Act provides for time limit for passing of order under section 201(1) of the Act for deeming a payer as assessee in default for failure to deduct tax from payments made to a resident. Clause (i) of section 201(3) of the Act provides that no order under section 201(1) of the Act shall be passed after expiry of two years from the end of the financial year in which the TDS statement has been filed.
Currently, the processing of TDS statement is done in the computerised environment and mainly focuses on the transactions reported in the TDS statement filed by the deductor. Therefore, there is no rationale for not treating the deductor as assessee in default in respect of the TDS default after two years only on the basis that the deductor has filed TDS statement as TDS defaults are generally in respect of the transaction not reported in the TDS statement. It is, therefore, proposed to omit clause (i) of sub-section (3) of section 201 which provides time limit of two years for passing order under section 201(1) of the Act for cases in which TDS statement have been filed.
Currently, clause (ii) of section 201(3) of the Act provides a time limit of six years from the end of the financial year in which payment/credit is made for passing of order under section 201(1) of the Act for cases in which TDS statement has not been filed. However, notice under section 148 of the Act may be issued for reassessment up to 6 years from the end of the assessment year for which the income has escaped assessment. Therefore, section 148 of the Act allows reopening of cases of one more preceding previous year than specified under section 201(3)(ii) of the Act. Due to this, order under section 201(1) of the Act cannot be passed in respect of defaults relating to TDS which comes to the notice during search/reassessment proceeding in respect of previous year which is not covered under section 201(3)(ii) of the Act but covered under section 148 of the Act. In order to align the time limit provided under section

201(3)(ii) and section 148 of the Act, it is proposed that time limit provided under section 201(3)(ii) of the Act for passing order under section 201(1) of the Act shall be extended by *one more year*.
The existing provisions of section 271H of the Act provides for levy of penalty for failure to furnish TDS/TCS statements in certain cases or furnishing of incorrect information in TDS/TCS statements. The existing provisions of section 271H of the Act do not specify the authority which would be competent to levy the penalty under the said section. Therefore, provisions of section 271H are proposed to be amended to provide that the penalty under section 271H of the Act shall be levied by the Assessing officer.
These amendments will take effect from 1st October, 2014.

MISCELLANEOUS

Section 220:
The existing provision contained in sub-section (1) of the aforesaid section provides that any amount specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of notice at the place and to the person mentioned in the notice.
It is proposed to insert a new sub-section in the said section so as to provide that where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then, such demand shall be **deemed to be valid** till the disposal of the appeal by the last appellate authority or disposal of the proceedings, as the case may be, and any such notice of demand shall have the effect as specified in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964.

The first proviso to sub-section *(2)* of the said section provides that where as a result of an order under section 154, or section 155, or section 250, or section 254, or section 260, or section 262, or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

It is proposed to insert *second proviso* in the said section so as to provide that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under this section is increased, the assessee shall be liable to pay interest under sub-section (2) from the day immediately following the end of the period mentioned in the first notice of demand, referred to in sub-section (1) and ending with the day on which the amount is paid.
These amendments will take effect from the 1st October, 2014.

Section 269SS/ 269T:
Section 269SS and 269Tof the Act relating to mode of taking or accepting certain loans and deposits, or their repayment, respectively, have been proposed to be amended to include "use of **electronic clearing system** through a bank account" along with the already existing modes of account payee cheque or account payee bank draft.

PENAL PROVISIONS

The existing provisions of section **271FA** provides for penalty for failure to furnish an annual information return. It is proposed to amend the said section so as to provide for penalty for failure to furnish statement of financial transaction or reportable account. This amendment will take effect from 1st April, 2015.

The Bill seeks to insert a new section **271FAA** in the Income-tax Act to provide for penalty for furnishing inaccurate statement of financial transaction or reportable account. It is proposed to insert a new section 271FAA so as to provide that if a person referred to in clause *(k)* of sub-section *(1)* of section 285BA, who is required to furnish a statement of financial transaction or reportable account, provides inaccurate information in the statement and where *(a)* the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section *(7)* of section 285BA or is deliberate on the part of that person; or *(b)* the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or *(c)* the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA, then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees. This amendment will take effect from 1st April, 2015.

The Bill seeks to amend section **271G** of the Income-tax Act relating to levy of penalty for failure to furnish information or document under section 92D of the Act. Under the existing provisions of section 271G, if any person who has entered into an international transaction or specified domestic transactions fails to furnish any such document or information as required by sub-section (3) of section 92D, then, such person shall be liable to a penalty of a sum equal to two per cent. of the value of international transaction or specified domestic transaction for each failure. The said section provides that the above penalty may be levied by the Assessing Officer or the Commissioner (Appeals). It is proposed to amend section 271G to include Transfer Pricing Officer as referred to in section 92CA, as an authority competent to levy the penalty under the section 271G in addition to the Assessing Officer and the Commissioner (Appeals). This amendment will take effect from 1st October, 2014.

Clause 68 of the Bill seeks to amend section **271H** of the Income-tax Act relating to penalty for failure to furnish statements, etc. The existing provisions contained in sub-section *(1)* of section 271H provide the circumstances in which the person shall be liable to pay penalty. It is proposed to amend sub-section *(1)* of section 271H so as to provide that the penalty levied under section 271H shall be levied by the Assessing Officer. This amendment will take effect from 1st October, 2014.

Clause 69 of the Bill seeks to amend section **276D** of the Income-tax Act which relates to failure to produce accounts and documents. The existing provisions of section 276D provide that if a person wilfully fails to produce accounts and documents as required in any notice issued under sub-section (1) of section 142 or wilfully fails to comply with a direction issued to him under sub-section (2A) of section 142, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both. It is proposed to amend section 276D, so as to provide that if a person wilfully fails to produce accounts and documents as required in any notice issued under sub-section (1) of section 142 or wilfully fails to comply with a direction issued to him under sub-section (2A) of section 142, he shall be punishable with rigorous imprisonment for a term which may extend to one year and with fine. This amendment will take effect from 1st October, 2014.

Clause 70 of the Bill seeks to amend section **281B** of the Income-tax Act relating to provisional attachment to protect revenue in certain cases. The exiting provisions of sub-section *(1)* of the aforesaid section provide that the Assessing Officer, during the pendency of any proceeding for assessment or reassessment, in order to protect the interests of revenue may, with the previous approval of the Chief Commissioner or Commissioner, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule. Sub-section *(2)* of the said section provides that the provisional attachment shall cease to have effect after the expiry of six months provided that the Chief Commissioner or Commissioner may extend the period upto a total period of two years. It is proposed to amend sub-section *(2)* of the said section so as to provide that the provisional attachment shall cease to have effect after the expiry of six months provided that the Chief Commissioner or Commissioner may extend the period up to a total period of two years or sixty days after the date of assessment or reassessment, whichever is later. This amendment will take effect from 1st October, 2014.

Clause 71 of the Bill seeks to substitute section **285BA** of the Income-tax Act relating to obligation to furnish annual information return with a new section. The existing provisions of section 285BA provide for filing of an annual information return by specified persons in respect of specified financial transactions which is registered or recorded by them and which is relevant and required for the purposes of the Act to the prescribed income-tax authority. It is proposed to amend the said section so as to provide for furnishing of statement of information by a prescribed reporting financial institution in respect of any specified financial transaction or reportable account to the prescribed income-tax authority. It is further proposed that the statement of information shall be furnished for such period, within such time, in the form and manner as may be prescribed. It is also proposed to provide that where any person, who has furnished a statement of information under sub-section (1), or in pursuance of a notice issued under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the statement, then, he shall, within a period of ten days, inform the income-tax authority or other authority or agency referred to in sub-section (1) the inaccuracy in such statement and furnish the correct information in the manner as may be prescribed.
It is also proposed that the Central Government may, by rules, specify,—
(a) the persons referred to in sub-section *(1)* to be registered with the prescribed income-tax authority;
(b) the nature of information and the manner in which such information shall be maintained by the persons referred to in clause *(a);* and
(c) the due diligence to be carried out by the persons for the purpose of identification of any reportable account referred to in sub-section *(1)*.
This amendment will take effect from 1st April, 2015.

TAXATION REGIME FOR REAL ESTATE INVESTMENT TRUST (REIT) AND INFRASTRUCTURE INVESTMENT TRUST (INVIT)

The Securities and Exchange Board of India (SEBI) had proposed draft regulations relating to two new categories of investment vehicles namely, the Real Estate Investment Trust (REIT) & Infrastructure Investment Trust (Invit). These regulations were placed in public domain for comments. The final Regulations are yet to be notified. The income-investment model of such REITs and Invits (referred to as business trusts) has the following distinctive elements:

(i) the trust would raise capital by way of issue of units (to be listed on a recognised stock exchange) and can also raise debts directly both from resident as well as non-resident investors;

(ii) the income bearing assets would be held by the trust by acquiring controlling or other specific interest in an Indian company (SPV) from the sponsor.

The expansion of asset delivery through the public-private partnership (PPP) model has increased the number of assets available for financing. The Indian infrastructure and the PPPs are currently in a challenging phase, with development of existing projects delayed, and diminishing attractiveness of new projects to private sector funds and strategic operators. In order to meet these challenges, new investment vehicle structure, an Infrastructure Investment Trust needs to be facilitated.

Similarly, securitization of income earning real estate assets needs to be facilitated. Certainty in the taxation aspects of these trusts is necessary.

It is proposed to amend the Act to put in place a specific taxation regime for providing the way the income in the hands of such trusts is to be taxed and the taxability of the income distributed by such business trusts in the hands of the unit holders of such trusts. Such regime has the following main features:–

(i) The listed units of a business trust, when traded on a recognised stock exchange, would attract same levy of securities transaction tax (STT), and would be given the same tax benefits in respect of taxability of capital gains as equity shares of a company i.e., long term capital gains, would be exempt and short term capital gains would be taxable at the rate of 15%.

(ii) In case of capital gains arising to the sponsor at the time of exchange of shares in SPVs with units of the business trust, the taxation of gains shall be deferred and taxed at the time of disposal of units by the sponsor. However, the preferential capital gains regime (consequential to levy of STT) available in respect of units of business trust will not be available to the sponsor in respect of these units at the time of disposal. Further, for the purpose of computing capital gain, the cost of these units shall be considered as cost of the shares to the sponsor. The holding period of shares shall also be included in the holding period of such units.

(iii) The income by way of interest received by the business trust from SPV is accorded pass through treatment i.e., there is no taxation of such interest income in the hands of the trust and no withholding tax at the level of SPV. However, withholding tax at the rate of 5 per cent. in case of payment of interest component of income distributed to non-resident unit holders, at the rate of 10 per cent. in respect of payment of interest component of distributed income to a resident unit holder shall be effected by the trust.

(iv) In case of external commercial borrowings by the business trust, the benefit of reduced rate of 5 per cent. tax on interest payments to non-resident lenders shall be available on similar conditions, for such period as is provided in section 194LC of the Act.

(v) The dividend received by the trust shall be subject to dividend distribution tax at the level of SPV but will be exempt in the hands of the trust, and the dividend component of the income distributed by the trust to unit holders will also be exempt.

(vi) The income by way of capital gains on disposal of assets by the trust shall be taxable in the hands of the trust at the applicable rate. However, if such capital gains are distributed, then the component of distributed income attributable to capital gains would be exempt in the hands of the unit holder. Any other income of the trust shall be taxable at the maximum marginal rate.

(vii) The business trust is required to furnish its return of income.

(viii) The necessary forms to be filed and other reporting requirements to be met by the trust shall be prescribed to implement the above scheme.

This amendment will take effect from 1st October, 2014**.**

CLARIFICATION IN RESPECT OF SECTION 10(23C) OF THE ACT

The existing provisions of sub-clause (iiiab) and (iiiac) of section 10(23C) of the Act provide exemption, subject to various conditions, in respect of income of certain educational institutions, universities and hospitals which exist solely for educational purposes or solely for philanthropic purposes, and not for purposes of profit and which are wholly or substantially financed by the Government.

Absence of a definition of the phrase "substantially financed by the Government" has led to litigation and varying decisions of judicial authorities who have, for this purpose, relied upon various other provisions of the Income-tax Act and other Acts. Thus, there is lack of certainty in this regard.
Therefore, it is proposed to amend section 10(23C) by inserting an Explanation that if the Government grant to a university or other educational institution, hospital or other institution during the relevant previous year exceeds a percentage (to be prescribed) of the total receipts (including any voluntary contributions), of such university or other educational institution, hospital or other institution, as the case may be, then such university or other educational institution, hospital or other institution shall be considered as being substantially financed by the Government for that previous year.
This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

LONG-TERM CAPITAL GAINS ON DEBT ORIENTED MUTUAL FUND AND ITS QUALIFICATION AS SHORT-TERM CAPITAL ASSET.

The existing provisions contained in clause (42A) of section 2 of the Act provides that short-term capital asset means a capital asset held by an assessee for not more than thirty six months immediately preceding the date of its transfer. However, in the case of a share held in a company or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India or a unit of a Mutual Fund or a zero coupon bond, the period of holding for qualifying it as short-term capital asset is not more than twelve months.

The shorter period of holding of not more than twelve months for consideration as short-term capital asset was introduced for encouraging investment on stock market where prices of the securities are market determined.

Accordingly, it is proposed to amend the aforesaid clause (42A) of section 2 so as to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty-six months.

These amendments will take effect from 1st April, 2015 and will accordingly apply, in relation to the assessment year 2015-16 and subsequent assessment years.