

Notes on clauses

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2009-2010. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2009-2010 from income 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 2009-2010.

Rates of income-tax for the assessment year 2009-2010

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2009-2010. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2008, 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 2008-2009.

Rates of deduction of tax at source during the financial year 2009-2010 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 2009-2010 from income other than “Salaries”. The rates are the same for persons not resident in India, as those specified in Part II of the First Schedule to the Finance Act, 2008, for the purposes of deduction of income-tax at source during the financial year 2008-2009. However, for the resident taxpayers, the number of rates have been reduced with the objective of rationalising the scheme of tax deducted at source.

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

Rates for deduction of tax at source from “Salaries”, computation of “advance tax” and charging of income-tax in special cases during the financial year 2009-2010

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 2009-2010.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. In such cases, the income-tax exemption limit is proposed to be raised to Rs.1,60,000. The new rates of income-tax on total income in such cases are proposed to be as under—

Up to Rs. 1,60,000	Nil
Rs. 1,60,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year, the exemption limit is proposed to be raised to Rs.1,90,000. The new rates of income-tax on total income in such cases are proposed to be as under—

Up to Rs. 1,90,000	Nil
Rs. 1,90,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

In the case of every individual, being a resident of India, who is of the age of sixty-five years or more at any time during the previous year, the exemption limit is proposed to be raised to Rs.2,40,000. The new rates of income-tax on total income in such cases are proposed to be as under—

Up to Rs. 2,40,000	Nil
Rs. 2,40,001 to 3,00,000	10 per cent.
Rs. 3,00,001 to 5,00,000	20 per cent.
Above Rs. 5,00,000	30 per cent.

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

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2009-2010. 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 2009-2010. No surcharge shall now be levied in the case of a firm.

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 2009-2010. No surcharge will be levied.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In the case of companies, the rate of tax will continue to be the same as that specified for assessment year 2009-2010. Surcharge shall continue to be levied in case of a company at the same rate and subject to the same conditions as were applicable for the assessment year 2009-2010.

“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, the Education Cess and Secondary and Higher Education Cess will not be levied on tax deducted or collected at source in the case of a domestic company and any other person who is resident in India. Both the cesses would continue to apply on tax deducted at source in the case of salary payments.

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

Clause (15) of the said section of the Income-tax Act defines the expression “charitable purpose” as relief of the poor, education, medical relief and the advancement of any other object of general public utility provided that the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application or retention, of the income from such activity.

It is proposed to amend section 2(15) so as to include preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest along with relief of the poor, education and medical relief in the definition of “charitable purpose” under section 2(15) so that the proviso to the said section shall also not apply to these activities.

It is proposed to make the above amendment applicable with retrospective effect from 1st April, 2009 and will, accordingly, apply in relation to assessment year 2009-2010 and subsequent years.

It is proposed to insert a new clause (22AAA) in the said section to define an “electoral trust” to mean a trust so approved

by the Board in accordance with the scheme made in this regard by the Central Government.

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

Under the existing provisions contained in clause (23) of the said section, the expressions "firm", "partner" and "partnership" derives their meaning from the Indian Partnership Act, 1932 but the expression "partner" also includes any person who, being a minor, has been admitted to the benefits of partnership. It is proposed to substitute clause (23) of said section so as to define the words "firm", "partner" and "partnership" in the context of an entity registered under the Limited Liability Partnership Act, 2008 and also to retain the definitions of "firm", "partner" and "partnership" in the context of a partnership formed under the Indian Partnership Act, 1932.

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

Sub-clause (iia) of clause (24) of the said section provides that voluntary contributions received by a trust or institution or association or university or educational institutions or any hospital or other institutions referred therein will be regarded as income. It is proposed to amend sub-clause (iia) of clause (24) of the said section so as to include therein the voluntary contribution received by electoral trusts within the definition of income. The proposed amendment is consequential in nature.

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

It is proposed to insert a new clause (29BA) to the said section so as to define the expression "manufacture". The term "manufacture" with its grammatical variations would mean a change in a non-living physical object or article or thing resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use, or bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

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

Clause (48) of the said section defines the expression "zero coupon bond" as a bond issued by any infrastructure capital company or infrastructure capital fund or public sector company on or after the 1st day of June, 2005, in respect of which no payment and benefit is received or receivable before maturity or redemption from such company or fund or public sector company and which the Central Government may, by notification in the Official Gazette, specify. The proposed amendment seeks to include "scheduled bank" in the said clause (48). It is also proposed to insert an Explanation in the said clause so as to define the expression "scheduled bank" as having the meaning assigned to it in clause (ii) of Explanation to sub-clause (c) of clause (viiia) of sub-section (1) of section 36.

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

Clause 4 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income. It is proposed to insert a new proviso to clause (10C) of the said section so as to provide that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year.

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

The fourteenth proviso to clause (23C) of said section provides that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after 1st June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be made at any time during the financial year immediately preceding the assessment year from which the exemption is sought. It is proposed to amend the said proviso so as to allow the filing of the application on or before the 30th September of the relevant assessment year.

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

Clause (a) of *Explanation* to clause (23D) of the said section provides for exemption of the income of Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India. The *Explanation* to said clause (23D), *inter alia*, defines the expression "public sector bank" to mean the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980). It is proposed to amend the said clause so as to provide that a bank included in the category 'other public sector banks' by the Reserve Bank of India would also be covered under the scope of clause (23D).

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

It is also proposed to insert a new clause (44) in the said section so as to provide that any income received by any person for, or on behalf of, the New Pension System Trust established on 27th day of February, 2008 under the provisions of the Indian Trust Act, 1882 will also not be included in total income of such trust.

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

Clause 5 of the Bill seeks to amend section 10A of the Income-tax Act relating to special provision in respect of newly established industrial undertakings in free trade zone, etc.

The existing provisions provide that no deduction shall be allowed to any undertaking for the assessment year beginning on 1st day of April, 2011 and subsequent years.

It is proposed to amend the fourth proviso to sub-section (1) of the said section so as to allow the deduction for the previous year 2010-2011 relevant to assessment year 2011-2012.

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

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

Under the existing provisions contained in sub-section (7) of said section, the profits derived from the export of articles or things or services shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee.

It is proposed to amend the said sub-section so as to substitute the reference to "assessee" by the word "undertaking". After the proposed amendment deduction under aforesaid section shall be computed with reference to the total turnover of the undertaking.

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

Clause 7 of the Bill seeks to amend section 10B of the Income-tax Act relating to special provisions in respect of newly established hundred per cent. export oriented undertakings.

The existing provisions provides that no deduction shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2011 and subsequent years.

It is proposed to amend the third proviso to sub-section (1) of the said section so as to allow the deduction for the previous year 2010-2011 relevant to assessment year 2011-2012.

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

Clause 8 of the Bill seeks to insert new section 13B relating to voluntary contributions received by electoral trusts. The proposed new section provides that any voluntary contribution received by an electoral trusts shall not be included in the total income of the previous year of such electoral trusts if (a) such electoral trust distributes to any political party registered under section 29 of the Representation of the People Act, 1951 (43 of 1951) during the said previous year ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and (b) such electoral trust functions in accordance with the rules made in this regard by the Central Government.

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

Clause 9 of the Bill seeks to amend section 17 of the Income-tax Act, which relates to definitions of "salary", "perquisite" and "profits in lieu of salary".

The existing provisions contained in sub-clause (vi) of clause (2) of the said section provide that perquisite include the value of any other fringe benefit or amenity which may be prescribed, excluding those fringe benefits which are chargeable to tax under Chapter XII-H.

It is proposed to substitute the said sub-clause so as, *inter alia*, to provide that perquisite include the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

It is also proposed to insert sub-clause (vii) to the said clause (2) so as to provide that perquisite include the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees.

It is also proposed to insert sub-clause (viii) so as to provide that perquisite include the value of any other fringe benefit or amenity as may be prescribed.

These amendments will take effect from the 1st April, 2010 and will, accordingly, apply to the assessment year 2010-11 and subsequent assessment years.

Clause 10 of the Bill seeks to amend section 28 of the Income-tax Act relating to profits and gains of business or profession.

The existing provisions provide that incomes specified in the said section shall be chargeable to income-tax under the head "Profits and gains of business or profession".

It is proposed to insert a new clause (vii) in the said section to provide that any sum, whether received or receivable, in cash or kind, by reason of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, shall be chargeable to income-tax under the head "Profit and gains of business or profession, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD which contains provisions relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961.

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

Clause 11 of the Bill seeks to amend section 32 of the Income-tax Act, relating to depreciation.

It is proposed to amend *Explanation 3* to sub-section (1) of section 32 of the Income-tax Act which defines "assets" and "block of assets" for the purpose of depreciation under sub-section (1) of section 32.

It is proposed to omit reference to "block of assets" from *Explanation 3* to sub-section (1) of section 32. Consequent to proposed amendments, the expression "block of assets" shall have the same meaning as assigned to it in clause (11) of section 2 of the said Act.

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

Clause 12 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

The existing provision contained in sub-section (2AB) of section 35 provides for deduction of a sum equal to one and one half times of the expenditure so incurred to a company engaged in the business of biotechnology or in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board and which has incurred expenditure (except land and building) on in-house scientific research and development facility approved by the prescribed authority.

It is proposed to extend the benefit of the said deduction to all businesses engaged in the manufacturing or production of article or thing except those specified in the Eleventh Schedule.

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

Clause 13 of the Bill seeks to insert a new section 35AD in the Income-tax Act which relates to deduction in respect of Expenditure on specified business.

The proposed amendment provides for allowing any expenditure of capital nature incurred, wholly and exclusively, during the year for specified business. The specified business has been defined to mean the business of setting up and operating of cold chain facilities for storage or transportation of agricultural produce, dairy products and other related items. It would also include the business of warehousing for storing agricultural produce and the business of laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

The proposed section would, *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.

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

Clause 14 of the Bill seeks to amend section 36 of the Income-tax Act which relates to other deductions.

The existing provisions contained in clause (i) of the Explanation to clause (iiia) of sub-section (1) of the said section provides for the definition of the expression "discount" as the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company issuing the bond and the amount payable by such company or fund or public sector company on maturity or redemption of such bond.

It is proposed to amend the said clause so as to include "scheduled bank" after public sector company. The proposed amendment is consequential in nature.

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

Clause (viii) of the said sub-section relates to deduction in respect of any special reserve created and maintained by eligible entities carrying out eligible businesses for an amount not exceeding twenty per cent. of profits derived from eligible business activities, carried to such reserve.

The *Explanation* to clause (viii) of said sub-section (1) defines the expressions 'specified entity' and 'eligible business' for the purposes of availing deductions under the aforesaid section. Under sub-clause (i) of clause (b) to the said *Explanation*, it is proposed to substitute the words "housing development" in place of the words "construction or purchases of houses in India for residential purpose".

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

Clause (xvi) in sub-section (1) of the said section provides that any amount of commodities transaction tax paid by the assessee during the previous year in respect of taxable commodities transactions entered into in the course of his business during the previous year shall be allowed as a deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

It is proposed to omit the said clause (xvi) retrospectively with effect from 1st April, 2009.

Clause 15 of the Bill seeks to amend sub-clause (v) of clause (b) of section 40 of the Income-tax Act, relating to amounts not deductible.

The existing sub-clause (v) of the said clause, *inter-alia*, provides that in case of working partners, payments of salary, bonus, commission or remuneration, by whatever name called, will be allowed as a deduction subject to the following limits, namely: -(1) In case of a firm carrying on a profession referred to in section 44AA or which is notified for the purposes of that section –

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| (a) on the first Rs.1,00,000 of the book-profit or in case of a loss | Rs. 50,000 or at the rate of 90 per cent. of the book-profit, whichever is more; |
| (b) on the next Rs.1,00,000 of the book-profit | at the rate of 60 per cent.; |
| (c) on the balance of the book-profit | at the rate of 40 per cent.; |
| (2) in the case of any other firm – | |
| (a) on the first Rs.75,000 of the book-profit, or in case of a loss | Rs. 50,000 or at the rate of 90 per cent. of the book-profit, whichever is more; |
| (b) on the next Rs.75,000 of the book-profit | at the rate of 60 per cent.; |
| (c) on the balance of the book-profit | at the rate of 40 per cent.; |

It is proposed to revise the above limits and provide uniform limits for both professional firms and non-professional firms as under–

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| (a) on the first Rs.3,00,000 of the book-profit or in case of a loss | Rs. 1,50,000 or at the rate of 90 per cent. of the book-profit, whichever is more; |
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| (b) on the balance of the book-profit | at the rate of 60 per cent. |
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The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-2011 and subsequent years.

Clause 16 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 contained in sub-section (3) of the said section provide that where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

The existing provisions contained in sub-section (3A) provides that where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees.

It is proposed to insert a second proviso so as to provide that in case of payment made for plying, hiring or leasing goods carriages, the ceiling of twenty thousand rupees specified in sub-sections (3) and (3A) shall be enhanced to thirty-five thousand rupees.

The proposed amendment will take effect from 1st October, 2009.

Clause 17 of the Bill seeks to amend section 43 of the Income-tax Act, relating to definitions of certain terms relevant to income from profits and gains of business or profession.

The existing provisions contained in clause (1) of the said section provides that "actual cost" means the actual cost of the assets to the assessee, reduced by the portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority.

The proposed amendment seeks to insert a new *Explanation* 13 to the said sub-section to provide that the actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961) and shall be treated as 'nil' (a) in the case of such assessee and (b) in any other case if the capital asset is acquired or received by way of gift or will or irrevocable trust, on any distribution on liquidation of the company and by such mode of transfer as is referred to in clauses (iv), (v), (vi), (vib), (xiii) and (xiv) of section 47. The proposed amendment is consequential in nature.

It is also proposed to insert an *Explanation* in clause (6) of the said section to clarify that where the income of an assessee is derived, in part from agriculture and in part from business of the assessee chargeable to income-tax under the head "Profits and gains of business and profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed during the previous year under the Income-tax Act, 1961.

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

Clause 18 of the Bill seeks to amend section 44AA of the Income-tax Act relating to maintenance of accounts by certain persons carrying on profession or business.

Under the existing provisions contained in the said section it is obligatory for every person carrying on business or profession other than the professions mentioned in sub-section (1) of the said section, if his income from business or profession exceeds one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ten lakh rupees in any one of the three years immediately preceding the previous year or where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed one lakh twenty thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ten lakh rupees, during such previous year or where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD or section 44AE or section 44AF or section 44BB or section 44BBB and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such previous year, to keep and maintain the books of account and other documents as may enable the Assessing Officer to compute the total income of the said person in accordance with the provisions of the Act.

The proposed amendment seeks to provide that in the case of an assessee, who is covered under the new proposed section 44AD *vide* clause 20, the maintenance of books of account is required if he claims that the profits and gains from the business are lower than the profits and gains computed in accordance with the provisions of sub-section (1) of section 44AD and if his income exceeds the maximum amount which is not chargeable to income-tax.

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

Clause 19 of the Bill seeks to amend section 44AB of the Income-tax Act relating to the audit of accounts of certain persons carrying on business or profession.

Under the existing provisions contained in the said section it is obligatory for a person carrying on business to get his accounts audited before the "specified date" by an accountant, if the total sales, turnover or gross receipts in business for the previous year or years exceeds forty lakh rupees. A person carrying on profession will also have to get his accounts audited before the said date if his gross receipts in profession for the previous year or years exceeds or exceed ten lakh rupees. Such persons will also be required to obtain before the specified date a report of the audit in the prescribed form. These requirements will apply only in relation to the accounts for the previous year or years relevant to any assessment year commencing on 1st April, 1985 or any subsequent assessment year. In cases where the accounts of a person are required to be audited by or under any other law, it will suffice if the person gets his accounts audited under such other law before the specified date and also obtains before the said date the report of audit in the prescribed form, in addition to the report of audit required under such other law. The expression "accountant", for the purposes of this provision, will have the same meaning as in the *Explanation* below sub-section (2) of section 288 of the Income-tax Act. The expression "specified date", in relation to the accounts of the assessee of the previous year means the 30th day of September of the assessment year.

The proposed amendment seeks to provide that in the case of an assessee, who is covered under the new proposed section 44AD *vide* clause 20, the audit of books of account is required if he claims that the profits and gains from the business are lower than the profits and gains computed in accordance with the provisions of sub-section (1) of section 44AD and if his income exceeds the maximum amount which is not chargeable to income-tax.

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

Clause 20 of the Bill seeks to substitute section 44AD of the Act relating to special provision for computing profits and gains of business on presumptive basis.

The existing provisions contained in the said section provide that notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent. of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "profits and gains of business or profession".

The proposed new section 44AD seeks to provide for estimating income of assessee who is engaged in any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE, at a sum equal to eight per cent. of the total turnover or gross receipts in the previous year on account of such business, or, as the case may be, a sum higher than the aforesaid sum claimed to be earned by the assessee. The scheme will apply to such resident assessee who is an individual, Hindu undivided family and partnership firm but not limited liability partnership firm, whose total turnover does not exceed forty lakh rupees.

It is further proposed that the scheme does not apply to an assessee, who has claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provision of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in a previous year relevant to an assessment year. Under this scheme, the assessee will be deemed to have been allowed the deductions under sections 30 to 38 and clause (b) of section 40. Accordingly, the written down value of any asset used for the purpose of the business of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in respect of depreciation for the relevant assessment year.

It is also proposed that the provisions of Chapter XVII-C of the Income-tax Act relating to the payment of advance tax shall not apply to the assessee, who opts for the above scheme in respect of such business.

It is also proposed that the assessee will not be required to maintain books of account under section 44AA and get the accounts audited under section 44AB in respect of such income unless the assessee claims that the profits and gains from the aforesaid business are lower than the profits and gains deemed to be his income under sub-section (1) of section 44AD and his income exceeds the maximum amount which is not chargeable to income-tax. The proposed section also defines the expressions eligible assessee and eligible business.

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

Clause 21 of the Bill seeks to amend section 44AE of the Income-tax Act, relating to special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

Under the existing provisions contained in sub-section (1) of the said section, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" is deemed to be the aggregate of the profits and gains from all the goods carriages owned by him in the previous year. Sub-section (2) of the aforesaid section *inter alia* provides that in the case of heavy goods vehicles, the profits and gains from each such goods carriage shall be deemed to be an amount equal to three thousand five hundred rupees, and three thousand

one hundred and fifty rupees in the case of vehicles other than heavy goods vehicles, for every month or part of a month during which the vehicles are owned by the assessee or an amount higher than the aforesaid amounts as declared by him in his return of income.

It is proposed to enhance aforesaid amounts of profits and gains from (a) three thousand five hundred rupees to five thousand rupees per month or part of a month or the amount claimed to be actually earned by the assessee, whichever is higher in the case of heavy goods vehicles and (b) from three thousand one hundred and fifty rupees to four thousand five hundred rupees per month or part of a month or the amount claimed to be actually earned by the assessee, whichever is higher in the case of vehicles other than heavy goods vehicles.

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

Clause 22 of the Bill proposes to omit section 44AF of the Income-tax Act relating to special provisions for computing profits and gains of retail business.

The existing provisions contained in the said section provides that for estimating income of an assessee who is engaged in the business of retail trade in any goods and merchandise, at a sum equal to five per cent. of the total turnover in the previous year on account of such business, or, as the case may be, a sum higher than the aforesaid sum as may be declared by the assessee in his return of income.

It is proposed to insert sub-section (6) to the said section which provides that the provisions of the said section shall not apply to any assessment year beginning on or after 1st April, 2011, in view of the substitution of section 44AD *vide* clause 20 of the Bill.

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

Clause 23 of the Bill seeks to amend section 49 of the Income-tax Act, which relates to cost with reference to certain modes of acquisition.

The existing provisions contained in sub-section (2AA) of the said section provide that where the capital gain arises from the transfer of a share, debenture or warrant, which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such share, debenture or warrant shall be the value taken into account for computation of such perquisite under that sub-section.

It is proposed to substitute the said sub-section so as to provide that where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.

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

Clause 24 of the Bill seeks to amend section 50B of the Income-tax Act relating to special provision for cost of computation of capital gains in case of slump sale.

Under the existing provisions any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be income of the previous year in which the transfer took place, further, in relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of such undertaking or division shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48. For the purposes of this section "net worth" has been defined to be the aggregate value of the total assets of the undertaking or division

as reduced by the value of liabilities of such undertaking or division as appearing in its books of account.

It is proposed to substitute clause (b) of *Explanation 2* of the said section to provide that for computing the net worth, the aggregate value of total assets shall be, (a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (C) of item (i) of sub-clause (c) of clause (6) of section 43; (b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961), nil, and (c) in the case of other assets, the book value of such assets.

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

Clause 25 of the Bill seeks to amend section 50C of the Income-tax Act relating to special provision for full value of consideration in certain cases.

Under the existing provisions contained in the said section where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

It is proposed to amend the said section so as to substitute the words "or assessed" wherever they occur in the said section by the words "or assessed or assessable". It is also proposed to insert an *Explanation* after the existing *Explanation* so as to define the expression "assessable" as the price which the stamp valuation authority would have adopted or assessed, if it were referred to such authority for the payment of stamp duty notwithstanding anything to the contrary contained in any other law for the time being in force.

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

Clause 26 of the Bill seeks to amend section 56 of the Income-tax Act relating to income from other sources.

The existing provision of clause (vi) of sub-section (2) of the said section brings any sum of money, the aggregate value of which exceeds fifty thousand rupees, which is received without consideration by an individual or a Hindu undivided family from persons other than relatives as defined under that section within the purview of income-tax. Certain exceptions have also been provided under the proviso to the said clause.

The proposed amendment seeks to tax specified properties, including a sum of money, received without consideration or for inadequate consideration.

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

It is also proposed to amend sub-section (2) of said section so as to insert a clause which provides that income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A shall be chargeable to income tax under head income from other sources.

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

Clause 27 of the Bill seeks to amend section 57 of the Income-tax Act, which relates to deductions.

The existing provisions contained in the said section provides that the income chargeable under the head "Income from other sources" shall be computed after making the deductions specified therein.

It is proposed to amend section 57 of the said Act so as to provide that in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of the said section.

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

Clause 28 of the Bill seeks to insert a new section 73A which contains provisions relating to carry forward and set off of losses by specified business.

The sub-section (1) of the proposed new section seeks to provide that any loss, computed in respect of any specified business referred to in section 35AD (relating to deduction in respect of expenditure on specified business and proposed to be inserted as a new section in the Income-tax Act, 1961) shall not be set off except against profits and gains, if any, of any other specified business. Further, sub-section (2) of the proposed new section seeks to provide that where for any assessment year any loss computed in respect of the specified business referred to in the sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and -

(i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

(ii) if the loss can not be wholly so set-off, the amount of loss not so set-off shall be carried forward to the following assessment year and so on.

The proposed amendment is consequential in nature.

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

Clause 29 of the Bill seeks to amend section 80A of the Income-tax Act relating to deductions to be made from the gross total income in computing total income.

The existing provision contained in the said section provides that in computing the total income of an assessee, there shall be allowed from his gross total income, the deductions specified in sections 80C to 80U of the Act. The said section further provides that the aggregate amount of deductions in computing the total income shall not, in any case, exceed the gross total income of the assessee.

The proposed sub-section (4) of the said section provides that notwithstanding anything to the contrary contained in section 10A, or section 10AA or section 10B, or section 10BA or in provisions of Chapter VIA under the heading "C-Deductions in respect of certain incomes" where in the case of an assessee any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

The proposed sub-section (5) provides that where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provisions of this Chapter under the heading "C.-Deductions in respect of certain income", no deduction shall be allowed to him thereunder.

These amendments will take effect retrospectively from the 1st April, 2003 and will, accordingly, apply in relation to assessment year 2003-2004 and subsequent years.

The proposed sub-section (6) provides that notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of Chapter VIA under the heading "C-Deductions in respect of certain incomes", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date. The *Explanation* as proposed in the said sub-section provides that (i) in relation to any goods or services sold or supplied, market value means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any; (ii) in relation to any goods or services acquired, market value means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any. The said *Explanation* is clarificatory in nature.

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

Clause 30 of the Bill seeks to amend section 80CCD of the Income-tax Act relating to deduction in respect of contribution to pension scheme notified by the Central Government.

The existing provisions contained in the sub-section (1) of said section provides that where an assessee being an individual, employed by the Central Government or any other employer on or after 1st January, 2004, who has paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, there shall be allowed a deduction in the computation of his total income of the whole of the amount, paid or deposited by him as does not exceed ten per cent. of his salary in the previous year.

It is proposed to amend the said sub-section so as to allow deductions under the aforesaid section to any other assessee in addition to an assessee, being an individual, employed by the Central Government or any other employer on or after the 1st day of January, 2004.

It is further proposed to amend said section so as to insert a new sub-section (5) which provides that the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year.

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

Clause 31 of the Bill seeks to amend section 80DD of the Income-tax Act, which relates to deduction in respect of maintenance including medical treatment of a dependant, who is a person with disability.

Under the existing provisions where an assessee, being an individual or a Hindu undivided family, has during the previous year incurred any expenditure for the medical treatment, training and rehabilitation of a dependant, being a person with disability, or has paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or Administrator or the specified company approved in this behalf for the maintenance of a dependant, being a person with disability the assessee shall be allowed subject to specified condition, a

deduction of a sum of fifty thousand rupees. Also, where such dependant is a person with severe disability, a deduction of seventy five thousand rupees is allowed.

The proposed amendment seeks to amend the proviso to subsection (1) of the said section to enhance the present limit of seventy five thousand rupees to one hundred thousand rupees for a dependant who is a person with severe disability.

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

Clause 32 of the Bill seeks to amend clause (c) of sub-section (3) of section 80E of the Income-tax Act relating to deduction in respect of interest on loan taken for higher education.

Under the existing provisions a deduction is allowed to an individual under the said section in respect of interest on loan taken from any financial institution or any approved charitable institution for the purposes of pursuing his higher education or that of his relative. As per clause (c) of sub-section (3) of said section, "higher education" means full time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics.

It is proposed to substitute clause (c) so as to provide that "higher education" will mean any course of study pursued after passing the senior secondary examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority.

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

Clause 33 of the Bill seeks to amend section 80G of the Income-tax Act, relating to deductions in respect of donations to certain funds, charitable institutions, etc.

The existing proviso to clause (vi) of sub-section (5) of said section provides that the approval granted by the Commissioner to any institution or fund shall have the effect for such number of assessment year not exceeding five assessment years, as may be specified in the approval.

The proposed amendment seeks to omit the proviso to clause (vi) of sub-section (5) of section 80G so as to do away with the time limit specified in the aforesaid proviso.

The proposed amendment will take effect from 1st day of October, 2009.

The existing provisions contained in sub-section (5) of the said section provides that the deduction under sub-section (1) is available to donations made to any institution or fund if it is established for a charitable purpose and it fulfils such other conditions as are specified. Clause (15) of section 2 of the said Act defines "charitable purpose" to include relief of the poor, education, medical relief and the advancement of any other object of general public utility. However, the proviso to the said clause provides that "advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of (i) any activity in the nature of trade, commerce or business; or (ii) any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of a use or application or retention of the income from any such activity.

The proposed amendment seeks to provide that if any institution or fund had been approved under clause (vi) of sub-section (5) of section 80G for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of aforesaid section and notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been (a) established for charitable

purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; (b) approved under said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.

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

Clause 34 of the Bill seeks to amend section 80GGB which relates to deduction in respect of contributions given by companies to political parties.

The existing provisions of the said section provides for deduction of any sum contributed by an Indian Company to any political party in the previous year while computing the total income of such Indian company.

It is proposed to amend the aforesaid section so as to bring "electoral trust" within the scope of the above said section so that contribution made by an Indian company to electoral trusts would also be eligible for deduction under that section.

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

Clause 35 of the Bill seeks to amend section 88GGC which relates to deduction in respect of contributions given by any person to political parties.

The existing provisions of the said section provides for deduction of any sum contributed by any person, except local authority and every artificial juridical person wholly or partly funded by the Government to any political party in the previous year while computing the total income of such Indian company.

It is proposed to amend the aforesaid section so as to bring "electoral trust" within the scope of the above said section so that contribution made by such person to electoral trusts would also be eligible for deduction under that section.

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

Clause 36 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.

Under the existing provisions contained in the clause (iv) of sub-section (4) of said section a deduction is 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, 2010; (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, 2010; (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, 2010.

It is proposed to amend sub-clauses (a), (b) and (c) of the said clause so as to extend the time limit from 31st March, 2010 to 31st March, 2011.

These amendments will take effect retrospectively from 1st April, 2009.

It is further proposed to amend sub-clause (b) of clause (v) of sub-section (4) of said section which provides that an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant, if such undertaking begins to generate or transmit or distribute power before 31st March, 2008 are eligible for deduction.

It is proposed to amend the said sub-clause so as to extend the date to begin generation, transmission or distribution of power from 31st March, 2008 to 31st March, 2011.

This amendment will take effect retrospectively from 1st April, 2008.

It is also proposed to omit clause (vi) of sub-section (4) of said section which provides for deduction to any undertaking carrying on the business of laying and operating a cross-country natural gas distribution network, including pipelines and storage facilities being an integral part of such network. In view of the said amendment, it is also proposed to make amendments, with respect to sub-section (1) and sub-section (3) of the said section, which are consequential in nature.

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

It is also proposed to amend the *Explanation* to said section to clarify that nothing contained in the said section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1) of said section.

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-01 and subsequent years

Clause 37 of the Bill seeks to amend section 80-IB of the Income-tax Act, which relates to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

Sub-section (9) of the said section provides for deduction in respect of profits and gains derived from commercial production or refining of mineral oil subject to the conditions stipulated in the said sub-section.

It is proposed to substitute the said sub-section to provide that the amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following -

(i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;

(ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997;

(iii) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October 1998.

It is further proposed to provide by way of an *Explanation* that for the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract which is, awarded under the New Exploration Licensing Policy announced by the Government of India vide Resolution No.O-19018/22/95-ONG.DO.VL dated 10th February 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or State Government in any other manner, shall be treated as a single "undertaking".

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent years.

It is further proposed to amend clause (iii) of the said sub-section (9) as so substituted to provide that the benefit of deduction under the said sub-section shall be available if the undertaking is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998 but not later than the 31st day of March, 2012.

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

It is also proposed to further amend the said sub-section (9) as so substituted and further amended by inserting a new clause (iv) to provide that the benefit of deduction under the said sub-section shall be available if the undertaking is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts under the New Exploration Licensing Policy announced by the Government of India Vide Resolution No.O-19018/22/95-ONG.DO.VL dated 10th February, 1999 (hereinafter referred to as "NELP-VIII") and begins commercial production of natural gas on or after the 1st day of April, 2009.

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

It is further proposed to amend sub-section (10) of section 80-IB which provides for a hundred per cent deduction of the profits derived by an undertaking developing and building housing projects approved by a local authority before 31st March, 2007 subject to the specified conditions.

The proposed amendment seeks to insert two new conditions by way of two new clauses namely clause (e) which proposes to provide that not more than one residential unit is allotted to any person not being an individual and clause (f) which proposes to provide that in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons:-

(i) the spouse or minor children of such individual,

(ii) the Hindu undivided family in which such individual is the karta,

(iii) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the karta.

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

It is also proposed to insert an *Explanation* to the sub-section (10) of the said section which clarifies that nothing contained in the said sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including Central or State Government).

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years.

Clause 38 of the Bill seeks to amend section 89 of the Income-tax Act relating to relief when salary, etc., is paid in arrears or in advance.

Under the existing provisions contained in the said section, an assessee is entitled to tax relief, if on account of receipt of salary, or a payment being a profit in lieu of salary under clause (3) of section 17, or is in receipt of a sum in the nature of family pension as defined in the *Explanation* to clause (iia) of section 57, in arrears or in advance his tax liability is increased in the year of receipt.

It is proposed to insert a proviso to the said section so as to provide that no relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year.

This amendment will take effect from 1st April, 2010, and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 39 of the Bill proposes to substitute section 90 of the Income-tax Act, relating to agreement with foreign countries.

Under the existing provision, power has been conferred upon the Central Government to enter into agreement with the Government of any country outside India for granting of relief in respect of income on which income-tax has been paid both under the said Act and income-tax in that foreign country.

It is proposed to substitute the said section 90 by a new section so as to confer 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 as provided in the said existing section 90. It is further proposed to insert an *Explanation* in the new section 90 to define "specified territories" which means any area outside India which may be notified as such by the Central Government for the purposes of said section.

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

Clause 40 of the Bill seeks to amend section 92C of the Income-tax Act which relates to computation of arm's length price.

Under the existing provisions contained in sub-section (2) of the said section, the most appropriate method shall be applied for determination of arm's length price in the manner prescribed. The proviso to the said sub-section (2) provides that where the most appropriate method results in more than one price, the arithmetical mean of such or, at the option of the assessee, a price which differs from the arithmetical mean by an amount not exceeding five per cent. of such mean may be taken to be the arm's length price in relation to the international transaction.

It is proposed to substitute the existing proviso so as to provide 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. It is further provided 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 five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.

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

Clause 41 of the Bill seeks to insert a new section 92CB in the Income-tax Act, relating to power of Board to make 'safe harbour rules'.

The proposed new section seeks to provide that the determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules.

It is also proposed that the Board may, for the purposes of sub-section (1), make rules for 'safe harbour'.

It is also proposed to insert an *Explanation* to provide that 'safe harbour' means circumstances in which the income tax authorities shall accept the transfer price declared by the assessee.

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

Clause 42 of the Bill seeks to amend section 115BBC of the Income-tax Act relating to anonymous donations to be taxed in certain cases.

Under the existing provision contained in sub-section (1) of said section where the total income of an assessee, being a person in receipt of income on behalf of any university or other educational institution referred to in sub-clause (iiid) or sub-clause (vi) or any hospital or other institution referred to in sub-clause (iiiie) or sub-clause (via) or any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) of clause (23C) of section 10 or any trust or institution referred to in section

11, includes any income by way of any anonymous donation, the income tax payable shall be the aggregate of the amount of income tax calculated on the income by way of any anonymous donation, at the rate of thirty per cent. and the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of anonymous donation.

It is proposed to amend clause (i) of sub-section (1) of the said section so as to provide that anonymous donations, to the extent the aggregate of anonymous donations exceeds five per cent. of the total income of the assessee or an amount of rupees one lakh, whichever is higher, would be taken into account for the purposes of aforesaid section.

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

Clause 43 of the Bill seeks to amend section 115JA of the Income-tax, relating to deemed income relating to certain companies.

The existing provisions of the said section provides that in the case of an assessee, being a company, the total income computed in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 1997 but before 1st April, 2001 is less than thirty per cent. of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent. of such book profit. The expression "book profit" has been defined in the *Explanation* after second proviso which defines the book profit as the net profit as shown in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 as increased or reduced by certain adjustments, as specified in the said section.

It is proposed to amend the said section so as to provide that any provision for diminution in the value of any asset will also be included in the computation of book profit under the said section.

This amendment will take effect retrospectively from 1st April, 1998 and will, accordingly, apply in relation to the assessment year 1998-99 and subsequent years.

Clause 44 of the Bill seeks to amend section 115JAA of the Act relating to tax credit in respect of tax paid on deemed income relating to certain companies.

Under the existing provisions contained in sub-section (3A) of said section, the amount of tax credit determined under sub-section (2A) shall be carried forward and set-off in accordance with the provisions of sub-sections (4) and (5) of the aforesaid section but such carry forward shall not be allowed beyond the seventh assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A) of that section.

It is proposed to amend sub-section (3A) of said section 115JAA to provide that the amount of tax credit determined under sub-section (2A) shall not be allowed to carry forward beyond the tenth assessment year (instead of seventh assessment year) immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A).

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Clause 45 of the Bill seeks to amend section 115JB of the Act relating to special provision for payment of tax by certain companies.

Under the existing provisions contained in the said section 115JB, in case of a company, if the tax payable on the total income as computed under the income-tax Act in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 2007, is less than ten per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be ten per cent. of such book profit.

It is proposed to amend sub-section (1) of said section 115JB to provide that if the income-tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2010 is less than fifteen per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be fifteen per cent. of such book profit.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

It is further proposed to insert a new clause (i) after clause (h) in the *Explanation 1* to sub-section (2) of said section so as to provide that any provision for diminution in the value of any asset will also be included in the computation of book profit under the said section.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-02 and subsequent assessment years.

Clause 46 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 contained in sub-section (1) of said section, *inter alia*, provides that any amount declared, distributed or paid by such company, by way of dividends, shall be charged to additional income-tax or tax on distributed profits at the rate of fifteen per cent. Sub-section (1A) of said section provides 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 sub-section (1A) of the said section so as to provide that the amount referred to in sub-section (1) of that section shall also be reduced by the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.

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

Clause 47 of the Bill seeks to amend section 115WE of the Income-tax Act relating to Assessment.

Sub-section (1B) of the said section provides that the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

It is proposed to amend sub-section (1B) of the said section so as to extend the time limit from 31st March, 2009 to 31st March, 2010 so that no direction shall be issued after the 31st March, 2010.

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

Clause 48 of the Bill seeks to insert a new section 115WM relating to "Chapter XII-H not to apply after certain date".

The proposed new section provides that nothing contained in Chapter XII-H shall apply in respect of any assessment for the assessment year commencing on 1st April, 2010 or any subsequent year.

This amendment will take effect from 1st April, 2010 and will, accordingly, apply to the assessment year 2010-11 and subsequent assessment years.

Clause 49 of the Bill seeks to amend section 131 of the Income-tax Act which relates to power regarding discovery, production of evidence, etc.

Vide clause 55 of the Bill proposes to insert new section 144C in the Income-tax Act so as to provide that the assessee shall file his objections among others to the Dispute Resolution Panel against the draft of the proposed order of assessment of Assessing Officer.

It is, therefore, proposed to amend sub-section (1) of section 131 so as to provide that Dispute Resolution Panel referred to in clause (a) of sub-section (15) of section 144C shall have the same power as are vested in a court under the Code of Civil Procedure, 1908. The proposed amendment is consequential in nature.

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

Clause 50 of the Bill seeks to amend sub-section (1) of section 132 of the Income-tax Act relating to search and seizure.

The existing provisions contained in the said sub-section (1) provides that where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner authorised by the Board in this behalf on his satisfaction of certain conditions may issue warrant of authorisation for conducting search and seizure operation.

It is proposed to amend the said sub-section so as to clarify that Additional Director or Additional Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

This amendment will take effect retrospectively from 1st June, 1994.

It is further proposed to amend said sub-section so as to clarify that Joint Director and Joint Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

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

The amendment further provides that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after 1st October, 2009 unless he has been empowered by the Board to do so.

It is also proposed to amend sub-section (1A) of said section so as to clarify that Additional Director or Additional Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

This amendment will take effect retrospectively from 1st June, 1994.

It is also proposed to amend the said sub-section so as to provide that Joint Director and Joint Commissioner had always the power to issue warrant of authorisation for conducting search and seizure under the said section.

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

Clause 51 of the Bill seeks to amend sub-section (1) of section 132A of the Income-tax Act relating to powers to requisition books of account, etc.

The existing provisions provides that the Director General or Director or the Chief Commissioner or Commissioner may authorise any Joint Director, Joint Commissioner, Assistant Director or Deputy Director, Assistant Commissioner or Deputy Commissioner or Income-tax Officer.

It is proposed to amend sub-section (1) of the said section so as to include that Additional Director or Additional Commissioner may be authorised to exercise the powers specified in the said section.

This amendment will take effect retrospectively from 1st June, 1994.

Clause 52 of the Bill seeks to amend section 139A of the Income-tax Act relating to Permanent Account Number (PAN).

The existing provisions contained in sub-section (5B) of the said section provides that where any sum or income or amount has been paid after deducting tax under Chapter XVIIIB, every person deducting tax under this Chapter shall quote the Permanent Account Number of the person to whom such sum or income or amount has been paid by him in all quarterly statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200.

It is proposed to amend the said sub-section so as to provide that every person deducting tax under this Chapter shall quote the Permanent Account Number of the person to whom such sum or income or amount has been paid by him in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 200.

Sub-section (5D) of the said section provides that every person collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer or licensee or lessee referred to in that section in all quarterly statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.

It is proposed to amend the said sub-section so as to provide that every person collecting tax in accordance with the provisions of section 206C shall quote the Permanent Account Number of every buyer or licensee or lessee in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of section 206C.

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

Clause 53 of the Bill seeks to amend section 140 of the Income-tax Act relating to return by whom to be signed.

Under the existing provisions contained in the said section the return under section 115WD or section 139 shall be signed and verified by the concerned persons as specified in the said section.

This clause seeks to amend the said section so as to insert a new clause (cd) which provides that in the case of a limited liability partnership, the return shall be signed and verified by the designated partner and where for any unavoidable reason the designated partner is not able to sign the return or where there is no designated partner by any other partner.

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

Clause 54 of the Bill seeks to amend section 143 of the Income-tax Act relating to Assessment.

Sub-section (1B) of the said section provides that the Central Government may, save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

It is proposed to amend sub-section (1B) of the said section to extend the time limit from 31st March, 2009 to 31st March, 2010 so that no direction shall be issued after the 31st March, 2010.

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

Clause 55 of the Bill seeks to insert a new section 144C in the Income-tax Act relating to Dispute Resolution Panel.

The subjects of transfer pricing audit and the taxation of foreign company are at nascent stage in India. Often the Assessing Officers and Transfer Pricing Officers tend to take a conservative view. The correction of such view take very long time with the existing appellate structure.

With a view to provide speedy disposal, it is proposed to amend the Income-tax Act so as to create an alternative dispute resolution mechanism within the income-tax department and accordingly, section 144C has been proposed to be inserted so as to provide *inter alia* the Dispute Resolution Panel as an alternative dispute resolution mechanism.

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

Clause 56 of the Bill seeks to substitute section 145A of the Income-tax Act, which relates to method of accounting in certain cases.

The existing provisions contained in said section 145A provides that while computing the value of the inventory as on the 1st and the last day of the previous year, the computation according to the method of accounting regularly employed by the assessee shall be adjusted to include the amount of any tax, duty, cess or fees paid or liability incurred for the same under any law in force.

It is proposed to amend the said section so as to provide that the interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

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

Clause 57 of the Bill seeks to amend section 147 relating to income escaping assessment.

It is proposed to insert *Explanation 3* to the said section so as to provide that for the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess income in respect of any issue which has escaped assessment and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-1990 and subsequent years.

Clause 58 seeks to insert a new section 167C relating to liability of partners of limited liability partnership in liquidation.

The proposed new section seeks to provide that where any tax is due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, then, every person who was a partner of the limited liability partnership at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.

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

Clause 59 of the Bill seeks to amend section 194A which relates to interest other than "interest on securities".

The existing provisions contained in sub-section (3) of the said section provide that the provisions of sub-section (1) of the said section shall not apply in respect of certain income or receipt. Clause (x) of the said sub-section provides that provisions of sub-section (1) shall not be applicable in respect of income paid or payable on zero coupon bond issued by an infrastructure capital

company or infrastructure capital fund or public sector company on or after 1st June, 2005.

It is proposed to amend the said clause (x) of sub-section (3) of section 194A so as to include "scheduled bank" after "public sector company". The proposed amendment is consequential in nature.

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

Clause 60 seeks to substitute the existing section 194C of the Income-tax Act relating to deduction of tax at source on payment to contractors and sub-contractors.

Under the existing provisions, if certain persons make payment for carrying out any work to a contractor then tax is deductible at source at the rate of one per cent. in the case of payment for advertising contract and two per cent. in the case of any other contract. Further, tax is deductible at source at the rate of one per cent. when a contractor makes a payment to a sub-contractor. The section further provided that no tax shall be deductible at source on payment or credit up to twenty thousand rupees. However, if the aggregate payment or credit exceeds fifty thousand rupees in a year then tax is deductible at source. The provisions give exemption from tax deduction at source on payment made to a sub-contractor during the course of business of plying, hiring or leasing goods carriages on fulfilment of certain conditions.

The proposed amendment seeks to substitute section 194C.

Sub-section (1) of the proposed amendment provides that any person shall deduct tax at source at the rate of one per cent. if the payee is an individual or a Hindu undivided family or at the rate of two per cent. in the case of any other person, on payment to a resident contractor for carrying out any work.

Sub-section (2) provides that if the sum is credited to suspense account, etc., then also tax at source needs to be deducted.

Sub-section (3) provides that where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation* to section 194C, tax shall be deducted at source on the invoice value excluding the value of material if such value is mentioned separately in the invoice, or on the whole of the invoice value if the value of material is not mentioned separately in the invoice.

Sub-section (4) is identical to the proviso to earlier sub-section (1) of section 194C.

Sub-section (5) is identical to clause (i) of sub-section (3) of the existing section 194C.

The proposed sub-section (6) provides that no tax shall be deducted at source in case of payment for plying, hiring or leasing goods carriages provided that the contractor provides his Permanent Account Number.

The proposed sub-section (7) provides that the "payer" mentioned in sub-section (6) shall furnish to the prescribed Income Tax Authority or the person authorised by it such particulars as may be prescribed. The *Explanation* to the proposed section defines the expressions "specified person", "goods carriage" and "contract".

Clause (iv) of the *Explanation* defines the expression "work" to include advertising, broadcasting and telecasting including production of programmes for such broadcasting or telecasting, carriage of goods or passengers by any mode of transport other than by railways, catering and manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer.

The *Explanation* further provides that the work shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person other than such customer.

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

Clause 61 of the Bill seeks to amend section 194-I of the Income-tax Act, which relates to deduction of tax at source on any income payable by way of rent.

Clauses (a), (b) and (c) of the said section provide for deduction of tax at source on income by way of rent. It, *inter alia* provides such deduction at the rate of ten per cent. for the use of any machinery or plant or equipment. It further provides that such deduction at the rate of fifteen per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings where the payee is an individual or a Hindu undivided family and twenty per cent. where such payee is a person other than an individual or a Hindu undivided family.

It is proposed to substitute the said clauses (a), (b) and (c) by new clauses (a) and (b) so as to provide that deduction of tax at source on an income by way of rent shall be at the rate of (a) two per cent. for the use of any machinery or plant or equipment; and (b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings.

These amendments will take effect from 1st October, 2009.

Clause 62 of the Bill seeks to amend section 197A of the Income-tax Act which relates to no deduction to be made in certain cases.

Under the existing provisions contained in section 197A, no tax is deducted at source on certain incomes, if the deductee files a declaration in the prescribed form and in the case of an offshore banking unit on interest paid to non-resident or a person not ordinarily resident in India subject to fulfilment of certain conditions.

It is proposed to insert a new sub-section (1E) so as to provide that no deduction of tax shall, notwithstanding anything contained in this Chapter be made from any payment to any person for, or on behalf of, the New Pension System Trust.

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

Clause 63 of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of the person deducting tax.

The proposed amendment seeks to provide that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorized by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

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

Clause 64 of the Bill seeks to insert new section 200A providing for processing of statements of tax deducted at source.

The proposed new section 200A provides that the statement of tax deduction at source made under section 200 shall be processed and sums deductible under Chapter XVII-B shall be computed after making adjustments of any arithmetical error or apparent incorrect claim in the statement and interest, if any, shall be charged on the sum so computed. The sum payable or refundable to the deductor shall be determined after adjusting the aforesaid computed sum against any amount paid under section 200 and section 201 and any amount paid otherwise by way of tax or interest. Intimation shall be sent to the deductor specifying the amount payable or refundable to the deductor. No intimation shall be sent after the expiry of one year from the end of the financial year in which the statement is filed. Clause (a) of the *Explanation* provides that an incorrect claim apparent from any information in the statement"

shall mean (i) a claim, on the basis of an entry, in the statement of an item, which is inconsistent with another entry of the same or some other item in such statement; and (ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of the Act. It is further provided that for the processing of statements, the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor.

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

Clause 65 of the Bill seeks to amend section 201 of the Income-tax Act which relates to consequences of failure to deduct or pay.

Vide clause 63 of the Bill proposes to amend section 200, specifying that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

It is, therefore, proposed to make consequential amendment to section 201 of the Income-tax Act.

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

Sub-clause (b) of clause 65 seeks to provide time limit for passing of order under sub-section (1) of section 201 in case of resident tax payers. It provides that no order shall be made under sub-section (1) of section 201, deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax in the case of a person resident in India, at any time after the expiry of two years from the end of the financial year in which the statement is filed in a case where the statement referred to in section 200 has been filed. It further provides that in any other case such order shall not be made at any time after four years from the end of the financial year in which payment is made or credit is given. It further provides that such order for a financial year commencing on or before 1st day of April, 2007 may be passed at any time on or before the 31st day of March, 2011. The sub clause also provides that the provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation 1* to section 153 shall, so far as may apply to the time limit prescribed in proposed sub-section (3) of section 201.

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

Clause 66 of the Bill seeks to amend section 203A of the Income-tax Act which relates to tax deduction and collection account number.

Vide clause 63 of the Bill proposes to amend section 200, specifying that any person deducting any sum on or after the 1st day of April, 2005 in accordance with the provisions of Chapter XVII-B, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

Vide clause 70 of the Bill proposes to amend section 206C specifying that any person collecting tax on or after the 1st day of April, 2005 shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-

tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

It is, therefore, proposed to make consequential amendment to section 203A of the Income-tax Act.

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

Clause 67 of the Bill seeks to amend section 206A of the Income-tax Act relating to furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

The proposed amendment seeks to provide that any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case by way of interest (other than interest on securities), shall prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is further provided that the Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII to prepare and deliver or cause to be delivered such statements for such period as may be prescribed in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is proposed to make consequential amendment to section 272A of the Income-tax Act.

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

Clause 68 seeks to insert a new section 206AA after section 206A of the Income-tax Act relating to requirement to furnish Permanent Account Number.

The proposed sub-section (1) of the said section specifies that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIIB (hereinafter referred to as the deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereinafter referred as the deductor), failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent., whichever is higher.

The proposed sub-section (2) of the said section provides that the declaration filed under section 197A shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.

The proposed sub-section (3) of the said section provides that in case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

The proposed sub-section (4) of the said section provides that no certificate under section 197 shall be granted unless it contains the Permanent Account Number of the applicant.

The proposed sub-section (5) of the said section provides that the deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all correspondence, bills, vouchers and other documents which are exchanged between them.

The proposed sub-section (6) of the said section provides that where the Permanent Account Number provided by the deductee is invalid or it does not belong to the deductee, then it shall be deemed that Permanent Account Number has not been furnished to the deductor and tax shall be deducted under sub-section (1).

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

Clause 69 of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The proposed amendment seeks to provide that any person collecting tax on or after the 1st day of April, 2005 in accordance with the foregoing provisions of this section shall, after paying the tax collected to the credit of the Central Government within the prescribed time, prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

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

Clause 70 of the Bill seeks to amend section 208 of the Income-tax Act relating to conditions of liability to pay advance tax.

Section 208 specifies that advance tax shall be payable in every case where the amount of such tax payable by the assessee during a financial year is five thousand rupees or more.

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

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

Clause 71 of the Bill seeks to amend section 246A of the Income-tax Act relating to appeal filed before Commissioner (Appeals).

The proposed amendment seeks to exclude any order passed under sub-section (3) of section 143 in pursuance of directions of the Dispute Resolution Panel as an appealable order before Commissioner (Appeals).

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

Clause 72 of the Bill seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

It is proposed to insert a new clause after clause (c) of sub-section (1) so as to provide that an order passed by an Assessing Officer under sub-section (3) of section 143 in pursuance of directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order is appealable to the Appellate Tribunal under the said section. The proposed amendment is consequential in nature.

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

Clause 73 of the Bill seeks to amend section 271 of the Income-tax Act which relates to penalties imposable for failure to furnish returns, comply with notices, concealment of income, etc.

Under the existing provisions contained in the *Explanation 5A* of sub-section (1) of said section, where in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of,—(i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilizing (wholly or in part) his income for any previous year; or (ii) any income based on any entry in any books of account or other documents or transactions and claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year; which has ended before the date of the search and the due date for filing the return of income for such year has expired and the assessee has not filed the return, then, notwithstanding that such income is declared by him in any return

of income furnished on or after the date of the search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

It is proposed to amend the said *Explanation* so as to clarify that where the return of income for such previous year has been furnished before the said date but such income has not been declared therein, in such case the assessee shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

This amendment will take effect retrospectively from 1st June, 2007.

Clause 74 of the Bill seeks to amend section 272A of the Income-tax Act which relates to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

Vide clause 67 of the Bill proposes to amend section 206A of the Income-tax Act relating to furnishing of quarterly return in respect of payment of interest to residents without deduction of tax. The proposed amendment seeks to provide that any banking company or co-operative society or public company referred to in the proviso to clause (i) of sub-section (3) of section 194A responsible for paying to a resident any income not exceeding ten thousand rupees, where the payer is a banking company or a co-operative society, and five thousand rupees in any other case by way of interest (other than interest on securities), shall prepare such statements for such period as may be prescribed in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statements for such period, in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is further provided that the Central Government may, by notification in the Official Gazette, require any person other than a person mentioned in sub-section (1) responsible for paying to a resident any income liable for deduction of tax at source under Chapter XVII to prepare and deliver or cause to be delivered such statements for such period as may be prescribed in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed to the prescribed income-tax authority or the person authorised by such authority on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media.

It is, therefore, proposed to make consequential amendment to section 272A of the Income-tax Act.

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

Clause 75 of the Bill seeks to amend section 281B of the Income-tax Act relating to provisional attachment to protect revenue in certain cases.

The existing provisions of the second proviso to sub-section (2) of the said section provides that where an application under section 245C is made to the Settlement Commission, the time taken by the Settlement Commission in making an order under sub-section (1) of section 245D would be excluded for computing the period of limitations of the provisional attachment order under this section.

It is proposed to insert a third proviso in sub-section (2) of the said section 281B so as to provide that the period during which the proceedings for assessment or re-assessment are stayed by an order or injunction from any court shall be excluded from the period of operation of the provisional attachment order specified in the first proviso of the aforesaid sub-section.

This amendment will take effect retrospectively from 1st April, 1988 and will, accordingly, apply in relation to the assessment year 1988-89 and subsequent years.

Clause 76 of the Bill seeks to substitute section 282 of the Income-tax Act which relates to service of notice generally.

Under the existing provisions contained in the said section a notice or requisition under the Act may be served on the person therein named either by post or as if it were a summons issued by a court.

It is proposed to provide that the service of notice or summon or requisition or order or any other communication may be made by delivering or transmitting a copy thereof by post or courier service or in such manner as provided in the Code of Civil Procedure, 1908 (5 of 1908) for the purposes of service of summons; or in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or by any other means of transmissions as may be provided by rules made by the Board in this behalf.

It is also proposed that the Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which such communication may be delivered.

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

Clause 77 of the Bill seeks to insert a new section 282B of the Income-tax Act relating to allotment of Document Identification Number.

It is proposed to insert a new section 282B in the Income-tax Act so as to provide that every income tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon. It is further proposed that where the notice, order, letter or any correspondence issued by any income-tax authority does not bear a Document Identification Number, such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

It is also proposed to provide that every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number. It is also proposed to provide where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear Document Identification Number, such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.

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

Clause 78 of the Bill seeks to insert new section 293C in the Income-tax Act, relating to power to withdraw the approval.

It is proposed to insert a new section 293C in the Income-tax Act so as to provide that the income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, may withdraw such approval at any time, although such provision to withdraw such approval has not been specifically, provided for in such provision.

However, the income-tax authority shall give a reasonable opportunity of showing cause against the proposed withdrawal to the concerned assessee, and thereafter withdraw the approval and record the reasons for doing so.

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

Clause 79 of the Bill seeks to amend rule 5 of the First Schedule of the Income-tax Act, relating to computation of profits and gains of non-life insurance business.

Under the existing provisions contained in rule 5 of the said Schedule of the Income-tax Act, profits and gains of non-life insurance business is taken to be profit disclosed by annual account as per Insurance Act, 1938 subject to adjustments under clause (a) and clause (c) of said rule 5.

The proposed amendment seeks to amend rule 5 of the said Schedule to provide that profits and gains of any business of insurance other than life insurance shall be taken to be the profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 or rules made thereunder or the Insurance Regulatory and Development Authority Act, 1999 or regulations made thereunder, subject to the adjustments mentioned in clause (a), clause (c) of aforesaid rule 5 and the newly inserted clause (b), which provides that adjustment shall be made by way of deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realization of investments in accordance with the regulations prescribed by Insurance Regulatory and Development Authority. Adjustment shall also be made by way of increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realization of investments in accordance with the regulations prescribed by Insurance Regulatory and Development Authority.

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

Clause 80 of the Bill seeks to amend Part A of the Fourth Schedule to the Income-tax Act, which relates to recognised provident funds.

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

The first proviso to sub-rule (1) of the said rule 3 provides that in a case where recognition has been accorded to any provident fund on or before the 31st March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of said rule 4, and any other conditions which the Board may, by rules specify in this behalf, the recognition to such fund shall be withdrawn, if such fund does not satisfy such conditions on or before 31st March, 2009.

It is proposed to amend the said proviso to sub-rule (1), so as to extend the said time limit from 31st March, 2009 to 31st December, 2010.

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

Clause 81 of the Bill seeks to amend the Thirteenth Schedule of the Income-tax Act.

The said Schedule specifies the list of articles or things, Excise classification, and the States for the purposes of availing of deductions in the case of the State of Himachal Pradesh and the State of Uttaranchal under section 80-IC of the said Act.

It is proposed to substitute serial number 19 under Part B of the said Thirteenth Schedule which specifies certain new articles or things and Excise classification.

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

Wealth-tax

Clause 82 of the Bill seeks to amend section 3 of the Wealth-tax Act, relating to charge of wealth tax.

Under the existing provisions contained in sub-section (2) of the said section, wealth-tax will be charged in respect of the net wealth on the corresponding valuation date of every individual, Hindu undivided family and company, at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees.

It is proposed to insert a proviso after sub-section (2) to provide that for every assessment year commencing on and from the 1st day of April, 2010, wealth-tax will be charged in respect of the net wealth on the corresponding valuation date of every individual,

Hindu undivided family and company, at the rate of one per cent. of the amount by which the net wealth exceeds thirty lakh rupees.

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

Clause 83 of the Bill seeks to amend section 44A of the Wealth tax Act relating to agreement for avoidance or relief of double taxation with respect to wealth-tax.

Under the existing provision, power has been conferred upon the Central Government to enter into an agreement with the Government of any reciprocating country outside India for granting of relief in respect of wealth-tax payable under the said Act and the corresponding law in force in that reciprocating foreign country.

It is proposed to amend the *Explanation* to the said section so as to confer power upon the Central Government to enter into agreement with the Government of any territory outside India, which may be notified by the Central Government, in addition to entering into agreement with foreign countries as provided in the said existing section 44A.

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

Clause 88 of the Bill seeks to amend sub-section (3) of section 137 of the Customs Act to,—

(a) empower the Central Government to make rules to provide for the manner of compounding of offences;

(b) exclude compounding of certain serious offences and in certain circumstances by inserting a proviso to that sub-section.

Clause 89 of the Bill seeks to amend section 156 of the Customs Act with a view to empower the Central Government to make rules regarding the manner of compounding.

Clause 90 of the Bill seeks to amend section 157 of the Customs Act with a view to empower the Board to make regulations to provide for the manner of,—

(i) (a) export of goods, relinquishment of title to the goods and abandoning to customs, and; (b) destruction or rendering the goods commercially valueless in the presence of proper officer.

(ii) filing the application for refund of duty and form thereof.

Clause 91 of the Bill seeks to give retrospective effect to the notification published vide G.S.R. No. 173(E), dated 17th March, 2009, appointing officers of customs under sub-section (1) of section 4 read with sub-section (1) of section 5 of the Customs Act and specifying their area of jurisdiction and to validate actions taken by such officers of customs on and from 9th day of May, 2000 as if the notification specifying their area of jurisdiction was in force at all material times.

Clause 92 of the Bill seeks to amend the notification number G.S.R. 260(E) dated the 1st May, 2006 retrospectively with effect from the 1st day of May, 2006 so as to,—

(a) allow the facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or CENVAT credit under CENVAT Credit Rules, 2004, in respect of materials which have been locally procured and have been used in the manufacture of goods exported under the Duty Free Import Authorisation scheme;

(b) provide that, the duty free replenishments in respect of which the facilities stated in (a) above have been availed, shall be used for the manufacture of dutiable goods in the factory of the exporter or in the factory of his supporting manufacturer even after the discharge of the export obligation;

(c) provide that the importer shall pay an amount equal to the additional duty of customs together with interest at the rate of fifteen per cent. per annum from the date of clearance of the said materials, in case,—

(i) materials are imported against an authorisation transferred by the Regional Authority, or

(ii) the imported materials are transferred with the permission of Regional Authority;

But no such amount shall be payable in respect of Authorizations issued from 1st May, 2006 till 31st March, 2007; and

(d) define the word 'dutiable goods' for the purposes of the said notification.

Customs Tariff

Clause 93 of the Bill seeks to amend section 3 of the Customs Tariff Act so as to provide that where the Central Government has fixed tariff value for an article produced or manufactured in India under sub-section (2) of section 3 of the Central Excise Act, 1944 for the collection of central excise duty, the value of a like imported article shall be deemed to be such tariff value.

Clause 94 of the Bill seeks to amend section 8B of the Customs Tariff Act retrospectively so as to extend the provisions of the

Customs

Clause 84 of the Bill seeks to insert a new section 26A in the Customs Act to provide for refund of import duty paid at the time of clearance for home consumption on imported goods capable of being easily identified if, the goods have been found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods, the goods are identified to the satisfaction of the officer of customs, the goods have been exported or the importer has relinquished his title to the goods, etc., so as to comply with the standards under the International Convention on the Simplification and Harmonisation of Customs Procedure (Revised Kyoto Convention).

Clause 85 of the Bill seeks to amend section 28F of the Customs Act with a view to provide that the Central Government may, by notification, authorise the Authority for Advance Ruling constituted under section 245-O of the Income-tax Act to act as an Authority under the said Act with the modification that a member from Indian Customs and Central Excise Service who is qualified to be a Member of the Board shall act as the member of the said authority and all the applications and proceedings pending before the authority constituted under the Customs Act shall be transferred to such notified authority from the date of authorisation. Sub-section (2B) of said section provides that the Authority constituted under sub-section (1) shall remain dormant on the issuance of a notification under sub-section (2A).

Clause 86 of the Bill seeks to amend section 130 of the Customs Act retrospectively with effect from 1st day of July, 2003 so as to make express provision empowering the High Court to condone the delay in filing of appeals beyond the period of one hundred and eighty days, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the appeals and review petition including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 87 of the Bill seeks to amend section 130A of the Customs Act retrospectively with effect from 1st day of July, 1999 so as to make express provision empowering the High Court to condone the delay in filing of application or memorandum of cross-objections, beyond the relevant period as specified in sub-sections (1) and (3), as the case may be, as the Supreme Court or the High Court in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all applications, appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Customs Act, 1962 and rules and regulations made thereunder including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of safeguard duty.

Clause 95 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 96 of the Bill seeks to amend section 8C of the Customs Tariff Act retrospectively so as to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of country specific safeguard duty.

Clause 97 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 98 of the Bill seeks to amend section 9 of the Customs Tariff Act retrospectively so as to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to that section in respect of countervailing duty on subsidised articles.

Clause 99 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 100 of the Bill seeks to amend section 9A of the Customs Tariff Act as follows,-

(a) sub-clause (i) seeks to insert the words "by an exporter or producer" in sub-section (1).

(b) sub-clause (ii) seeks to insert a new sub-section (6A) to provide that the margin of dumping in relation to an article exported by an exporter or producer shall be determined on the basis of records concerning normal value and export price maintained by such exporter or producer.

(c) sub-clause (iii) seeks to extend the machinery provisions of the Customs Act, 1962 including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties to section 9A in respect of anti dumping duty with retrospective effect.

Clause 101 of the Bill seeks to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act. This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause 102 of the Bill seeks to amend Para (A) of Note 2 of SECTION XI of First Schedule to the Customs Tariff Act to provide that in respect of goods classifiable in chapters 50 to 55 or heading 5809 or 5902 and of a mixture of a two or more textile materials, the same shall be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material. But, when no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.

Excise

Clause 103 of the Bill seeks to amend section 9A of the Central Excise Act with a view to amend sub-section (2) thereof by inserting the words "and in such manner" and a proviso in sub-section (2)

thereof so as to provide for the manner of compounding of the offences and further to provide that certain offences and circumstances wherein the offences shall not be compoundable.

Clause 104 of the Bill seeks to amend section 14A of the Central Excise Act by inserting the words "chartered accountant" in sub-section (1) and sub-section (2) and by adding an *Explanation* to said section so as to empower the Chief Commissioner of Central Excise to nominate chartered accountant or cost accountant for special Audit under this section and to explain the expression "chartered accountant".

Clause 105 of the Bill seeks to amend section 14AA of the Central Excise Act by inserting the words "chartered accountant" in sub-section (1) and sub-section (2) and by adding an *Explanation* to said section so as to empower the Chief Commissioner of Central Excise to nominate chartered accountant or cost accountant for special Audit under this section and to explain the expression "chartered accountant".

Clause 106 of the Bill proposes to amend section 23A of the Central Excise Act by amending the definition of "Authority" in clause (e) thereof.

Clause 107 of the Bill seeks to amend section 35G of the Central Excise Act retrospectively with effect from 1st day of July, 2003 so as to make express provision empowering the High Court to condone the delay in filing of appeals beyond the specified period of one hundred and eighty days, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 108 of the Bill seeks to amend section 35H of Central Excise Act retrospectively with effect from 1st day of July, 1999 so as to make express provision empowering the High Court to condone the delay in filing of application or memorandum of cross-objections beyond the relevant period as prescribed in sub-sections (1) and (3), as the case may be, as the Supreme Court and the High Courts in certain judgments have held that the High Courts have no power to condone the delay under the said provision. The amendment is of procedural nature hence it shall apply to all the applications, appeals and review petitions including the application or appeal or review petition, as the case may be, pending before Supreme Court or High Court.

Clause 109 of the Bill seeks to amend section 37 of the Central Excise Act with a view to empower the Central Government to make rules regarding the manner of compounding.

Clause 110 of the Bill seeks to amend notification numbers G.S.R. 448(E), dated the 1st August, 1997, G.S.R. 503(E), dated the 30th August, 1997 and G.S.R. 130(E), dated the 10th March, 1998 with retrospective effect i.e. from the date of issue of respective notifications, so as to provide that the Central Government had the power to notify rates of excise duty under these notifications by virtue of powers conferred on it by the erstwhile section 3A of the Central Excise Act.

Excise Tariff

Clause 111 of the Bill seeks to amend the First Schedule to the Central Excise Tariff Act (i) by substituting Note 1 of Chapter 8 so as to specify that certain items shall not be covered under the said

Chapter, (ii) by inserting Note 6 in Chapter 21 so as to declare the process of adding or mixing certain ingredients to betel nut as amounting to "manufacture" and (iii) by amending entry against tariff item 5801 22 10 so as to provide unit quantity and rate of duty therein.

Service Tax

Clause 112 of the Bill seeks to amend section 65 of the Finance Act, 1994 as under, -

sub-clause (1) seeks to amend clause (19) of the said section by redefining "Business Auxiliary Service" so as to provide that only those processes which result in the manufacture of excisable goods as defined in Central Excise Act shall be excluded from the purview of "Business Auxiliary Service".

sub-clause (2) seeks to amend clause (101) of the said section with a view to exclude sub-brokers from the purview of taxable service.

sub-clause (3) seeks to amend clause (105) of the said section as under, -

Item (a) thereof seeks to amend sub-clause (zzzp) so as to include imposition of service tax on transportation of goods by railways.

Item (b) thereof seeks to amend sub-clause (zzze) for the purpose of fixing liability to pay service tax only on "provider" and not the "acquirer" of the right to use information technology software and therefore, it is proposed to substitute the word "acquiring" with the word "providing" with retrospective effect from 16th May, 2008, the date on which the service under sub-clause (zzze) was included in Chapter V of Finance Act, 1994.

Item (c) thereof seeks to insert, -

sub-clause (zzzk) to impose service tax on services provided or to be provided to any person, by any person, in relation to cosmetic surgery or plastic surgery other than the surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma.

sub-clause (zzzl) to impose service tax on services provided or to be provided to any person, by any person, in relation to transport of coastal goods and goods through inland water.

sub-clause (zzzm) to impose service tax on services provided or to be provided to any business entity, by any business entity, in relation to advice, consultancy or assistance in any branch of law excluding appearance before any court, tribunal or authority and the term 'business entity' has been defined to include association of persons, body of individuals, company or firm but not to include an individual.

Clause (B) proposes to make consequential amendments in section 66 for the purpose of bringing under its purview new services inserted vide sub-clauses (zzzk), (zzzl) and (zzzm).

Clause (C) proposes to substitute section 84 with a view to align the appeal procedure of service tax with that of Central Excise. Therefore, it is proposed to do away with the power of revision by the Commissioner of Central Excise under section 84. By amendment to the said section, it is proposed to provide a procedure for referring the orders passed by any authority subordinate to the Commissioner of Central Excise to the Commissioner of Central Excise (Appeals), within the prescribed period, where any such direction is made by the Commissioner reviewing such orders. Further, it is proposed to include a saving clause by way of an explanation to provide that the amended provision shall not apply to any order passed by an authority subordinate to the Commissioner before the commencement of this Bill.

Clause (D) proposes to make consequential amendments in section 86 by omitting the words and figures "or section 84".

Clause (E) proposes to amend section 94 for empowering the Central Government to make rules with respect to the date for determination of rate of service tax and the place of provision of taxable service by inserting clause (hhh) in sub-section (2) thereof.

Clause (F) proposes to amend section 95 to empower the Central Government to remove difficulties by making an order.

Clause (G) proposes to validate certain actions taken or anything done by virtue of the provisions of items (v) and (vi) of sub-clause (zzze) of clause (105) of section 65 retrospectively with effect from 16th day of May, 2008.

Clause (H) proposes to validate the exemption given to a person providing specified taxable services to goods transport agency by the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 10(E), dated 5th January, 2009, retrospectively with effect from 1st January, 2005.

This has become necessary in order to validate certain actions affected by certain judicial pronouncements.

Clause (I) proposes to amend section 96A by amending the definition of "Authority" in clause (d) thereof.

Miscellaneous

Clause 113 of the Bill seeks to amend section 13 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

The existing provisions contained in sub-section (1) of section 13 of the said Act provide that notwithstanding anything contained in the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax or income, profits or gains, no income-tax or any other tax shall be payable by the administrator in relation to the specified undertaking up to 31st March, 2009 in respect of any income, profit or gains derived, or any amount received in relation to the specified undertaking.

It is proposed to amend sub-section (1) of the said section so as to extend the exemption from the period beginning on the 1st April, 2009 to 31st March, 2014.

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

Clause 114 of the Bill seeks to insert new section 113A in Chapter VII of the Finance (No. 2) Act, 2004 relating to Securities Transaction Tax.

The existing provisions contained in the said Chapter provides for levy of a tax on taxable securities transactions entered in a recognised stock exchange payable by the purchaser from the date on which this Chapter comes into force by way of notification in the Official Gazette by the Central Government.

It is proposed to insert a new section in the said Chapter so as to provide that the provisions of the said Chapter shall, notwithstanding anything contained in this Chapter, not apply to "taxable securities transactions" entered into by any person for, or on behalf of, the New Pension System Trust.

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

Clause 115 of the Bill seeks to insert a new section 121A to the Finance Act, 2008 which relates to provisions of Chapter VII not to apply to commodities transaction tax.

The existing Chapter VII provides for provisions relating to commodities transactions tax. It is proposed to insert new section 121A so as to provide that the provisions of Chapter VII relating to taxable commodities transaction entered on or after the 1st April, 2009 shall not apply.

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

Clause 116 of the Bill seeks to repeal the Finance Act, 2009 (26 of 2009).