

# **THE FINANCE BILL, 2015**

**(AS INTRODUCED IN LOK SABHA)**

# THE FINANCE BILL, 2015

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THE FINANCE BILL, 2015

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to give effect to the financial proposals of the Central Government for the financial year 2015-2016.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2015. Short title and commencement.
- 5 (2) Save as otherwise provided in this Act, sections 2 to 79 shall be deemed to have come into force on the 1st day of April, 2015.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on Income-tax.  
10 the 1st day of April, 2015, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to  
15 total income, and the total income exceeds two lakh fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

20 (b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

25 (ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

30 (iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “three lakh rupees” had been substituted:

35 Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words “two lakh fifty thousand rupees”, the words “five lakh rupees” had been substituted.



(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB or 115JC of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or 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, or co-operative society or firm or local authority, at the rate of ten per cent. of such income-tax, where the total income exceeds one crore rupees;

(b) in the case of every domestic company,—

(i) at the rate of five per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of ten per cent. of such income-tax, where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company,—

(i) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a), having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as income-tax on such income and surcharge thereon shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as income-tax on such income and surcharge thereon, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or section 115QA or sub-section (2) of section 115R or section 115TA of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of twelve per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 192A, 194C, 194DA, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194J, 194LA, 194LB, 194LBA, 194LBB, 194LC, 194LD, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or 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, or co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated,—

5 (i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

10 (7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

15 (8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union,—

20 (a) in the case of every individual or Hindu undivided family or 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, or co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, calculated—

25 (i) at the rate of two per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten crore rupees.

30 (9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes  
35 of the Union, calculated in such cases and in such manner as provided therein:

40 Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (IA) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

45 Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E, 115JB and 115JC of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

50 (a) in the case of every individual or Hindu undivided family or 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, or co-operative society or firm or local authority, calculated at the rate of twelve per cent. of such "advance tax", where the total income exceeds one crore rupees;

(b) in the case of every domestic company, calculated,—

55 (i) at the rate of seven per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of twelve per cent. of such "advance tax", where the total income exceeds ten crore rupees;

(c) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed ten crore rupees;

5

(ii) at the rate of five per cent. of such "advance tax", where the total income exceeds ten crore rupees:

Provided also that in the case of persons mentioned in (a) above, having total income chargeable to tax under section 115JC of the Income-tax Act and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

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Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees but does not exceed ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

15

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

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(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds two lakh fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

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(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

30

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

35

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of two lakh fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

40

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

45

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "three lakh rupees" had been substituted:

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Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh fifty thousand rupees", the words "five lakh rupees" had been substituted:

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Provided also that the amount of income-tax or "advance tax" so arrived at, shall be increased by a surcharge for purposes of the Union calculated in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2015, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

### CHAPTER III

#### DIRECT TAXES

##### *Income-tax*

3. In section 2 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of section 2.

(a) for clause (13A), the following clause shall be substituted, namely:—

'(13A) "business trust" means a trust registered as,—

(i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or

(ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and

the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;";

(b) in clause (15),—

(i) after the word "education," the word "yoga," shall be inserted;

(ii) for the first and the second provisos, the following proviso shall be substituted, namely:—

"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, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and 5

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;”;

(c) in clause (37A), in sub-clause (iii), after the words “for the purposes of deduction of tax under”, the words, figures and letters “section 194LBA or” shall be inserted; 10

(d) in clause (42A), in the *Explanation* 1, in clause (i), after sub-clause (hc), the following sub-clause shall be inserted, namely:—

“(hd) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;” 15

Amendment of section 6.

4. In section 6 of the Income-tax Act,—

(i) in clause (1), the *Explanation* shall be numbered as *Explanation* 1 thereof and after *Explanation* 1 as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation* 2.—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.”; 20

(ii) for clause (3), the following clause shall be substituted with effect from the 1st day of April, 2016, namely:— 25

‘(3) A company is said to be resident in India in any previous year, if,—

(i) it is an Indian company; or

(ii) its place of effective management, at any time in that year, is in India.

*Explanation.*—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.’ 30

Amendment of section 9.

5. In section 9 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2016,—

(A) in clause (i), after *Explanation* 5, the following *Explanations* shall be inserted, namely:—

‘*Explanation* 6.—For the purposes of this clause, it is hereby declared that—

(a) the share or interest, referred to in *Explanation* 5, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets— 35

(i) exceeds the amount of ten crore rupees; and

(ii) represents at least fifty per cent. of the value of all the assets owned by the company or entity, as the case may be; 40

(b) the value of an asset shall be the value as on the specified date, of such asset without reduction of liabilities, if any, in respect of the asset, determined in such manner as may be prescribed;

(c) “specified date” means the—

(i) date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or 45

(ii) date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (i), by fifteen per cent.;

(d) "accounting period" means each period of twelve months ending with the 31st day of March:

Provided that where a company or an entity, referred to in *Explanation 5*, regularly adopts a period of twelve months ending on a day other than the 31st day of March for the purpose of—

5 (i) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

(ii) reporting to persons holding the share or interest,

then, the period of twelve months ending with the other day shall be the accounting period of the company or, as the case may be, the entity:

10 Provided further that the first accounting period of the company or, as the case may be, the entity shall begin from the date of its registration or incorporation and end with the 31st day of March or such other day, as the case may be, following the date of such registration or incorporation, and the later accounting period shall be the successive periods of twelve months:

15 Provided also that if the company or the entity ceases to exist before the end of accounting period, as aforesaid, then, the accounting period shall end immediately before the company or, as the case may be, the entity, ceases to exist.

*Explanation 7.*— For the purposes of this clause,—

20 (a) no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the *Explanation 5*,—

25 (i) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

30 (ii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds any right in, or in relation to, such company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India, nor holds such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

40 (b) in a case where all the assets owned, directly or indirectly, by a company or, as the case may be, an entity referred to in the *Explanation 5*, are not located in India, the income of the non-resident transferor, from transfer outside India of a share of, or interest in, such company or entity, deemed to accrue or arise in India under this clause, shall be only such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed;

(c) "associated enterprise" shall have the meaning assigned to it in section 92A.;

45 (B) in clause (v), after sub-clause (c), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this clause,—

50 (a) it is hereby declared that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly;

55

(b) "permanent establishment" shall have the meaning assigned to it in clause (iiiia) of section 92F.;

Insertion of  
new section  
9A.

Certain  
activities not  
to constitute  
business  
connection in  
India.

6. After section 9 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

‘9A. (1) Notwithstanding anything contained in sub-section (1) of section 9 and subject to the provisions of this section, in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. 5

(2) Notwithstanding anything contained in section 6, an eligible investment fund shall not be said to be resident in India for the purpose of that section merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India.

(3) The eligible investment fund referred to in sub-section (1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:— 10

(a) the fund is not a person resident in India;

(b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into; 15

(c) the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent. of the corpus of the fund;

(d) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

(e) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons; 20

(f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent.;

(g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.; 25

(h) the fund shall not invest more than twenty per cent. of its corpus in any entity;

(i) the fund shall not make any investment in its associate entity;

(j) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees:

Provided that if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year; 30

(k) the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;

(l) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf; 35

(m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity.

(4) The eligible fund manager, in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions, namely:— 40

(a) the person is not an employee of the eligible investment fund or a connected person of the fund;

(b) the person is registered as a fund manager or an investment advisor in accordance with the specified regulations;

(c) the person is acting in the ordinary course of his business as a fund manager;

(d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty per cent. of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager; 45

(5) Every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tax authority containing information relating to the fulfilment of the conditions specified in this section and also provide such other relevant information or documents as may be prescribed. 50

(6) Nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

5 (7) Nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

(8) For the purposes of this section,—

10 (a) “associate” means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being more than fifteen per cent. of its share capital or interest, as the case may be;

(b) “corpus” means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;

(c) “connected person” shall have the meaning assigned to it in clause (4) of section 102;

(d) “entity” means any entity in which an eligible investment fund makes an investment;

15 (e) “specified regulations” means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 or the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992 which may be notified by the Central Government under this clause.  
15 of 1992.

7. In section 10 of the Income-tax Act,—

Amendment of section 10.

20 (I) after clause (11), the following clause shall be inserted, namely:—

5 of 1873. “(11A) any payment from an account, opened in accordance with the Sukanya Samridhi Account Rules, 2014 made under the Government Savings Bank Act, 1873;”;

(II) in clause (23C), after sub-clause (iiia), the following sub-clauses shall be inserted, namely:—

“(iiiaa) the Swachh Bharat Kosh, set up by the Central Government; or

25 (iiiaaa) the Clean Ganga Fund, set up by the Central Government; or”;

(III) with effect from the 1st day of April, 2016—

(a) after clause (23ED), the following clause shall be inserted, namely:—

30 ‘(23EE) any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

35 *Explanation.*—For the purposes of this clause,—

15 of 1992. (i) “recognised clearing corporation” shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992;

40 (ii) “regulations” means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992;  
15 of 1992.

(iii) “specified income” shall mean,—

(a) the income by way of contribution received from specified persons;

45 (b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or

(c) the income from investment made by the Fund;

(iv) “specified person” shall mean,—

50 (a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and



(b) any recognised stock exchange being shareholder in such recognised clearing corporation;’;

(b) in clause (23FB), before the *Explanation*, the following proviso shall be inserted, namely:—

“Provided that nothing contained in this clause shall apply in respect of any income of a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the *Explanation* 1 to section 115UB, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2016;”;

(c) after clause (23FB), the following clauses shall be inserted, namely:—

‘(23FBA) any income of an investment fund other than the income chargeable under the head “Profits and gains of business or profession”;

(23FBB) any income referred to in section 115UB, accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head “Profits and gains of business or profession”.

*Explanation.*—For the purposes of clauses (23FBA) and (23FBB), the expression “investment fund” shall have the meaning assigned to it in clause (a) of the *Explanation* 1 to section 115UB;’;

(d) after clause (23FC), the following clause shall be inserted, namely:—

‘(23FCA) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust.

*Explanation.*—For the purposes of this clause, the expression “real estate asset” shall have the same meaning as assigned to it in clause (zj) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992;’;

(e) in clause (23FD), after the word, brackets, figures and letters “clause (23FC)”, the words, brackets, figures and letters “or clause (23FCA)” shall be inserted;

(f) in clause (38), the second proviso shall be omitted.

Amendment  
of section 11.

**8.** In section 11 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(I) in sub-section (1), in *Explanation*, in clause (2), after sub-clause (b), in the long line, for the brackets and words “(such option to be exercised in writing before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income)”, the brackets and words “(such option to be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed)” shall be substituted;

(II) in sub-section (2), for clauses (a) and (b) and the first and second provisos, the following shall be substituted, namely:—

“(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);

(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:

Provided that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.”.

Amendment  
of section 13.

**9.** In section 13 of the Income-tax Act, after sub-section (8) and before *Explanation* 1, the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:—

“(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(i) the statement referred to in clause (a) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or

(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.”.

10. In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2016,— Amendment of section 32.

(a) in clause (i),—

5 (A) in the second proviso, after the words, brackets, figures and letter “asset referred to in clause (i) or clause (ii) or clause (iia)”, the words, brackets, figures and letter “or the first proviso to clause (iia)” shall be inserted;

(B) after the second proviso, the following proviso shall be inserted, namely:—

10 “Provided also that where an asset referred to in clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year, and the deduction under this sub-section in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be  
15 allowed under this sub-section in the immediately succeeding previous year in respect of such asset.”;

(b) in clause (iia),—

(A) in the proviso, for the word “Provided”, the words “Provided further” shall be substituted;

(B) before the proviso, the following proviso shall be inserted, namely:—

20 “Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning  
25 on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia) shall have effect, as if for the words “twenty per cent.”, the words “thirty-five per cent.” had been substituted.”.

11. After section 32AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:—

Insertion of new section 32AD.

30 ‘32AD. (1) Where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the  
35 said backward area, then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

Investment in new plant or machinery in notified backward areas in certain States.

40 (2) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or re-organisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head “Profits and gains of business or profession” of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

45 (3) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger or re-organisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47 within a period of five years from the date of its installation, the provisions of sub-section (2) shall apply to the amalgamated company or the resulting company or the successor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, as the case may be, as they would have  
50 applied to the amalgamating company or the demerged company or the predecessor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47.

(4) For the purposes of this section, “new asset” means any new plant or machinery (other than a ship or aircraft) but does not include—

55 (a) any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person;

(b) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(c) any office appliances including computers or computer software;

(d) any vehicle; or

(e) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.' 5

Amendment of section 35.

12. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(i) in sub-section (2AA), in the proviso, after the words "submit its report to the", the words "Principal Chief Commissioner or Chief Commissioner or" shall be inserted; 10

(ii) in sub-section (2AB),—

(a) in clause (3), for the words "for audit of accounts maintained for that facility", the words "fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed" shall be substituted;

(b) in clause (4), after the words "approval of the said facility to the", the words "Principal Chief Commissioner or Chief Commissioner or" shall be inserted. 15

Amendment of section 47.

13. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(a) after clause (viaa), the following clause shall be inserted, namely:—

"(viab) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if— 20

(A) at least twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and 25

(B) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;";

(b) after clause (vicb), the following clause shall be inserted, namely:—

"(vicc) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if,— 30

(a) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and 35

(b) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause;"; 1 of 1956.

(c) after clause (xvii), the following clause shall be inserted, namely:— 40

'(xviii) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund:

Provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund. 45

*Explanation.*— For the purposes of this clause,—

(a) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992; 50 15 of 1992.

(b) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;

(c) "equity oriented fund" shall have the meaning assigned to it in clause (38) of section 10;

5 (d) "mutual fund" means a mutual fund specified under clause (23D) of clause 10.1.

14. In section 49 of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of section 49.

(I) in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letters "or clause (viaa) or clause (vica) or clause (vicb)", the words, brackets, figures and letters "or clause (viaa) or clause (viab) or clause (vib) or clause (vica) or clause (vicb) or clause (vicc)" shall be substituted;

(II) after sub-section (2AC), the following sub-section shall be inserted, namely:—

15 "(2AD) Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund."

15. In section 80C of the Income-tax Act,—

Amendment of section 80C.

(I) in sub-section (2), in clause (viii), for the words "as subscription to", the words, brackets and figure "as subscription, in the name of any person specified in sub-section (4), to" shall be substituted;

(II) in sub-section (4), after clause (b), the following clause shall be inserted, namely:—

20 "(ba) for the purposes of clause (viii) of that sub-section, in the case of an individual, the individual or any girl child of that individual, or any girl child for whom such person is the legal guardian, if the scheme so specifies;"

16. In section 80CCC of the Income-tax Act, in sub-section (1), for the words "one lakh rupees", the words "one hundred and fifty thousand rupees" shall be substituted with effect from the 1st day of April, 2016.

Amendment of section 80CCC.

17. In section 80CCD of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of section 80CCD.

(a) sub-section (1A) shall be omitted;

(b) after sub-section (1A), as so omitted the following sub-section shall be inserted, namely:—

30 "(1B) An assessee referred to in sub-section (1), shall be allowed a deduction in computation of his total income, [in addition to the deduction allowed under sub-section (1)], of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees:

Provided that no deduction under this sub-section shall be allowed in respect of the amount on which a deduction has been claimed and allowed under sub-section (1);

35 (c) in sub-section (3),—

(I) for the words, brackets and figure, "sub-section (1)", wherever they occur, the words, brackets, figures and letter "sub-section (1) or sub-section (1B)" shall be substituted;

(II) for the words "under that sub-section", the words "under those sub-sections" shall be substituted;

40 (d) in sub-section (4), for the words, brackets and figure, "sub-section (1)", the words, brackets, figures and letter "sub-section (1) or sub-section (1B)" shall be substituted.

18. In section 80D of the Income-tax Act, with effect from the 1st day of April 2016,—

Amendment of section 80D.

(A) in sub-section (2), after clause (b), the following shall be inserted, namely:—

45 "(c) the whole of the amount paid on account of medical expenditure incurred on the health of the assessee or any member of his family as does not exceed in the aggregate thirty thousand rupees; and

(d) the whole of the amount paid on account of medical expenditure incurred on the health of any parent of the assessee, as does not exceed in the aggregate thirty thousand rupees:

Provided that the amount referred to in clause (c) or clause (d) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person: 5

Provided further that the aggregate of the sum specified under clause (a) and clause (c) or the aggregate of the sum specified under clause (b) and clause (d) shall not exceed thirty thousand rupees.”;

(B) for sub-section(3), the following sub-section shall be substituted, namely:—

“(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1), shall be the aggregate of the following, namely:— 10

(a) whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate twenty-five thousand rupees; and

(b) the whole of the amount paid on account of medical expenditure incurred on the health of any member of the Hindu undivided family as does not exceed in the aggregate thirty thousand rupees: 15

Provided that the amount referred to in clause (b) is paid in respect of a very senior citizen and no amount has been paid to effect or to keep in force an insurance on the health of such person:

Provided further that the aggregate of the sum specified under clause (a) and clause (b) shall not exceed thirty thousand rupees.”; 20

(C) in sub-section(4), —

(i) for the words, brackets and figure “or in sub-section (3)”, the words, brackets, letter and figure “or clause (a) of sub-section (3)” shall be substituted;

(ii) after the words “senior citizen,”, the words “or a very senior citizen,” shall be inserted; 25

(iii) for the words “fifteen thousand rupees”, the words “twenty-five thousand rupees” shall be substituted;

(iv) for the words “twenty thousand rupees”, the words “thirty thousand rupees” shall be substituted;

(v) the *Explanation* shall be omitted; 30

(D) after sub-section (5), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section,—

(i) “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;

(ii) “very senior citizen” means an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.’. 35

Amendment  
of section  
80DD.

**19.** In section 80DD of the Income-tax Act, with effect from the 1st day of April, 2016, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,— 40

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability, 45

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of seventy-five thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words “seventy-five thousand rupees”, the words “one hundred and twenty-five thousand rupees” had been substituted.”.

**20.** In section 80DDB of the Income-tax Act, with effect from the 1st day of April, 2016, —

Amendment  
of section  
80DDB.

5 (i) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that no such deduction shall be allowed unless the assessee obtains the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed.”.

(ii) after the third proviso, the following proviso shall be inserted, namely:—

10 ‘Provided also that where the amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a very senior citizen, the provisions of this section shall have effect as if for the words “forty thousand rupees”, the words “eighty thousand rupees” had been substituted.’;

(iii) in the *Explanation*,—

15 (a) clause (ii) shall be omitted;

(b) after clause (iv), the following clause shall be inserted, namely:—

‘(v) “very senior citizen” means an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.’.

**21.** In section 80G of the Income-tax Act,—

Amendment of  
section 80G.

20 (A) in sub-section (1), in clause (i),—

(i) after the words, brackets, figures and letters “sub-clause (iiihj) or”, the words, brackets, figures and letters “sub-clause (iiihk) or sub-clause (iiihl) or” shall be inserted;

25 (ii) after the words, brackets, figures and letters “sub-clause (iiihl) or”, as so inserted, the words, brackets, figures and letters “sub-clause (iiihm) or” shall be inserted with effect from the 1st day of April, 2016;

(B) in sub-section (2), in clause (a),—

(i) after sub-clause (iiihj), the following sub-clauses shall be inserted, namely:—

18 of 2013. 30 “(iiihk) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or

18 of 2013. (iiihl) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013; or”;

35 (ii) the following sub-clause shall be inserted with effect from the 1st day of April, 2016, namely:—

61 of 1985. “(iiihm) the National Fund for Control of Drug Abuse constituted under section 7A of the Narcotic Drugs and Psychotropic Substances Act, 1985; or”.

**22.** In section 80JJAA of the Income-tax Act, with effect from the 1st day of April, 2016,—

Amendment of  
section  
80JJAA.

(a) in sub-section (1), the words “being an Indian company,” shall be omitted;

40 (b) in sub-section (2), for clause (a), the following clause shall be substituted, namely:—

“(a) if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation;”;

(c) in the *Explanation*, in clause (i), for the words “one hundred workmen”, the words “fifty workmen” shall be substituted.

45 **23.** In section 80U of the Income-tax Act, with effect from the 1st day of April, 2016, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of  
section 80U.

“(1) In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of seventy-five thousand rupees:

Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words “seventy-five thousand rupees”, the words “one hundred and twenty-five thousand rupees” had been substituted.”.

- Amendment of section 92BA. **24.** In section 92BA of the Income-tax Act, for the words “five crore rupees” occurring at the end, the words “twenty crore rupees” shall be substituted with effect from the 1st day of April, 2016. 5
- Amendment of section 95. **25.** Section 95 of the Income-tax Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered and before the *Explanation*, the following sub-section shall be inserted, namely:—
- “(2) This Chapter shall apply in respect of any assessment year beginning on or after the 1st day of April, 2018.”. 10
- Amendment of section 111A. **26.** In section 111A of the Income-tax Act, in sub-section (1), the second proviso shall be omitted with effect from the 1st day of April, 2016.
- Amendment of section 115A. **27.** In section 115A of the Income-tax Act, in sub-section (1), in clause (b), with effect from the 1st day of April, 2016,—
- (a) in sub-clause (A), for the words “twenty-five per cent.”, the words “ten per cent.” shall be substituted; 15
- (b) in sub-clause (B), for the words “twenty-five per cent.”, the words “ten per cent.” shall be substituted.
- Amendment of section 115ACA. **28.** In section 115ACA of the Income-tax Act, after sub-section (3), in the *Explanation*, in clause (a), with effect from the 1st day of April, 2016, for the words “issued to non-resident investors against the issue of ordinary shares or foreign currency convertible bonds of issuing company” occurring at the end, the following shall be substituted, namely:— 20
- “issued to investors against the issue of,—
- (i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or 25
- (ii) foreign currency convertible bonds of issuing company;”.
- Amendment of section 115JB. **29.** In section 115JB of the Income-tax Act, in the *Explanation* 1 below sub-section (2), with effect from the 1st day of April, 2016,—
- (a) after clause (f), the following clauses shall be inserted, namely:—
- “(fa) the amount or amounts of expenditure relatable to, income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; 30
- (fb) the amount or amounts of expenditure relatable to income from capital gains arising on transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992;” 35 15 of 1992.
- (b) after clause (iib), the following clauses shall be inserted, namely:—
- “(iic) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account; or 40
- (iid) the amount of income from capital gains arising on transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992, if any such amount is credited to the profit and loss account; or” 45 15 of 1992.
- (c) after *Explanation* 3, the following *Explanation* shall be inserted, namely:—
- ‘*Explanation* 4.—For the purposes of sub-section (2),—
- (a) the expression “Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD; 50

(b) the expression "securities" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.'

- 30.** In section 115U of the Income-tax Act, after sub-section (5), before the *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:— Amendment of section 115U.
- 5       “(6) Nothing contained in this Chapter shall apply in respect of any income, of a previous year relevant to the assessment year beginning on or after the 1st day of April, 2016, accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the *Explanation 1* to section 115UB.”.
- 31.** In section 115UA of the Income-tax Act, in sub-section (3), after the words, brackets, figures and Amendment of section 115UA.  
10 letters "in clause (23FC)", the words, brackets, figures and letters "or clause (23FCA)" shall be inserted with effect from the 1st day of April, 2016.
- 32.** After Chapter XII-FA of the Income-tax Act, the following Chapter shall be inserted with effect Insertion of new Chapter XII-FB.  
from the 1st day of April, 2016, namely:—

#### CHAPTER XII-FB

#### 15           SPECIAL PROVISIONS RELATING TO TAX ON INCOME OF INVESTMENT FUNDS AND INCOME RECEIVED FROM SUCH FUNDS

115UB. (1) Notwithstanding anything contained in any other provisions of this Act and subject to Tax on income of investment fund and its unit holders.  
the provisions of this Chapter, any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable  
20 to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.

(2) Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other  
25 head of income of the said previous year, then,—

(i) such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI; and

(ii) such loss shall be ignored for the purposes of sub-section (1).

(3) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as it had been  
30 received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2).

(4) The total income of the investment fund shall be charged to tax—

(i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund  
35 is a company or a firm; or

(ii) at maximum marginal rate in any other case.

(5) The provisions of Chapter XII-D or Chapter XII-E shall not apply to the income paid by an investment fund under this Chapter.

(6) The income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the person referred to in sub-section (1), shall subject to the provisions of sub-section (2), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(7) The person responsible for crediting or making payment of the income on behalf of an  
45 investment fund and the investment fund shall furnish, within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

50       *Explanation 1.*—For the purposes of this Chapter,—



(a) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992; 5 15 of 1992.

(b) "trust" means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force; 2 of 1882.

(c) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

*Explanation 2.*—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.' 10

Amendment of section 132B. **33.** In section 132B of the Income-tax Act, in sub-section (1), in clause (i), with effect from the 1st day of June, 2015, for the words "deemed to be in default, may be recovered out of such assets" occurring at the end, the words, brackets, figures and letter "deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C, may be recovered out of such assets" shall be substituted. 15

Amendment of section 139. **34.** In section 139 of the Income-tax Act, with effect from the 1st day of April, 2016,— 20

(i) in sub-section (4C), in clause (e),—

(a) after the words "other educational institution referred to in", the words, brackets, figures and letters "sub-clause (iiab) or" shall be inserted;

(b) after the words "other medical institution referred to in", the words, brackets, figures and letters "sub-clause (iiac) or" shall be inserted; 25

(ii) after sub-section (4E), the following sub-section shall be inserted, namely:—

"(4F) Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).". 30

Substitution of new section for section 151. **35.** For section 151 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2015, namely:—

Sanction for issue of notice. "151. (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice. 35

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice. 40

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself." 45

Amendment of section 153C. **36.** In section 153C of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015 for the portion beginning with the words and figures "Notwithstanding anything contained in section 139" and ending with the words "the Assessing Officer having jurisdiction over such other person", the words, figures, brackets and letters "Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,— 50

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

5 a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person” shall be inserted.

**37.** In section 154 of the Income-tax Act, with effect from the 1st day of June, 2015,—

Amendment  
of section  
154.

(i) in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

10 “(d) amend any intimation under sub-section (1) of section 206CB.”;

(ii) in sub-section (2), in clause (b), after the words “or by the deductor”, the words “or by the collector” shall be inserted;

(iii) in sub-section (3), after the words “or the deductor” wherever they occur, the words “or the collector” shall be inserted;

15 (iv) in sub-section (5), after the words “or the deductor” at both the places where they occur, the words “or the collector” shall be inserted;

(v) in sub-section (6), after the words “or the deductor” at both the places where they occur, the words “or the collector” shall be inserted;

20 (vi) in sub-section (8), after the words “or by the deductor”, the words “or by the collector” shall be inserted.

**38.** In section 156 of the Income-tax Act, in the proviso, with effect from the 1st day of June, 2015, Amendment of  
for the words, brackets, figures and letter “by the deductor under sub-section (1) of section 143 or section 156.  
sub-section (1) of section 200A”, the words, brackets, figures and letters “the deductor or the collector  
under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section  
25 206CB” shall be substituted.

**39.** After section 158A of the Income-tax Act, the following section shall be inserted with effect from  
the 1st day of June, 2015, namely:—

Insertion of  
new section  
158AA.

30 “158AA. (1) Notwithstanding anything contained in this Act, where the Commissioner or Principal  
Commissioner is of the opinion that any question of law arising in the case of an assessee for any  
assessment year (such case being herein referred to as relevant case) is identical with a question  
of law arising in his case for another assessment year which is pending before the Supreme  
Court, in an appeal under section 261 or in a special leave petition under article 136 of the  
Constitution, against the order of the High Court in favour of the assessee (such case being  
herein referred to as the other case), he may, instead of directing the Assessing Officer to appeal  
35 to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the  
Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within  
sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal  
on the question of law arising in the relevant case may be filed when the decision on the question  
of law becomes final in the other case.

40 (2) The Commissioner or Principal Commissioner shall direct the Assessing Officer to make an  
application under sub-section (1) only if an acceptance is received from the assessee to the effect  
that the question of law in the other case is identical to that arising in the relevant case; and in case  
no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in  
accordance with the provisions contained in sub-section (2) or sub-section (2A) of section 253.

45 (3) Where the order of the Commissioner (Appeals) referred to in sub-section (1) is not in conformity  
with the final decision on the question of law in the other case, the Commissioner or Principal  
Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such  
order and save as otherwise provided in this section all other provisions of part B of Chapter XX  
shall apply accordingly.

50 (4) Every appeal under sub-section (3) shall be filed within sixty days from the date on which the  
order of the Supreme Court in the other case is communicated to the Commissioner or Principal  
Commissioner.

Amendment of section 192.	<p><b>40.</b> In section 192 of the Income-tax Act, after sub-section (2C), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:—</p> <p>“(2D) The person responsible for making the payment referred to in sub-section (1) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.”.</p>	5
Insertion of new section 192A.	<p><b>41.</b> After section 192 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—</p> <p>“192A. Notwithstanding anything contained in this Act, the trustees of the Employees’ Provident Fund Scheme, 1952, framed under section 5 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.:</p> <p>Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees:</p> <p>Provided further that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.”.</p>	10 19 of 1952. 15
Payment of accumulated balance due to an employee.		
Amendment of section 194A.	<p><b>42.</b> In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015,—</p> <p>(a) in clause (i), after the proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions;”;</p> <p>(b) in clause (v), for the words “paid by a co-operative society to a member thereof or”, the words and brackets “paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society” shall be substituted;</p> <p>(c) after clause (v), the following <i>Explanation</i> shall be inserted, namely:—</p> <p>‘<i>Explanation.</i>—For the purposes of this clause, “co-operative bank” shall have the same as meaning assigned to it in Part V of the Banking Regulation Act, 1949;’;</p> <p>(d) for clause (ix), the following clauses shall be substituted, namely:—</p> <p>“(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;</p> <p>(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;”;</p> <p>(e) in <i>Explanation</i> 1 below clause (xi), for the word “excluding”, the word “including” shall be substituted.</p>	20 25 30 10 of 1949. 35 40
Amendment of section 194C.	<p><b>43.</b> In section 194C of the Income-tax Act, in sub-section (6), with effect from the 1st day of June, 2015, for the words “on furnishing of”, the words “where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with” shall be substituted.</p>	45
Amendment of section 194-I.	<p><b>44.</b> In section 194-I of the Income-tax Act, with effect from the 1st day of June, 2015, after the second proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided also that no deduction shall be made under this section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.”.</p>	50

- 45.** In section 194LBA of the Income-tax Act, with effect from the 1st day of June, 2015,— Amendment of section 194LBA.
- (a) in sub-section (1), after the words, brackets, figures and letters “in clause (23FC)” the words, brackets, figures and letters “or clause (23FCA)” shall be inserted;
- (b) in sub-section (2), for the words “being a non-resident, not being a company”, the words and brackets “being a non-resident (not being a company)” shall be substituted;
- (c) after sub-section (2), the following sub-section shall be inserted, namely:—
- “(3) Where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.”.
- 46.** After section 194LBA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:— Insertion of new section 194LBB.
- 194LBB. Where any income, other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent. Income in respect of units of investment fund.
- Explanation.*—For the purposes of this section,—
- (a) “unit” shall have the meaning assigned to it in clause (c) of the *Explanation 1* to section 115UB;
- (b) where any income as aforesaid is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be the credit of such income to the account of the payee, and the provisions of this section shall apply accordingly.’.
- 47.** In section 194LD of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 2015, for the figures, letters and words “1st day of June, 2015”, the figures, letters and words “1st day of July, 2017” shall be substituted. Amendment of section 194LD.
- 48.** In section 195 of the Income-tax Act, for sub-section (6), the following sub-section shall be substituted with effect from the 1st day of June, 2015, namely:— Amendment of section 195.
- “(6) The person responsible for paying to a non-resident, (not being a company), or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.”.
- 49.** In section 197A of the Income-tax Act, with effect from the 1st day of June, 2015,— Amendment of section 197A.
- (i) in sub-section (1A), for the words, figures and letter “section 193 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194A or section 194DA” shall respectively be substituted;
- (ii) in sub-section (1C), for the words, figures and letter “section 193 or section 194 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194 or section 194A or section 194DA” shall respectively be substituted.
- 50.** In section 200 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 200.
- “(2A) In case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.”.
- 51.** In section 200A of the Income-tax Act, in sub-section (1), for clauses (c) to (e), the following clauses shall be substituted with effect from the 1st day of June, 2015, namely:— Amendment of section 200A.
- “(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee;

(e) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and 5

(f) the amount of refund due to the deductor in pursuance of the determination under clause (d) shall be granted to the deductor.”.

Amendment of section 203A. **52.** In section 203A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:— 10

“(3) The provisions of this section shall not apply to such person, as may be notified by the Central Government in this behalf.”.

Amendment of section 206C. **53.** In section 206C of the Income-tax Act, after sub-section (3), the following sub-sections shall be inserted with effect from the 1st day of June, 2015, namely:—

“(3A) In case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) or sub-section (1D) has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed. 15 20

(3B) The person referred to in the proviso to sub-section (3) may also deliver to the prescribed authority under the said proviso, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said proviso in such form and verified in such manner, as may be specified by the authority.”. 25

Insertion of new section 206CB. **54.** After section 206CA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—

Processing of statements of tax collected at source. **206CB.** (1) Where a statement of tax collection at source or a correction statement has been made by a person collecting any sum (herein referred to as collector) under section 206C, such statement shall be processed in the following manner, namely:— 30

(a) the sums collectible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement;

(ii) an incorrect claim, apparent from any information in the statement; 35

(b) the interest, if any, shall be computed on the basis of the sums collectible as computed in the statement;

(c) the fee, if any, shall be computed in accordance with the provisions of section 234E;

(d) the sum payable by, or the amount of refund due to, the collector, shall be determined after adjustment of the amount computed under clause (b) and clause (c) against any amount paid under section 206C or section 234E and any amount paid otherwise by way of tax or interest or fee; 40

(e) an intimation shall be prepared or generated and sent to the collector specifying the sum determined to be payable by, or the amount of refund due to, him under clause (d); and

(f) the amount of refund due to the collector in pursuance of the determination under clause (d) shall be granted to the collector: 45

Provided that no intimation under this sub-section shall be sent after the expiry of the period of one year from the end of the financial year in which the statement is filed.

*Explanation.*—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement— 50

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of collection of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) The Board may make a scheme for centralised processing of statements of tax collected at source to expeditiously determine the tax payable by, or the refund due to, the collector, as required under sub-section (1).<sup>1</sup>.

**55.** In section 220 of the Income-tax Act, after sub-section (2B), the following sub-section shall be inserted with effect from the 1st day of June, 2015, namely:—

Amendment of section 220.

“(2C) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period.”.

**56.** In section 234B of the Income-tax Act, with effect from the 1st day of June, 2015,—

Amendment of section 234B.

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) (a) Where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section.

(b) Where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub-section (1) of section 143 or on the basis of the regular assessment as referred to in sub-section (1), as the case may be.”;

(iii) in sub-section (4), the words, brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” shall be omitted.

**57.** In section 245A of the Income-tax Act, in clause (b), in the *Explanation*, with effect from the 1st day of June, 2015,—

Amendment of section 245A.

(A) for clause (i), the following clause shall be substituted, namely:—

“(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142.”;

(B) in clause (iv), for the words, figure and letters “from the 1st day of the assessment year and concluded on the date on which the assessment is made” occurring at the end, the words and figures “from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on the expiry of two years from the end of relevant assessment year, in case where no assessment is made” shall be substituted.

- Amendment of section 245D. **58.** In section 245D of the Income-tax Act, for sub-section (6B), with effect from the 1st day of June, 2015, the following sub-section shall be substituted, namely:—
- “(6B) The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4)—
- (a) at any time within a period of six months from the end of the month in which the order was passed; or 5
- (b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:
- Provided that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission: 10
- Provided further that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.”. 15
- Amendment of section 245H. **59.** In section 245H of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015, after the words “subject to such conditions as it may think fit to impose”, the words “for the reasons to be recorded in writing” shall be inserted. 20
- Amendment of section 245HA. **60.** In section 245HA of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015,—
- (A) after clause (iii), the following clause shall be inserted, namely:—
- “(iiiia) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or”; 25
- (B) in the *Explanation*, after clause (c), the following clause shall be inserted, namely:—
- “(ca) in respect of an application referred to clause (iiiia), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;”.
- Amendment of section 245K. **61.** In section 245K of the Income-tax Act, with effect from the 1st day of June, 2015,—
- (A) in sub-section (1), for the words “he shall not be entitled to apply”, the words and brackets “he or any person related to such person (herein referred to as related person) shall not be entitled to apply” shall be substituted; 30
- (B) in sub-section (2), for the words “shall not be subsequently entitled”, the words “or any related person shall not be subsequently entitled” shall be substituted;
- (C) after sub-section (2), the following *Explanation* shall be inserted, namely:— 35
- Explanation.*—For the purposes of this section, “related person” with respect to a person means,—
- (i) where such person is an individual, any company in which such person holds more than fifty per cent. of the shares or voting rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent. of the profits at any time, or any Hindu undivided family in which such person is a *karta*; 40
- (ii) where such person is a company, any individual who held more than fifty per cent. of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;
- (iii) where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent. of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person; 45
- (iv) where such person is a Hindu undivided family, the *karta* of that Hindu undivided family.’. 50

**62.** In section 246A of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2015,— Amendment of section 246A.

(a) in the opening portion, after the words “or any deductor”, the words “or any collector” shall be inserted;

5 (b) in clause (a), for the words, brackets, figures and letter “sub-section (1) of section 200A, where the assessee or the deductor”, the words, brackets, figures and letters “sub-section (1) of section 200A or sub-section (1) of section 206CB, where the assessee or the deductor or the collector” shall be substituted.

**63.** In section 253 of the Income-tax Act, in sub-section (1), after clause (e), the following clause shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 253.

“(f) an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.”.

**64.** In section 255 of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015, for the words “five hundred thousand rupees”, the words “fifteen lakh rupees” shall be substituted. Amendment of section 255.

15 **65.** In section 263 of the Income-tax Act, in sub-section (1), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 263.

20 “*Explanation 2.*—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

25 (d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.”.

**66.** For section 269SS of the Income-tax Act, the following section shall be substituted with effect from the 1st day of June, 2015, namely:— Substitution of new section for section 269SS.

30 ‘269SS. No person shall take or accept from any other person (herein referred to as the depositor), any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, if,— Mode of taking or accepting certain loans, deposits and specified sum.

(a) the amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

35 (b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

40 (c) the amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b),

is twenty thousand rupees or more:

Provided that the provisions of this section shall not apply to any loan or deposit or specified sum taken or accepted from, or any loan or deposit or specified sum taken or accepted by,—

(a) the Government;

45 (b) any banking company, post office savings bank or co-operative bank;

(c) any corporation established by a Central, State or Provincial Act;

(d) any Government company as defined in clause (45) of section 2 of the Companies Act, 2013;

50 (e) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette:



Provided further that the provisions of this section shall not apply to any loan or deposit or specified sum, where the person from whom the loan or deposit or specified sum is taken or accepted and the person by whom the loan or deposit or specified sum is taken or accepted, are both having agricultural income and neither of them has any income chargeable to tax under this Act.

5

*Explanation.*— For the purposes of this section,—

(i) “banking company” means a company to which the provisions of the Banking Regulation Act, 1949 applies and includes any bank or banking institution referred to in section 51 of that Act;

10 of 1949.

(ii) “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;

10

10 of 1949.

(iii) “loan or deposit” means loan or deposit of money;

(iv) “specified sum” means any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.’

Amendment of section 269T.

**67.** In section 269T of the Income-tax Act, with effect from the 1st day of June, 2015,—

15

(A) in the opening portion—

(a) after the words “repay any loan or deposit made with it”, the words “or any specified advance received by it” shall be inserted;

(b) after the words “made the loan or deposit”, the words “or paid the specified advance,” shall be inserted;

20

(B) in clause (a), after the words “loan or deposit”, the words “or specified advance” shall be inserted;

(C) in clause (b), the word “or” shall be inserted at the end;

(D) after clause (b) and before the long line, the following clause shall be inserted, namely:—

“(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances,”;

25

(E) in the second proviso, after the words “any loan or deposit”, the words “or specified advance” shall be inserted;

(F) in the *Explanation*, after clause (iii), the following clause shall be inserted, namely:—

30

‘(iv) “specified advance” means any sum of money in the nature of advance, by whatever name called, in relation to transfer of an immovable property, whether or not the transfer takes place.’

Amendment of section 271.

**68.** In section 271 of the Income-tax Act, with effect from the 1st day of April, 2016, in sub-section (1), for *Explanation 4*, the following *Explanation* shall be substituted, namely:—

“*Explanation 4.*— For the purposes of clause (iii) of this sub-section,—

35

(a) the amount of tax sought to be evaded shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where,

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

40

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;

C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

45

D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

5 Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D:

Provided further that in a case where the provisions contained in section 115JB or section 115JC are not applicable, the item (C – D) in the formula shall be ignored;

10 (b) where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula specified in clause (a) with the modification that the amount to be determined for item (A – B) in that formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;

15 (c) where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.”.

20 **69.** In section 271D of the Income-tax Act, in sub-section (1), after the words “loan or deposit” occurring at both the places, the words “or specified sum” shall be inserted with effect from the 1st day of June, 2015. Amendment of section 271D.

**70.** In section 271E of the Income-tax Act, in sub-section (1), after the words “loan or deposit” occurring at both the places, the words “or specified advance” shall be inserted with effect from the 1st day of June, 2015. Amendment of section 271E.

**71.** After section 271FAA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:— Insertion of new section 271FAB.

30 “271FAB. If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees.”. Penalty for failure to furnish statement or information or document by an eligible investment fund.

**72.** After section 271G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:— Insertion of new section 271GA.

35 “271GA. If any Indian concern, which is required to furnish any information or document under section 285A, fails to do so, the income-tax authority, as may be prescribed under the said section, may direct that such Indian concern shall pay, by way of penalty,— Penalty for failure to furnish information or document under section 285A.

40 (i) a sum equal to two per cent. of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(ii) a sum of five hundred thousand rupees in any other case.”.

**73.** After section 271H of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:— Insertion of new section 271-I.

45 “271-I. If a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.”. Penalty for failure to furnish information or furnishing inaccurate information under section 195.

**74.** In section 272A of the Income-tax Act, in sub-section (2), with effect from the 1st day of June, 2015,— Amendment of section 272A.

(a) after clause (l), the following clause shall be inserted, namely:—

“(m) to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C,”;

(b) in the first proviso, for the words, brackets, figures and letter “statements under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C”, the words, brackets, figures and letters “statements under sub-section (2A) or sub-section (3) of section 200 or the proviso to sub-section (3) or under sub-section (3A) of section 206C” shall be substituted. 5

Amendment of section 273B. 75. In section 273B of the Income-tax Act,—

(l) for the words, figures and letters “section 271FB, section 271G”, the words, figures and letters “section 271FAB, section 271FB, section 271G, section 271GA” shall be substituted with effect from the 1st day of April, 2016; 10

(ll) after the word, figures and letter “section 271H”, the word, figures and letter “section 271-I,” shall be inserted with effect from the 1st day of June, 2015.

Insertion of new section 285A. 76. After section 285 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2016, namely:— 15

“285A. Where any share of, or interest in, a company or an entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, as referred to in *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity, holds, directly or indirectly, such assets in India through, or in, an Indian concern, then, such Indian concern shall, for the purposes of determination of any income accruing or arising in India under clause (i) of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the information or documents, in such manner, as may be prescribed.”. 20

Amendment of section 288. 77. In section 288 of the Income-tax Act, with effect from the 1st day of June, 2015,— 25

(i) after sub-section (2), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section, “accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]— 38 of 1949. 30

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or 18 of 2013.

(b) in any other case,— 35

(i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;

(ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13; 40

(iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

(iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);

(v) an officer or employee of the assessee; 45

(vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

5 (II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

10 Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

(viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

15 (ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.;

(ii) in sub-section (4), for the portion beginning with brackets, letter and words “(c) who has become an insolvent,” and ending with the words, brackets and letter “in the case of a person referred to in sub-clause (c)”, the following shall be substituted, namely:—

20 “(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud,

shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of person referred to in clause (d).”;

25

(iii) after sub-section (7), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this section, “relative” in relation to an individual, means—

30 (a) spouse of the individual;

(b) brother or sister of the individual;

(c) brother or sister of the spouse of the individual;

(d) any lineal ascendant or descendant of the individual;

(e) any lineal ascendant or descendant of the spouse of the individual;

35 (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);

(g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.;

**78.** In section 295 of the Income-tax Act, in sub-section (2), after clause (h), the following clause shall be inserted with effect from the 1st day of June, 2015, namely:— Amendment of section 295.

40 “(ha) the procedure for the granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act.”.

#### *Wealth-tax*

**79.** In section 3 of the Wealth-tax Act, 1957, in sub-section (2), with effect from the 1st day of April, 2016, after the words, figures and letters “from the 1st day of April, 1993”, the words, figures and letters “but before the 1st day of April, 2016” shall be inserted. Amendment of Act 27 of 1957.

45

## CHAPTER IV

## INDIRECT TAXES

*Customs*

- Amendment of section 28. **80.** In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 28,— 52 of 1962.
- (a) in sub-section (2), the following proviso shall be inserted, namely:— 5
- “Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.”; 10
- (b) in sub-section (5), for the words “twenty-five per cent.,” the words “fifteen per cent.” shall be substituted;
- (c) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—
- “*Explanation 3.*— For the removal of doubts, it is hereby declared that the proceedings in 15 respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, 20 if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.”.
- Amendment of section 112. **81.** In the Customs Act, in section 112, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:— 25
- “(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:
- Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the 30 order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.
- Amendment of section 114. **82.** In the Customs Act, in section 114, for clause (ii), the following clause shall be substituted, namely:—
- “(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: 35
- Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such 40 person under this section shall be twenty-five per cent. of the penalty so determined;”.
- Amendment of section 127A. **83.** In the Customs Act, in section 127A, in clause (b), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted.
- Amendment of section 127B. **84.** In the Customs Act, in section 127B, sub-section (1A) shall be omitted.
- Amendment of section 127C. **85.** In the Customs Act, in section 127C, sub-section (6) shall be omitted. 45
- Omission of section 127E. **86.** In the Customs Act, section 127E shall be omitted.
- Amendment of section 127H. **87.** In the Customs Act, in section 127H, in sub-section (1), the *Explanation* shall be omitted.
- Amendment of section 127L. **88.** In the Customs Act, in section 127L, in sub-section (1),—

22 of 2007. (a) in clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted;

22 of 2007. 5 (b) in clause (ii), the words, brackets, figures and letter “under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted.

#### Customs Tariff

51 of 1975. **89.** In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), the First Schedule shall be amended in the manner specified in the Second Schedule. Amendment of First Schedule.

#### Central Excise

1 of 1944. **90.** In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 3A, after *Explanation 2*, the following *Explanation* shall be inserted, namely:— Amendment of section 3A.

‘*Explanation 3.*— For the purposes of sub-sections (2) and (3), the word “factor” includes “factors”.’.

**91.** In the Central Excise Act, in section 11A,—

15 (i) sub-sections (5), (6) and (7) shall be omitted;

(ii) in sub-sections (7A), (8) and clause (b) of sub-section (11), the words, brackets and figure “or sub-section (5)”, wherever they occur, shall be omitted;

(iii) in *Explanation 1*,—

(A) in clause (b), in sub-clause (ii), the words “on due date” shall be omitted;

20 (B) after sub-clause (v), the following sub-clause shall be inserted, namely :—

“(v) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.”;

(C) clause (c) shall be omitted;

(iv) after sub-section (15), the following sub-section shall be inserted, namely :—

25 “(16) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.”.

(v) for *Explanation 2*, the following *Explanation* shall be substituted, namely :—

30 “*Explanation 2.*— For the removal of doubts, it is hereby declared that any non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015.”;

**92.** In the Central Excise Act, for section 11AC, the following section shall be substituted, namely:— Substitution of new section for section 11AC.

35 “11AC. (1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows:— Penalty for short-levy or non-levy of duty in certain cases.

(a) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent. of the duty so determined or rupees five thousand, whichever is higher:

45 Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

50 (b) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (a) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has

determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined: 5

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the duty so determined; 10

(d) where any duty demanded in a show cause notice and the interest payable thereon under section 11AA, issued in respect of transactions referred to in clause (c), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent. of the duty demanded, subject to the condition that such reduced penalty is also paid within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded; 15

(e) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified. 20 25

(2) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10) of section 11A, then, the amount of penalty payable under clause (c) of sub-section (1) and the interest payable under section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay such amount of penalty and interest so modified. 30

(3) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (10) of section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (b) or clause (e) of sub-section (1) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court. 35

*Explanation 1.*— For the removal of doubts, it is hereby declared that—

(i) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President shall be governed by the provisions of section 11AC as amended by the Finance Act, 2015; 40

(ii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order determining duty under sub-section (10) of section 11A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (a) of sub-section (1) or on payment of duty, interest and penalty under clause (d) of sub-section (1), subject to the condition that the payment of duty, interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President; 45

(iii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (10) of section 11A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (b) or clause (e) of sub-section (1), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order. 50 55

*Explanation 2.*— For the purposes of this section, the expression “specified records” means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.”

	<b>94.</b> In the Central Excise Act, in section 32, in sub-section (3), the proviso shall be omitted.	Amendment of section 32.
	<b>95.</b> In the Central Excise Act, in section 32B, for the words “, as the case may be, such one of the Vice-Chairmen”, at both the places where they occur, the words “the Member” shall be substituted.	Amendment of section 32B.
	<b>96.</b> In the Central Excise Act, in section 32E, sub-section (1A) shall be omitted.	Amendment of section 32E.
5	<b>97.</b> In the Central Excise Act, in section 32F, in sub-section (6), for the words, figures and letters “on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007,” shall be omitted.	Amendment of section 32F.
	<b>98.</b> In the Central Excise Act, section 32H shall be omitted.	Omission of section 32H.
10	<b>99.</b> In the Central Excise Act, in section 32K, in sub-section (1), the <i>Explanation</i> shall be omitted.	Amendment of section 32K.
	<b>100.</b> In the Central Excise Act, in section 32-O, in sub-section (1),—	Amendment of section 32-O.
22 of 2007.	(a) in clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F” shall be omitted;	
15	(b) in clause (ii), the words, brackets, figures and letter “under the said sub-section (7), as it stood immediately before the commencement of section 122 of the Finance Act, 2007 or sub-section (5) of section 32F” shall be omitted.	
22 of 2007.		
	<b>101.</b> In the Central Excise Act, in section 37, in sub-sections (4) and (5), for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted.	Amendment of section 37.
20	<b>102.</b> (1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 163 (E), dated the 17th March, 2012, issued under sub-section (1) of section 5A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), shall stand amended and shall be deemed to have been amended, retrospectively, in the manner specified in column (2) of the Third Schedule, on and from and up to the date specified in column (3) of that Schedule.	Amendment of notification issued under section 5A of the Central Excise Act.
1 of 1944.		
25	(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.	
30	(3) Refund shall be made of all such duty of excise which has been collected but which would not have been so collected, had the notification referred to in sub-section (1), been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.	
	(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made within a period of six months from the date on which the Finance Bill, 2015 receives the assent of the President.	
35	<b>103.</b> In the Central Excise Act, the Third Schedule shall be amended in the manner specified in the Fourth Schedule.	Amendment of Third Schedule.
	<i>Central Excise Tariff</i>	
5 of 1986.	<b>104.</b> In the Central Excise Tariff Act, 1985 (hereinafter referred to as Central Excise Tariff Act), the First Schedule shall be amended in the manner specified in the Fifth Schedule.	Amendment of First Schedule.
40	CHAPTER V SERVICE TAX	
32 of 1994.	<b>105.</b> In the Finance Act, 1994 (hereinafter referred to as the 1994 Act), save as otherwise provided, in section 65B,—	Amendment of section 65B.
45	(a) clause (9) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;	
	(b) after clause (23), the following clause shall be inserted, namely:—	
40 of 1982.	‘(23A) “foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982;’;	
50	(c) clause (24) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;	



(d) after clause (26), the following clause shall be inserted, namely:—

‘(26A) “Government” means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder;’;

5

(e) after clause (31), the following clause shall be inserted, namely:—

‘(31A) “lottery distributor or selling agent” means a person appointed or authorised by a State for the purposes of promoting, marketing, selling or facilitating in organising lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998’;

10 17 of 1998.

(f) in clause (40), the words “alcoholic liquors for human consumption,” shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(g) in clause (44), for *Explanation 2*, the following *Explanation* shall be substituted, namely:—

‘*Explanation 2.* – For the purposes of this clause, the expression “transaction in money or actionable claim” shall not include—

15

(i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

(ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—

20

(a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;

(b) by a foreman of chit fund for conducting or organising a chit in any manner.’;

(h) clause (49) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

25

Amendment  
of section  
66B.

**106.** In section 66B of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the words “twelve per cent.”, the words “fourteen per cent.” shall be substituted.

Amendment  
of section  
66D.

**107.** In section 66D of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

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(1) in clause (a), in sub-clause (iv), for the words “support services”, the words “any service” shall be substituted;

(2) for clause (f), the following clause shall be substituted, namely:—

“(f) services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption;”;

35

(3) in clause (i), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*— For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation 2* to clause (44) of section 65B;’;

(4) clause (j) shall be omitted.

Amendment  
of section  
66F.

**108.** In section 66F of the 1994 Act, in sub-section (1), the following *Illustration* shall be inserted, namely:—

40

*Illustration*

The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.’

45

**109.** In section 67 of the 1994 Act, in the *Explanation*, for clause (a), the following clause shall be substituted, namely:— Amendment of section 67.

‘(a) “consideration” includes—

(i) any amount that is payable for the taxable services provided or to be provided;

5 (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;

10 (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.’

**110.** In section 73 of the 1994 Act,—

Amendment of section 73.

(i) after sub-section (1A), the following sub-section shall be inserted, namely:—

15 “(1B) Notwithstanding anything contained in sub-section (1), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be recovered along with interest thereon in any of the modes specified in section 87, without service of notice under sub-section (1).”;

(ii) sub-section (4A) shall be omitted.

20 **111.** For section 76 of the 1994 Act, the following section shall be substituted, namely:—

Substitution of new section for section 76.

25 “76. (1) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax:

Penalty for failure to pay service tax.

Provided that where such service tax and interest is paid within a period of thirty days of—

(i) the date of service of notice under sub-section (1) of section 73, no penalty shall be payable;

30 (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the penalty imposed in that order, only if such reduced penalty is also paid within such period.

35 (2) Where the Commissioner (Appeals), the Appellate Tribunal or, the court, as the case may be, modifies the service tax determined under sub-section (2) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the proviso to sub-section (1) shall be available if such service tax, interest and reduced penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.”

**112.** For section 78 of the 1994 Act, the following section shall be substituted, namely:—

Substitution of new section for section 78.

40 “78. (1) Where any service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax:

Penalty for failure to pay service tax for reasons of fraud, etc.

Provided that where such service tax and interest is paid within a period of thirty days of —

(i) the date of service of notice under the proviso to sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax;

50 (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available

only if the amount of such reduced penalty is also paid within such period.

(2) Where the Commissioner ( Appeals), the Appellate Tribunal or the court, as the case may be, modifies the service tax determined under sub-section (2) of section 73, then, the amount of penalty payable thereon, shall also stand modified accordingly, and the benefit of reduced penalty under the first proviso to sub-section (1) shall be available if such service tax, interest and reduced penalty so payable, is paid within a period of thirty days from the date of receipt of the order by which such modification is made.” 5

Insertion of new section 78B.

**113.** After section 78A of the 1994 Act, the following section shall be inserted, namely:—

Transitory provisions.

“78B. (1) Where, in any case,—

(a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and no notice has been served under sub-section (1) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or

(b) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President, 15

then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable.

(2) Notwithstanding anything contained in sub-section (1), in respect of cases falling under the provisions of sub-section (4A) of section 73 as was in force prior to the date of coming into force of the Finance Act, 2015, where no notice under the proviso to sub-section (1) of section 73 has been served on any person or, where so served, no order has been passed under sub-section (2) of section 73, before such date, the penalty leviable shall not exceed fifty per cent. of the service tax.”. 20

Omission of section 80.

**114.** Section 80 of the 1994 Act shall be omitted. 1 of 1944.

Amendment of section 86.

**115.** In section 86 of the 1994 Act, in sub-section (1), — 25 23 of 2012.

(a) for the words “Any assessee”, the words “Save as otherwise provided herein, an assessee” shall be substituted; 1 of 1944.

(b) the following provisos shall be inserted, namely:—

“Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944: 30

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012, and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944.”. 35

Amendment of section 94.

**116.** In section 94 of the 1994 Act, in sub-section (2), for clause (aa), the following clause shall be substituted, namely:—

‘(aa) determination of the amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67;’.

## CHAPTER VI

### SWACHH BHARAT CESS

Swachh Bharat Cess.

**117.** (1) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 45

(2) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Swachh Bharat Cess, as service tax on all or any of the taxable services at the rate of two per cent. on the value of such services for the purposes of financing and promoting Swachh Bharat initiatives or for any other purpose relating thereto.

(3) The Swachh Bharat Cess leviable under sub-section (2) shall be in addition to any cess or service tax leviable on such taxable services under Chapter V of the Finance Act, 1994, or under any other law for the time being in force. 50 32 of 1944.

(4) The proceeds of the Swachh Bharat Cess levied under sub-section (2) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the Swachh Bharat Cess for such purposes specified in sub-section (2), as it may consider necessary.

5 (5) The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Swachh Bharat Cess on taxable services, as they apply in relation to the levy and collection of tax on such taxable services under Chapter V of the Finance Act, 1994 or the rules made thereunder, as the case may be.

32 of 1944

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## CHAPTER VII

## PUBLIC DEBT MANAGEMENT AGENCY

## PART I

## PRELIMINARY

**118.** (1) This Chapter extends to the whole of India:

15 Provided that the provisions of this Chapter shall not apply to the State of Jammu and Kashmir, unless that State adopts the provisions of this Chapter by passing a resolution in that behalf under clause (1) of article 252 of the Constitution of India. Extent and commencement of this Chapter.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Chapter.

20 **119.** In this Chapter, unless the context otherwise requires,— Definitions.

(1) "Agency" means the Public Debt Management Agency established under section 120;

(2) "Board" means the Board of the Agency;

(3) "Chief Executive Officer" means the Chief Executive Officer of the Agency;

25 (4) "executive member" means a member of the Board, not being a nominee member, who is responsible for the day-to-day management and functioning of the Agency;

(5) "Government security" means a security that is created and issued by the Central Government;

(6) "nominee member" means a member of the Board, nominated under sub-section (3) of section 123;

30 (7) "notification" means the notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(8) "prescribed" means prescribed by rules made by the Central Government under this Chapter;

(9) "public debt" means the obligation arising from borrowings, whether internal or external, upon the Central Government;

35 (10) "register of holders" means the register of holders of Government securities maintained by the Agency under section 127;

(11) "Reserve Bank" means the Reserve Bank of India established under section 3 of the Reserve Bank of India Act, 1934.

2 of 1934.

## PART II

## ESTABLISHMENT OF PUBLIC DEBT MANAGEMENT AGENCY

40 **120.** (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Chapter, a body to be called the Public Debt Management Agency. Establishment and incorporation of Public Debt Management Agency.

45 (2) The Agency shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Chapter, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Agency shall be at such place as the Central Government may, by notification, specify.

(4) The Agency may, by notification, establish its offices or branches at any other place in or outside India.

Objective of Agency.	<b>121.</b> The Agency has the objective of minimising the cost of raising and servicing public debt over the long term within an acceptable level of risk at all times, under the general superintendence of the Central Government, as provided in this Part.	
Board of Agency.	<b>122.</b> (1) The general superintendence, direction and management of the affairs and business of the Agency shall vest in the Board of Agency.	5
	(2) The Board shall consist of a Chairperson who shall be the Chief Executive Officer of the Agency having the powers of general direction and control in respect of all administrative matters of the Agency.	
	(3) The Board may set up advisory councils to advise it with regard to any matter as the Board may require.	
Composition of Board.	<b>123.</b> (1) The Board shall consist of such number of executive and nominee members, as may be appointed and notified by the Central Government in the Official Gazette.	10
	(2) The executive members shall include the Chief Executive Officer of the Agency.	
	(3) The nominee members shall consist of—	
	(a) a nominee of the Central Government; and	
	(b) a nominee of the Reserve Bank.	15
	(4) The duration of office and other conditions of service of the Chairperson and other Members of the Board shall be such, as may be prescribed.	
	(5) Notwithstanding anything contained in sub-section (4), the Central Government shall have the right to terminate the services of a Member of the Board, at any time before the expiry of the period prescribed under sub-section (4), by giving him notice of not less than three months in writing or three months salary and allowances in lieu thereof, and the Member shall also have the right to relinquish his office, at any time before the expiry of the period prescribed under sub-section (4), by giving to the Central Government a notice of not less than three months in writing.	20
	(6) The Central Government shall remove a Member of the Board from office, if he—	
	(a) is, or at any time has been, adjudicated as insolvent; or	25
	(b) is of unsound mind and stands so declared by a competent court; or	
	(c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude; or	
	(d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:	30
	Provided that no Member shall be removed, unless he has been given a reasonable opportunity of being heard in the matter.	
	(7) The Board may, by order in writing, allocate functions of the Agency under this Chapter to the Chairperson or any other Member or employee of the Agency, subject to any conditions that may be specified in the order.	35
	(8) The Agency shall make bye-laws to govern its internal functioning.	
	(9) No act or proceeding of the Agency shall be invalid merely by reason of—	
	(a) any vacancy or any defect, in the establishment of the Agency; or	
	(b) any defect in the appointment of a Member of the Agency; or	
	(c) any irregularity in the procedure of the Agency not affecting the merits of the case.	40

## PART III

## FUNCTIONS AND POWERS OF PUBLIC DEBT MANAGEMENT AGENCY

Debt, cash and contingent liability management.	<b>124.</b> (1) The Agency shall issue Government securities, maintain and manage the register of holders in accordance with the provisions of this Part and the rules made thereunder.	
	(2) The functions of the Agency shall include—	45
	(a) collecting and publishing information about public debt, including borrowing by the Central Government otherwise than under this Chapter;	
	(b) purchasing, re-issuing and trading in Government securities; and	

- (c) carrying out such other transactions as may be required for management of public debt.
- (3) The Agency shall manage the contingent liabilities of the Central Government, including—
- (a) developing ways to calculate the total contingent liability of the Central Government;
- (b) advising the Central Government on its contingent liabilities ; and
- 5 (c) carrying out such other transactions as may be necessary to reduce the contingent liabilities of the Central Government or reduce the cost of such contingent liabilities.
- (4) The Agency shall undertake cash management for the Central Government, including—
- (a) collecting information about the cash assets of the Central Government;
- (b) developing systems to calculate and predict cash requirements of the Central Government;
- 10 (c) issuing and redeeming such short-term securities as may be required to meet the cash requirements of the Central Government;
- (d) advising the Central Government on management of cash of the Central Government; and
- (e) carrying out such other transactions as may be necessary to manage the cash of the Central Government.
- 15 (5) For the purpose of sub-section (4), the word “cash” means monies held by the Central Government or any of its departments in the form of cash or bank deposits including deposits held with the Reserve Bank.
- (6) The Central Government shall provide all information that the Agency may reasonably require to discharge its duties.
- 20 (7) If the Central Government provides any confidential information to the Agency, then, the Agency shall ensure that such confidentiality is maintained.
- 125.** (1) The Central Government shall entrust the Agency with the issue of Government securities. Issue of Government Securities.
- (2) The Agency shall issue Government securities in accordance with the provisions of this Chapter and rules made thereunder.
- 25 (3) The terms and conditions of Government securities shall, be such as may be prescribed.
- (4) All Government securities shall be issued in dematerialised form.
- 126.** (1) The Agency shall be responsible for making payments to holders of Government securities, Payment on Government Securities. in accordance with the terms of such Government securities.
- (2) The Central Government may prescribe rules on how such payments shall be claimed or made.
- 30 **127.** (1) The Agency shall maintain a register of holders in such manner, as may be prescribed. Register of holders of Government Securities.
- (2) Every register of holders shall include an index of the names included therein.
- (3) The register and index of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996, shall be deemed to be the corresponding register and index for the purposes of this Chapter.
- 22 of 1996.
- 35 **128.** (1) Every holder of Government securities may, at any time, nominate in the prescribed manner, Nomination. any person in whom his securities shall vest, in the event of his death.
- (2) Where any Government security is held by more than one person jointly, the joint holders may together nominate in the prescribed manner, any person in whom all the rights in such Government security shall vest, in the event of the death of all the joint holders.
- 40 (3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of Government securities, where a nomination made in the prescribed manner purports to confer on any person the right to vest Government securities, the nominee shall, on the death of the holder of such Government securities or, as the case may be, on the death of the joint holders, become entitled to all the rights in the Government securities, of the holder
- 45 or, as the case may be, of all the joint holders, in relation to such securities, to the exclusion of all other persons, unless the nomination is varied or cancelled, in such manner, as may be prescribed.
- (4) Where the nominee is a minor, it shall be lawful for the holder of the Government securities making the nomination, to appoint in the prescribed manner, any person to become entitled to the Government securities, in the event of the death of the nominee during his minority.

Transfer of Government Securities.	<b>129.</b> (1) The Agency shall not register a transfer of Government securities, unless such transfer is made in such manner, as may be prescribed. (2) Nothing contained in this section shall affect any order made by a court upon the Agency.	
Fungibility and Transferability.	<b>130.</b> All Government securities, of a class or type, shall be fungible and freely transferable.	
Certificate of Government Securities.	<b>131.</b> (1) A certificate, issued under the common seal of the Agency, specifying the Government securities held by any person, shall be <i>prima facie</i> evidence of the title of the person to such Government securities. (2) The manner of issue of a certificate of Government securities or the duplicate thereof, the form of such certificate, the particulars to be entered in the register of holders and other matters shall be such, as may be prescribed. (3) Where a Government security is held in depository form, the record of the depository is the <i>prima facie</i> evidence of the interest of the holder.	5 10
Liability for financial transactions.	<b>132.</b> The Central Government is liable to meet the obligations arising from any financial transaction authorised by it, which is undertaken by the Agency or any funds that are raised on behalf of the Central Government by the Agency.	15
PART IV		
FINANCE, ACCOUNTS AND AUDIT		
Fees.	<b>133.</b> (1) The Agency shall, in consultation with the Central Government, make bye-laws to provide for fees payable in respect of its services rendered under this Chapter. (2) The Central Government shall pay such fees to the Agency, as may be mentioned in the bye-laws.	20
Grants and loans.	<b>134.</b> The Central Government may make to the Agency grants or loans of such sums of money as it thinks fit for being utilised for the purposes of carrying out its functions.	
Fund.	<b>135.</b> (1) There shall be constituted a Fund, established and maintained by the Agency, to which the following shall be credited— (a) all grants, loans, and fees received by the Agency; and (b) all sums received by the Agency from such other sources, as may be prescribed by the Central Government. (2) The Fund shall be applied for meeting the expenses on objects and for the purposes authorised by this Chapter.	25 30
Accounts, audit and reports.	<b>136.</b> (1) The Agency shall maintain accounts and other relevant records and prepare an annual statement of accounts, in such form, as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. (2) The accounts of the Agency shall be audited annually by the Comptroller and Auditor-General of India. (3) The Board must prepare and submit to the Central Government an annual report within a period of ninety days from the end of a financial year, and such other reports, in such form and manner, as may be prescribed by the Central Government. (4) The accounts of the Agency as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, and the audit report thereon shall be forwarded annually to the Central Government. (5) The Central Government shall cause the accounts as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, the audit report thereon and the annual report, to be laid before each House of Parliament.	35
Power of Central Government to issue directions.	<b>137.</b> (1) The Central Government may issue to the Agency, by an order in writing, directions on policy from time to time. (2) The decision of the Central Government as to whether a direction is one of policy or not is final. (3) Before issuing any direction under this section, the Agency must be given a reasonable opportunity of being heard to express its views. (4) The Agency is bound by the directions issued under this section in the exercise of its powers or	45 50

the discharge of its functions, under this Chapter.

**138.** (1) The Central Government may, by notification, make rules for carrying out the purposes of this Chapter.

Power of Central Government to make rules.

5 (2) Without prejudice to the generality of the foregoing provision, the Central Government may prescribe—

(a) the terms and other conditions of office of the Chairperson and other Members of the Board under sub-section (4) of section 123;

(b) the terms and conditions of Government securities under sub-section (3) of section 125;

10 (c) the manner of making payments to and claims by, holders of Government securities under sub-section (2) of section 126;

(d) the manner of maintenance of register of holders under sub-section (1) of section 127;

(e) the manner of making and cancelling nomination under sub-sections (1) and (3) of section 128;

(f) the manner of transfer of Government securities under sub-section (1) of section 129;

15 (g) the manner of issue of certificate of Government securities under sub-section (2) of section 131;

(h) the sources of funds for the Agency under clause (b) of sub-section (1) of section 135;

(i) the manner of maintenance of accounts and form of annual report of the Agency under sub-sections (1) and (3) of section 136.

20 (3) Every rule made under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree to make any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification  
25 or annulment shall be without prejudice to the validity of anything previously done under that rule.

#### PART V

#### MISCELLANEOUS

30 **139.** The Members and employees of the Agency, or any other person who has been delegated any function by the Agency, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Chapter, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Members and employees of Agency to be public servants.

**140.** No suit, prosecution or other legal proceedings shall lie against the Central Government or the Agency or their Members or employees, for anything which is done, or intended to be done, in good faith under this Chapter.

Protection of action taken in good faith.

2 of 1899.  
27 of 1957.  
43 of 1961.  
32 of 1994.  
23 of 2004.

35 **141.** Notwithstanding anything contained in the Indian Stamp Act, 1899, the Wealth-tax Act, 1957, the Income-tax Act, 1961, the Finance Act, 1994, the Finance (No.2) Act, 2004 or any other enactment for the time being in force, relating to tax or duty on wealth, income, profits, gains, securities transactions, stamp duty or services, the Agency shall not be liable to pay wealth-tax, income-tax, securities transaction tax, stamp duty, service tax or any other tax in respect of its wealth, income, profits, gains, transactions  
40 undertaken or services rendered.

Exemption from taxes.

**142.** Notwithstanding anything contained in any other law for the time being in force, the Reserve Bank shall provide all information and render all assistance as the Agency may require it to provide and render, so that the Agency is able to discharge its functions, with minimal interruption.

Obligation of Reserve Bank to provide information.

#### CHAPTER VIII

45

#### SENIOR CITIZENS' WELFARE FUND

#### PART I

#### PRELIMINARY

**143.** (1) This Chapter extends to the whole of India.

Extent and commencement.

50 (2) This Chapter shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



Definitions. **144.** In this Chapter, unless the context otherwise requires,—

- (1) "Institution" means any bank, Post Office or any other institution notified by the Central Government which is holding the inoperative accounts having unclaimed amounts;
- (2) "Committee" means the Inter-Ministerial Committee constituted under section 146;
- (3) "eligible interest" means an interest on the principal transferred to the Fund at the rate notified by the Central Government;
- (4) "Financial Year" means the period commencing on the 1st day of April and ending on the 31st day of March every year;
- (5) "Fund" means the Fund established under section 145;
- (6) "inoperative account" means an account under any of the schemes specified by or under sub-section (2) of section 145 and not operated upon for a period of three years if operable on regular basis, or if there is a date of maturity, from the date of maturity, as the case may be;
- (7) "notification" means a notification published in the Official Gazette;
- (8) "prescribed" means prescribed by rules made by the Central Government under this Chapter;
- (9) "senior citizen" means a citizen of India who has attained the age of sixty years or above;
- (10) "unclaimed amount" means the amount as referred to in sub-section (2) of section 145.

## PART II

### ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of Fund **145.** (1) The Central Government shall establish a Fund to be called the "Senior Citizens' Welfare Fund". 20

(2) Any credit balance in any of the accounts under the following schemes remaining unclaimed for a period of seven years from the date of its declaration as an inoperative account shall be transferred by the respective Institutions holding them to the Fund:

- (a) Small Savings and other Savings Schemes of the Central Government with Post Offices and Banks authorised to operate such Schemes; 25
- (b) Accounts of Public Provident Fund under the Public Provident Fund Scheme, 1968 maintained by Institution; and
- (c) such other amounts, in any accounts or schemes as may be prescribed.

(3) The Fund shall be utilised for promoting welfare of senior citizens and for such other purposes as may be prescribed. 30

(4) The Central Government shall, from time to time, notify the eligible rate of interest for money lying in the Fund.

Constitution of a Committee for administration of Fund. **146.** (1) The Central Government shall constitute, by notification, an Inter-Ministerial Committee for administration of the Fund consisting of a Chairperson and such other number of Members as the Central Government may appoint. 35

(2) The manner of administration of the Fund, holding of meetings of the Committee, shall be in accordance with such rules as may be prescribed.

(3) It shall be competent for the Committee to spend money out of the Fund for carrying out the objects specified in sub section (3) of section 145.

Payment of claims. **147.** (1) Any person claiming to be entitled to the unclaimed amount transferred to the Fund may apply to the respective Institution with which the amount due was originally lying or deposited, at any time before the right to the amount is extinguished as provided in section 149. 40

(2) The person making the application shall bear the onus of establishing his right to receive the amount to which the application relates.

(3) The Institution shall consider the application as expeditiously as possible, and make payment along with the eligible interest, in any case, within sixty days of the receipt of the application. 45

(4) Any payment under this section shall discharge the Institution from liability in respect of the amount credited to the Fund.

(5) The interest payable, if any, on the money transferred to the Fund shall be determined and notified by the Central Government. 50

**148.** (1) The Institution shall publish such information as is necessary and sufficient to give reasonable notice of the existence of the unclaimed amounts, before crediting the unclaimed amount to the Fund. Publication of information.

(2) The Central Government may prescribe the method by which such information shall be published.

**149.** (1) Where no request or claim as specified in section 147 of this Chapter is made within a period of twenty-five years from the date of the credit of the unclaimed amount into the Fund, then, notwithstanding anything contrary contained in any other law for the time being in force, unless a Court otherwise orders, it shall escheat to the Central Government. Escheat to the Central Government.

(2) The right of any person claiming to have an entitlement to the unclaimed amount shall subsist till the period specified under sub-sections (1), and shall extinguish thereafter.

(3) Notwithstanding anything contained in sub-section (2), if, in any case, the Central Government is satisfied that there were genuine reasons which precluded a person from making a claim for refund in time, it may, on the recommendation of the Committee based on examination of facts, refund the money escheated to him.

(4) The Central Government may keep such escheated amount with the Fund for the purposes of the Fund.

### PART III

#### ACCOUNTS AND AUDIT

**150.** (1) The Fund shall prepare, in such form and at such time for each financial year as may be prescribed, its annual report giving a full account of its activities during the financial year and forward a copy thereof to the Central Government. Reporting of accounts and audit.

(2) The accounts of the Fund shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually by the Institution to the Central Government.

(3) The Central Government shall cause the annual report and the audit report given by the Comptroller and Auditor General of India to be laid before each House of Parliament.

### PART IV

#### MISCELLANEOUS

**151.** (1) The Central Government may, by notification, make rules for carrying out the provisions of this Chapter. Power of Central Government to make rules.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), such rules may provide for—

(a) such other amounts referred to in clause (c) of sub-section (2) of section 145;

(b) the utilisation of the Fund for the purposes under sub-section (3) of section 145;

(c) the composition of the Committee for managing the Fund under sub-section (2) of section 146;

(d) the manner of administration of the Fund and the procedure relating to holding of the meetings of the Committee under sub-section (2) of section 146;

(e) the manner of giving notice to the public about the existence of the unclaimed amounts under sub-section (2) of section 148;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**152.** The Central Government may, for reasons to be recorded in writing, exempt any unclaimed amount or institution or class of unclaimed amounts or institutions from any or all of the provisions of this Chapter, either generally or for such period as may be specified. Power to exempt in certain cases.

**153.** (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may by order, do anything not in consistant with the provisions of this Chapter for the purpose of removing such difficulty: Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry two years from the commencement of this Chapter.

(2) Every order under this section shall be laid, as soon as may be after it is made, before each house of Parliament.

## CHAPTER IX

## MISCELLANEOUS

## PART I

5

## AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

- Commencement and amendment of Act 2 of 1934. 154. [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.
- Amendment of section 17. [B] In the Reserve Bank of India Act, 1934 (herein referred to as the Reserve Bank Act), in section 17, in sub-section (11), the following proviso shall be inserted, namely:—
- “Provided that the Bank may exercise the functions specified in clauses (e) and (f) of this sub-section for the Central Government, if the Central Government issues a notification under sub-section (2) of section 21, entrusting the Bank with the function of managing public debt and issuing and managing bonds and debentures of the Central Government.”. 15
- Amendment of section 21. 155. In section 21 of the Reserve Bank Act, for sub-section (2), the following sub-section shall be substituted, namely:—
- “(2) The Central Government shall, by notification in the Official Gazette, entrust the Bank or the Public Debt Management Agency, established under section 120 of the Finance Act, 2015, on such conditions as may be agreed upon, with the management of the public debt, issue and management of bonds and debentures of the Central Government and issue of any new loans.”. 20
- Amendment of section 45U. 156. In section 45U of the Reserve Bank Act,—
- (I) in clause (a),—
- (i) the words and brackets ‘price of securities (also called “underlying”)’ shall be omitted;
- (ii) after the words “such other instruments”, the words “not being a security” shall be inserted; 25
- (II) in clause (b), after the words “such other debt instrument”, the words “which is not a security” shall be inserted;
- (III) in clause (c), for the words “securities”, the words “corporate bonds and debentures” shall be substituted;
- (IV) in clause (d), for the words “securities”, the words “corporate bonds and debentures” shall be substituted; 30
- (V) in clause (e), the words ‘and, for the purposes of “repo” or “reverse repo” including corporate bonds and debentures’ shall be omitted.
- Amendment of section 45W. 157. In section 45W of the Reserve Bank Act, in sub-section (1), —
- (I) the word “securities” shall be omitted; 35
- (II) after the proviso, the following proviso shall be inserted, namely:—
- “ Provided further that, on the date on which this proviso is notified by the Central Government—
- (a) any direction issued by the Reserve Bank, in respect of a security, under Chapter IIID of the Reserve Bank of India Act, shall stand repealed;
- (b) any action taken by any person in respect of any security, in pursuance of such direction shall be deemed and continued to be valid.”. 40

## PART II

## AMENDMENTS TO THE FORWARD CONTRACTS (REGULATION) ACT, 1952

- Commencement and amendment of Act 74 of 1952. 158. [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part. 45
- Insertion of new section 28A. [B] In the Forward Contracts (Regulation) Act, 1952, (herein referred to as the Forward Contracts Act), after section 28, the following section shall be inserted, namely:— 74 of 1952.

42 of 1956.	<p>“28A.(1) All recognised associations under the Forward Contracts Regulation Act, shall be deemed to be recognised stock exchanges under the Securities Contracts (Regulation) Act, 1956 (herein referred to as Securities Contracts Act).</p> <p>(2) The Securities and Exchange Board of India (herein referred to as the Security Board) may provide such deemed exchanges, adequate time to comply with the Securities Contracts Act and any regulations, rules, guidelines or like instruments made under the said Act.</p> <p>(3) The bye-laws, circulars, or any like instrument made by a recognised association under the Forward Contracts Act shall continue to be applicable for a period of one year from the date on which that Act is repealed, or till such time as notified by the Security Board, as if the Forward Contracts Act had not been repealed, whichever is earlier.</p> <p>(4) All rules, directions, guidelines, instructions, circulars, or any like instruments, made by the Commission or the Central Government applicable to recognised associations under the Forward Contracts Act shall continue to remain in force for a period of one year from the date on which that Act is repealed, or till such time as notified by the Security Board, whichever is earlier, as if the Forward Contracts Act had not been repealed.</p> <p>(5) In addition to the powers under the Securities Contracts Regulation Act, the Security Board and the Central Government shall exercise all powers of the Commission and the Central Government with respect to recognised associations, respectively, on such deemed exchanges, for a period of one year as if the Forward Contracts Act had not been repealed.”.</p>	<p>Savings of recognised associations.</p>
74 of 1952.	<p>159. After section 29 of the Forward Contracts Act, the following sections shall be inserted, namely:—</p> <p>“29A.(1) The Forward Contracts (Regulation) Act, 1952 is hereby repealed.</p> <p>(2) On and from the date of repeal of Forward Contracts Act—</p> <p>(a) the rules and regulations framed by the Central Government and the Commission under the Forward Contracts Act, shall stand repealed;</p> <p>(b) all authorities and entities established by the Central Government under the Forward Contracts Act, including the Commission and the Advisory Council established under section 25 of that Act, shall stand dissolved;</p> <p>(c) anything done or any action taken or purported to have been done or taken including any inspection, order, penalty, proceeding or notice made, initiated or issued or any confirmation or declaration made or any licence, permission, authorisation or exemption granted, modified or revoked, or any document or instrument executed, or any direction given under the Act repealed in sub-section (1), shall be continued or enforced by the Security Board, as if that Act had not been repealed;</p> <p>(d) all offences committed, and existing proceedings with respect to offences which may have been committed under the Forward Contracts Act, shall continue to be governed by the provisions of that Act, as if that Act had not been repealed;</p> <p>(e) a fresh proceeding related to an offence under the Forward Contracts Act, may be initiated by the Security Board under that Act within a period of three years from the date on which that Act is repealed and be proceeded with as if that Act had not been repealed;</p> <p>(f) no court shall take cognizance of any offence under the Forward Contracts Act from the date on which that Act is repealed, except as provided in clauses (d) and (e);</p> <p>(g) clauses (d), (e) and (f) shall not be held to or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal to matters not covered under these sub-sections.</p>	<p>Insertion of new sections 29A and 29B.</p> <p>Repeal and savings.</p>
10 of 1897.	<p>29B. (1) On the date on which the Forward Contracts Act is repealed, the undertaking shall be transferred, and vest with the Securities and Exchange Board of India.</p> <p>(2) If there is any existing proceeding or cause of action against the Commission in relation to the undertaking on the date on which the Forward Contracts Act is repealed, such proceeding or cause of action may be continued and enforced by or against the Security Board.</p> <p>(3) The concessions, privileges, benefits and exemptions including any benefits and exemptions with regard to the payment of any tax, duty and cess granted to the Commission with respect to its undertaking shall be transferred to the Security Board on the date on which the Forward Contracts Act is repealed.</p> <p>(4) Every employee holding any office (excluding members of the Commission) under the Commission immediately before the date on which the Forward Contracts Act is repealed, will hold office in the Central Government or the Security Board, as the Central Government may notify in the Official Gazette, for the same tenure and on the same terms and conditions of service as such employee would have held such office if the Commission had not been dissolved:</p>	<p>Transfer and vesting of undertaking of Commission.</p>

Provided that where the Central Government notifies that an employee of the Commission shall continue as an employee of the Central Government under the foregoing provision, the Central Government may, at the request of the Security Board, depute such employee to the Security Board, for a period not exceeding two years from the date on which the Forward Contracts Act is repealed.

(5) Within six months from the date on which the Forward Contracts Act is repealed, an employee of the Commission opting not to be an employee of the Central Government or the Security Board, as the case may be, shall communicate such decision to the Central Government or Security Board, as applicable. 5

(6) Nothing contained in any other law in force will entitle any employee to any compensation for the loss of office due to the repeal of the Forward Contracts Act and the consequent dissolution of the Commission, and no such claim shall be entertained by any court, tribunal or other authority. 10

(7) The members of the Commission appointed by the Central Government under section 3 of the Forward Contracts Act, shall cease to hold office from the date the Forward Contracts Act is repealed.

(8) The members of the Commission shall not be entitled to any compensation for the loss of office due to the repeal of the Forward Contracts Act and the consequent dissolution of the Commission or for the premature termination of any contract of management entered into by such member with the Commission, and no such claim shall be entertained by any court, tribunal or other authority. 15

(9) The transfer and vesting of the undertaking shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899 or any applicable stamp duties under state laws." 2 of 1899.

### PART III 20

#### AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

- Commencement and amendment of Act 42 of 1956. Amendment of section 2.
- 160.** [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.
- [B] In the Securities Contracts (Regulation) Act, 1956 (herein referred to as Securities Contracts Act), in section 2,— 25 42 of 1956.
- (i) in clause (ac), after sub-clause (B), the following sub-clauses shall be inserted, namely:—
- “(C) repo and reverse repo;
- (D) commodity derivatives; and
- (E) such other instruments as may be declared by the Central Government to be derivatives;” 30
- (ii) in clause (b), the words, brackets, and figures “and having one of the forms specified in clause (2) of section 2 of the Public Debt Act, 1944” shall be omitted; 18 of 1944.
- (iii) after clause (b), the following clauses shall be inserted, namely:—
- “(bb) “goods” mean every kind of movable property other than actionable claims, money and securities;
- (bc) “commodity derivative” means a contract – 35
- (i) for the delivery of such goods, as may be notified by the Central Government in the Official Gazette, and which is not a ready delivery contract; or
- (ii) for differences, which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified by the Central Government, in consultation with the Board, but does not include securities;” 40
- (iv) after clause (c), the following clause shall be inserted, namely:—
- “(ca) “non-transferable specific delivery contract” means a specific delivery contract, the rights or liabilities under which or under any delivery order, railway receipt, bill of lading, warehouse receipt or any other documents of title relating thereto are not transferable;”;
- (v) after clause (e), the following clause shall be inserted, namely:— 45
- “(ea) “ready delivery contract” means a contract which provides for the delivery of goods and the payment of a price therefor, either immediately, or within such period not exceeding eleven days after the date of the contract and subject to such conditions as the Central Government may, by notification in the Official Gazette, specify in respect of any goods, the period under such contract not being capable of extension by the mutual consent of the parties thereto or otherwise: 50
- Provided that where any such contract is performed either wholly or in part;
- (f) by realisation of any sum of money being the difference between the contract rate and

the settlement rate or clearing rate or the rate of any offsetting contract; or

(*l*) by any other means whatsoever, and as a result of which the actual tendering of the goods covered by the contract or payment of the full price therefor is dispensed with, then such contract shall not be deemed to be a ready delivery contract;';

5 (vi) after clause (*f*), the following clauses shall be inserted, namely:—

'(*fa*) "repo" means an instrument for borrowing funds by selling Government securities with an agreement to repurchase the Government securities on a mutually agreed future date at an agreed price which includes interest for the funds borrowed;

10 (*fb*) "reverse repo" means an instrument for lending funds by purchasing Government securities with an agreement to resell the Government securities on a mutually agreed future date at an agreed price which includes interest for the funds lent;';

(vii) after clause (*h*), the following clause shall be inserted, namely:—

15 (*ha*) "specific delivery contract" means a commodity derivative which provides for the actual delivery of specific qualities or types of goods during a specified future period at a price fixed thereby or to be fixed in the manner thereby agreed and in which the names of both the buyer and the seller are mentioned;';

(viii) after clause (*j*), the following clause shall be inserted, namely:—

20 (*k*) "transferable specific delivery contract" means a specific delivery contract which is not a non-transferable specific delivery contract and which is subject to such conditions relating to its transferability as the Central Government may by notification in the Official Gazette, specify in this behalf.'.

**161.** Section 18A of the Securities Contracts Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The contracts in derivative shall, subject to sub-section (1), be notified by the Central Government."

25 **162.** After section 30 of the Securities Contracts Act, the following section shall be inserted, namely:—

"30A. (1) Nothing contained in this Act shall apply to non-transferable specific delivery contracts:

30 Provided that no person shall organise or assist in organising or be a member of any association in any area to which the provisions of section 13 have been made applicable (other than a stock exchange) which provides facilities for the performance of any non-transferable specific delivery contract by any party thereto without having to make or receive actual delivery to or from the other party to the contract or to or from any other party named in the contract.

35 (2) Where in respect of any area, the provisions of section 13 have been made applicable in relation to commodity derivatives for the sale or purchase of any goods or class of goods, the Central Government may, by notification, declare that in the said area or any part thereof as may be specified in the notification all or any of the provisions of this Act shall not apply to transferable specific delivery contracts for the sale or purchase of the said goods or class of goods either generally, or to any class of such contracts in particular.

40 (3) Notwithstanding anything contained in sub-section (1), if the Central Government is of the opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area, it may, by notification in the official Gazette, declare that all or any of the provisions of this Act shall apply to such class or classes of non-transferable specific delivery contracts in such area in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply."

#### PART IV

#### AMENDMENT TO THE FINANCE (No.2) ACT, 1998

21 of 1988. **163.** In the Finance (No.2) Act, 1998, in the Second Schedule, for the entry in column (3), the entry "Rupees eight per litre" shall be substituted.

#### PART V

#### AMENDMENT TO THE FINANCE ACT, 1999

27 of 1999. **164.** In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry "Rupees eight per litre" shall be substituted.

#### PART VI

#### AMENDMENTS TO THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

55 **165.** [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.

42 of 1999. [B] In the Foreign Exchange Management Act, 1999 (herein referred to as the Foreign Exchange Act), in section 2,—

Amendment of section 18A.

Insertion of new section 30A.

Special provisions related to commodity derivatives.

Amendment of Second Schedule.

Amendment of Second Schedule.

Commencement and amendment of Act 42 of 1999.

Amendment of section 2.

(i) after clause (c), the following clause shall be inserted, namely:—

“(cc) “Authorised Officer” means an officer of the Directorate of Enforcement authorised by the Central Government under section 37A;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(gg) “Competent Authority” means the Authority appointed by the Central Government under sub-section (2) of section 37A;”.

Amendment of section 6.

**166.** In section 6 of the Foreign Exchange Act,—

(A) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) any class or classes of capital account transactions, involving debt instruments, which are permissible;”;

(ii) after clause (b), the following clause shall be inserted, namely:—

“(c) any conditions which may be placed on such transactions;”;

(iii) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Reserve Bank or the Central Government shall not impose any restrictions on the drawal of foreign exchange for payment due on account of amortisation of loans or for depreciation of direct investments in the ordinary course of business.”;

(B) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Central Government may, in consultation with the Reserve Bank, prescribe—

(a) any class or classes of capital account transactions, not involving debt instruments, which are permissible;

(b) the limit up to which foreign exchange shall be admissible for such transactions; and

(c) any conditions which may be placed on such transactions.”;

(C) sub-section (3) shall be omitted;

(D) after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) For the purposes of this section, the term “debt instruments” shall mean, such instruments as may be determined by the Central Government in consultation with the Reserve Bank.”.

Amendment of section 18.

**167.** In section 18 of the Foreign Exchange Act, after the words “Adjudicating Authorities”, the words “Competent Authorities” shall be inserted.

Insertion of new section 37A.

**168.** After section 37 of the Foreign Exchange Act, the following section shall be inserted, namely:—

Special provisions relating to assets held outside India in contravention of section 4.

“37A. (1) Upon receipt of any information or otherwise, if the Authorised Officer prescribed by the Central Government has reason to believe that any foreign exchange, foreign security, or any immovable property, situated outside India, is suspected to have been held in contravention of section 4, he may after recording the reasons in writing, by an order, seize value equivalent, situated within India, of such foreign exchange, foreign security or immovable property:

Provided that no such seizure shall be made in case where the aggregate value of such foreign exchange, foreign security or any immovable property, situated outside India, is less than the value as may be prescribed.

(2) The order of seizure along with relevant material shall be placed before the Competent Authority, appointed by the Central Government, who shall be an officer not below the rank of Joint Secretary to the Government of India by the Authorised Officer within a period of thirty days from the date of such seizure.

(3) The Competent Authority shall dispose of the petition within a period of one hundred eighty days from the date of seizure by either confirming or by setting aside such order, after giving an opportunity of being heard to the representatives of the Directorate of Enforcement and the aggrieved person.

*Explanation.*— While computing the period of one hundred eighty days, the period of stay granted by court shall be excluded and a further period of at least thirty days shall be granted from the date of communication of vacation of such stay order.”.

**169.** In section 46 of the Foreign Exchange Act, in sub-section (2),—

Amendment  
of section 46.

(i) after clause (a), the following clauses shall be inserted, namely:—

“(aa) the instruments which are determined to be debt instruments under sub-section (7) of section 6;

5        “(ab) the permissible classes of capital account transactions in accordance with sub-section (2A) of section 6, the limits of admissibility of foreign exchange, and the prohibition, restriction or regulation of such transactions;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(gg) the aggregate value of foreign exchange referred to in sub-section (1) of section 37A;”.

10    **170.** In section 47 of the Foreign Exchange Act,—

Amendment  
of section 47.

(A) in sub-section (2),—

(i) for clause (a), the following clause shall be substituted, namely:—

15        “(a) the permissible classes of capital account transactions involving debt instruments determined under sub-section (7) of section 6, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of such capital account transactions under section 6;”;

(ii) after clause (g), the following clause shall be inserted, namely:—

“(ga) export, import or holding of currency or currency notes;”;

(B) after sub-section (2), the following sub-section shall be inserted, namely:—

20        “(3) All regulations made by the Reserve Bank before the date on which the provisions of this section are notified under section 6 and section 47 of this Act on capital account transactions, the regulation making power in respect of which now vests with the Central Government, shall continue to be valid, until amended or rescinded by the Central Government.”.

25

## PART VII

### AMENDMENTS TO THE PREVENTION OF MONEY-LAUNDERING ACT, 2002

15 of 2003.

**171.** In the Prevention of Money-laundering Act, 2002 (herein referred to as the Money-laundering Act), in section 2, in sub-section (1),—

Amendment  
of section 2.

30        “(i) in clause (u), after the words “or the value of any such property”, the words “or where such property is taken or held outside the country, then the property equivalent in value held within the country” shall be inserted;

(ii) in clause (y), in sub-clause (ii), for the words “thirty lakh rupees”, the words “one crore rupees” shall be substituted.

35    **172.** In section 5 of the Money-laundering Act, in sub-section (1), in the second proviso, for the word, brackets and letter “clause (b)”, the words “first proviso” shall be substituted.

Amendment of  
section 5.

**173.** In section 8 of the Money-laundering Act,—

Amendment of  
section 8.

(i) in sub-section (3), in clause (b), for the words “Adjudicating Authority”, the words “Special Court” shall be substituted;

(ii) after sub-section (7), the following sub-section shall be inserted, namely:—

40        “(8) Where a property stands confiscated to the Central Government under sub-section (5), the Special Court, in such manner as may be prescribed, may also direct the Central Government to restore such confiscated property or part thereof of a claimant with a legitimate interest in the property, who may have suffered a quantifiable loss as a result of the offence of money laundering:

45        Provided that the Special Court shall not consider such claim unless it is satisfied that the claimant has acted in good faith and has suffered the loss despite having taken all reasonable precautions and is not involved in the offence of money laundering.”.

**174.** In section 20 of the Money-laundering Act,—

Amendment of  
section 20.

(i) in sub-section (5), for the words “the Court or the Adjudicating Authority, as the case may be”, the words “Special Court” shall be substituted;

50        (ii) in sub-section (6),—



(a) for the word “Court”, the words “Special Court” shall be substituted;

(b) after the words “ninety days from the date of”, the words “receipt of” shall be inserted.

Amendment  
of section 21.

**175.** In section 21 of the Money-laundering Act,—

(i) in sub-section (5), for the words, brackets and figures “under sub-section (5) or sub-section (7) of section 8”, the words, brackets, figures and letters “or release under sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” shall be substituted; 5

(ii) in sub-section (6), —

(a) for the words, brackets, figures and letters “under sub-section (6) of section 8 or by the Adjudicating Authority under section 58B or sub-section (2A) of section 60”, the words, brackets and figures “Adjudicating Authority under sub-section (5) of section 21” shall be substituted; 10

(b) after the words “ninety days from the date of”, the words “receipt of” shall be inserted.

Amendment  
of section 60.

**176.** In section 60 of the Money-laundering Act, in sub-section (2A), for the words “Adjudicating Authority”, the words “Special Court” shall be substituted.

Amendment  
of Schedule.

**177.** In the Schedule to the Money-laundering Act, after Part A, the following Part shall be inserted, 15  
namely:—

“PART B

OFFENCE UNDER THE CUSTOMS ACT, 1962

Section	Description of offence	
132	False declaration, false documents, etc.”.	20

PART VIII

AMENDMENTS TO THE FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2003

Amendment  
of section 4.

**178.** In the Fiscal Responsibility and Budget Management Act, 2003, in section 4, for the figures, 39 of 2003.  
letters and word “31st March, 2015”, wherever they occur, the figures, letters and word “31st March, 2018” shall be substituted. 25

PART IX

AMENDMENT TO THE FINANCE (No.2) ACT, 2004

Omission of  
section 95.

**179.** In the Finance (No. 2) Act, 2004 (herein referred to as 2004 Act), in Chapter VI, section 95 shall 23 of 2004.  
be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. 30

Amendment  
of section 97.

**180.** In section 97 of the 2004 Act, with effect from the 1st day of June, 2015,—

(i) after clause (5A), the following clause shall be inserted, namely:—

‘(5AA) “initial offer” shall have the meaning assigned to it in,—

(i) clause (q) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, in case of a business trust being a real estate investment trust; 35 15 of 1992.

(ii) clause (v) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, in case of a business trust being an infrastructure investment trust;’; 40 15 of 1992.

(ii) in clause (13), after sub-clause (aa), the following sub-clause shall be inserted, namely:—

“(ab) sale of unlisted units of a business trust by any holder of such units which were acquired in consideration of a transfer referred to in clause (xvii) of section 47 of the Income-tax Act, 1961 under an offer for sale to the public included in an initial offer and where such units are subsequently listed on a recognised stock exchange; or” 45 43 of 1961.

Amendment  
of section 98.

**181.** In section 98 of the 2004 Act, in the Table, after serial number 6 and entries relating thereto, the following serial number and entries shall be inserted, namely:—

Sl. No.	Taxable Securities transaction	Rate	Payable by
1	2	3	4
5	"7 Sale of unlisted units of a business trust under an offer for sale referred to in sub-clause (ab) of clause (13) of section 97.	0.2 per cent.	Seller";

**182.** In section 100 of the 2004 Act,—

Amendment of section 100.

(i) after sub-section (2A), the following sub-section shall be inserted, namely:—

10 “(2B) The lead merchant banker appointed by the business trust in respect of an initial offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (ab) of clause (13) of section 97 at the rates specified in section 98.”;

(ii) in sub-section (3),—

15 (A) after the word, brackets, figure and letter “sub-section (2A)”, the words, brackets, figure and letter “or sub-section (2B)” shall be inserted;

(B) after the words “an initial public offer”, the words “or an initial offer” shall be inserted;

(iii) in sub-section (4), after the words “an initial public offer”, the words “or an initial offer” shall be inserted.

**183.** In section 101 of the 2004 Act, in sub-section (1),—

Amendment of section 101.

20 (A) after the words “an initial public offer”, the words “or an initial offer” shall be inserted;

(B) for the words “ being sale of units to such Mutual Fund during such financial year” occurring at the end, the words “during such financial year, being sale of units to such Mutual Fund or sale of unlisted shares under an initial public offer or sale of unlisted units of business trust under an initial offer, in respect of which such lead merchant banker is appointed” shall be substituted.

25

#### PART X

#### AMENDMENT TO THE FINANCE ACT, 2005

18 of 2005.

**184.** In the Finance Act, 2005, in the Seventh Schedule, the sub-heading 2202 10 and the entries relating thereto shall be omitted.

Amendment of Seventh Schedule.

#### PART XI

30

#### AMENDMENTS TO THE GOVERNMENT SECURITIES ACT, 2006

**185.** [A] The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Part.

Commencement and amendment of Act 38 of 2006.

38 of 2006.

35 [B] In the Government Securities Act, 2006 (herein referred to as the Securities Act), after section 34, the following section shall be inserted, namely:—

“34A. All references to the Bank in this Act shall be construed as references to the Public Debt Management Agency established under sub-section (1) of section 120 of the Finance Act, 2015:

Insertion of new section 34A.  
Power of the Bank transitioned to Public Debt Management Agency.

Provided that on and from the date on which the provisions of this section come into force—

(a) all directions issued by the Bank under this Act, shall stand repealed;

40

(b) all actions taken by any person under any direction issued by the Bank under this Act, shall be deemed and continued to be valid.”.

**186.** After section 35 of the Securities Act, the following section shall be inserted, namely:—

Insertion of new section 35A.  
Repeal and saving.

38 of 2006.

“35A. The Government Securities Act, 2006 is hereby repealed:

Provided that—

45

(a) all Government securities issued prior to the date of such repeal shall be deemed to have been issued under Chapter VII of the Finance Act, 2015;

38 of 2006.

(b) anything done or any action taken, before the date of such repeal, in exercise of any power conferred by or under the Government Securities Act, 2006 shall be deemed to have been done or taken in exercise of the powers conferred under Chapter VII of the Finance Act, 2015 as if the said Chapter was in force at all material times.”.

50

PART XII

AMENDMENT TO THE FINANCE ACT, 2007

Omission of section 140. **187.** In the Finance Act, 2007, in Chapter VI, section 140 shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint. 22 of 2007.

PART XIII

5

AMENDMENT TO THE FINANCE ACT, 2010

Amendment of Tenth Schedule. **188.** In the Finance Act, 2010, in the Tenth Schedule, for the entry in column (4) occurring against all the headings, the entry "Rs. 300 per tonne" shall be substituted. 14 of 2010.

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**Declaration under the Provisional Collection of Taxes Act, 1931**

It is hereby declared that it is expedient in the public interest that the provisions of clauses 89, 90, 103, 104, 163, 164 and 188 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931. 16 of 1931.

THE FIRST SCHEDULE  
(See section 2)

PART I

INCOME-TAX

5 *Paragraph A*

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

10 *Rates of income-tax*

(1) where the total income does not exceed Rs. 2,50,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;
15 (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 25,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 10,00,000	Rs. 1,25,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

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

20 *Rates of income-tax*

(1) where the total income does not exceed Rs. 3,00,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
25 (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 20,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(4) where the total income exceeds Rs. 10,00,000	Rs. 1,20,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

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

30 *Rates of income-tax*

(1) where the total income does not exceed Rs. 5,00,000	<i>Nil</i> ;
(2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
35 (3) where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or 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, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |     |   |  |   |
|-----|---|--|---|
| (1) | where the total income does not exceed Rs.10,000                        | 10 per cent. of the total income;  |   |
| (2) | where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000 | Rs.1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs.10,000;   | 5 |
| (3) | where the total income exceeds Rs. 20,000                               | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |   |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax: 10

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees. 15

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

20

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees. 25

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent. 30

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees. 35

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income; 40

## II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

10 and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

15 The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every company, be increased by a surcharge for the purposes of the Union calculated,—

(i) in the case of every domestic company—

(a) having a total income exceeding one crore rupees, but not exceeding ten crore rupees, at the rate of five per cent. of such income-tax; and

20 (b) having a total income exceeding ten crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

25 Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

30 Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

## PART II

## RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

35 In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D, 194LBA and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	<i>Rate of income-tax</i>
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
40 (ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
45 (A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	

(C) any security of the Central or State Government;		
(vi) on any other income	10 per cent.;	
(b) where the person is not resident in India—		
(i) in the case of a non-resident Indian—		5
(A) on any investment income	20 per cent.;	
(B) on income by way of long-term capital gains referred to in section 115E or sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;	
(C) on income by way of short-term capital gains referred to in section 111A	15 per cent.;	
(D) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;	10
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;	15
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;	20
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;	25
(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy		30
(I) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;	35
(J) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;	
(K) on income by way of winnings from horse races	30 per cent.;	
(L) on the whole of the other income	30 per cent.;	40
(ii) in the case of any other person—		
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;	45
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;	50

	<i>Rate of income-tax</i>	
5	(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
10	(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
15	(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
	(F) on income by way of winnings from horse races	30 per cent.;
	(G) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
20	(H) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;
	(I) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
	(J) on the whole of the other income	30 per cent.
25	2. In the case of a company—	
	(a) where the company is a domestic company—	
	(i) on income by way of interest other than “Interest on securities”	10 per cent.;
	(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
30	(iii) on income by way of winnings from horse races	30 per cent.;
	(iv) on any other income	10 per cent.;
	(b) where the company is not a domestic company—	
	(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
35	(ii) on income by way of winnings from horse races	30 per cent.;
	(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
40	(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
45		
50	(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	



	<i>Rate of income-tax</i>	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;	
(B) where the agreement is made after the 31st day of March, 1976	10 per cent.;	
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—		5 10
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;	
(B) where the agreement is made after the 31st day of March, 1976	10 per cent.;	
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;	
(viii) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112	10 per cent.;	15
(ix) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;	
(x) on any other income	40 per cent.	
<i>Explanation.</i> — For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.		20

#### *Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of—

- (i) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every individual or Hindu undivided family or 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 or co-operative society or firm or local authority, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees; 25
- (ii) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated,— 30
- (a) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and
- (b) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

#### PART III

35

#### *RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”*

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” [not being “advance tax” in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such “advance tax” in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBE or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:— 40  
45

#### *Paragraph A*

(i) In the case of every individual other than the individual referred to in items (ii) and (iii) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,— 50

*Rates of income-tax*

- |       |   |  |
|-------|---|--|
| (1)   | where the total income does not exceed Rs. 2,50,000                           | <i>Nil</i> ;   |
| (2)   | where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 2,50,000;                           |
| 5 (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4)   | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,25,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

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

*Rates of income-tax*

- |        |   |  |
|--------|---|--|
| (1)    | where the total income does not exceed Rs. 3,00,000                           | <i>Nil</i> ;   |
| (2)    | where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000  | 10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;                           |
| 15 (3) | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 20,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;    |
| (4)    | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,20,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

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

*Rates of income-tax*

- |        |   |  |
|--------|---|--|
| (1)    | where the total income does not exceed Rs. 5,00,000                           | <i>Nil</i> ;   |
| (2)    | where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;                           |
| 25 (3) | where the total income exceeds Rs. 10,00,000                                  | Rs. 1,00,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or 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, having a total income exceeding one crore rupees, be increased by a surcharge for the purpose of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph B*

In the case of every co-operative society,—

*Rates of income-tax*

- |        |  |  |
|--------|--|--|
| (1)    | where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;  |
| 40 (2) | where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3)    | where the total income exceeds Rs. 20,000                                | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provision of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph C*

In the case of every firm,—

5

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax: 10

Provided that in the case of firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

15

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax: 20

Provided that in the case of local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees. 25

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income; 30

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or 35

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, 40

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,— 45

(i) in the case of every domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(b) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(ii) in the case of every company other than a domestic company,—

(a) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

5 (b) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

10 Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

#### PART IV

[See section 2(13)(c)]

#### RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

15 *Rule 1.*— Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from other sources” and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

20 *Rule 2.*— Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head “Profits and gains of business or profession” and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax  
25 Act shall, so far as may be, apply accordingly.

*Rule 3.*— Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head “Income from house property” and the provisions of sections 23 to 27 of that Act shall, so far as may be,  
30 apply accordingly.

*Rule 4.*—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

35 (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

40 (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

*Rule 5.*— Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

50 *Rule 6.*— Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

*Rule 7.*—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

*Rule 8.*—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2015, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1<sup>st</sup> day of April, 2014,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2015.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2016, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 ,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015,

5 (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015,

10 (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2016.

15 (3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No.2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) or of the First Schedule to the Finance Act, 2011 (8 of 2011) or of the First Schedule to the Finance Act, 2012 (23 of 2012) or of the First Schedule to the Finance Act, 2013 (17 of 2013) or of the First Schedule of the Finance (No.2) Act, 2014 (25 of 2014) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

*Rule 9.*—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

25 *Rule 10.*—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

*Rule 11.*—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE  
(See section 89)

In the First Schedule to the Customs Tariff Act,—

- (1) in Chapter 27, for the entry in column (4), occurring against tariff item 2701 12 00, the entry “10%” shall be substituted;
- (2) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry “15%” shall be substituted; 5
- (3) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry “15%” shall be substituted;
- (4) in Chapter 87, for the entry in column (4) occurring against all the tariff items of headings 8702 and 8704, the entry “40%” shall be substituted.

**THE THIRD SCHEDULE**  
(See section 102)

	Notification No. and date	Amendment	Period of effect of amendment												
5	(1)	(2)	(3)												
5	G.S.R.163(E), dated the 17th March, 2012[12/2012-Central Excise, dated the 17th March,	In the said notification, in the Table, after serial number 205 and the entries relating thereto, the following serial number and entries shall be inserted, namely:-	17th day of March, 2012 to 2nd February, 2014 (both days inclusive)												
10	2012] as amended vide G.S.R.75(E), dated the 3rd February, 2014 [03/2014-Central Excise, dated the 3rd February,	<table border="1" style="width: 100%; border-collapse: collapse; margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 10%;">(1)</th> <th style="width: 10%;">(2)</th> <th style="width: 30%;">(3)</th> <th style="width: 10%;">(4)</th> <th style="width: 10%;">(5)</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">15</td> <td style="vertical-align: top;">"205A</td> <td style="vertical-align: top;">7302 or 8530</td> <td style="vertical-align: top;">Railway or tramway track construction material of iron and steel.</td> <td style="vertical-align: top;">12%</td> <td style="vertical-align: top;">49";</td> </tr> </tbody> </table> <p style="margin-left: 40px;"><i>Explanation.</i>—For the purposes of this exemption, the value of the goods shall be the value of goods excluding the value of rails.</p>		(1)	(2)	(3)	(4)	(5)	15	"205A	7302 or 8530	Railway or tramway track construction material of iron and steel.	12%	49";	
	(1)	(2)	(3)	(4)	(5)										
15	"205A	7302 or 8530	Railway or tramway track construction material of iron and steel.	12%	49";										
20															



THE FOURTH SCHEDULE

(See section 103)

In the Third Schedule to the Central Excise Act,—

(i) after serial number 15 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

S.No.	Heading, sub-heading or tariff item	Description of goods	
(1)	(2)	(3)	
"15A.	2101 20	Extracts, essences and concentrates, of tea or mate, and preparations with a basis of these extracts, essences or concentrates or with a basis of tea or mate";	5

(ii) after serial number 23 and the entries relating thereto, the following serial number and entries shall be inserted, namely:— 10

(1)	(2)	(3)	
"23A.	2202	All goods";	

(iii) against serial number 94,—

(a) for the entry in column (2), the entry "Chapter 85 or Chapter 94" shall be substituted;

(b) in column (3), for the words "except lamps for automobiles", the words, figures, brackets and letters "falling under heading 8539 (except lamps for automobiles), LED lights or fixtures including LED lamps falling under Chapter 85 or heading 9405" shall be substituted. 15

THE FIFTH SCHEDULE  
(See section 104)

In the First Schedule to the Central Excise Tariff Act,—

- 5 (i) in Chapter 4, for the entry in column (4) occurring against tariff items 0402 91 10 and 0402 99 20, the entry “12.5%” shall be substituted;
- (ii) in Chapter 11,—
- (a) for the entry in column (4) occurring against all the tariff items of heading 1107, the entry “12.5%” shall be substituted;
- (b) for the entry in column (4) occurring against all the tariff items of heading 1108 (except tariff item 1108 20 00), the entry “12.5%” shall be substituted;
- 10 (iii) in Chapter 13, for the entry in column (4) occurring against all the tariff items (except tariff item 1302 11 00), the entry “12.5%” shall be substituted;
- (iv) in Chapter 15,—
- (a) for the entry in column (4) occurring against tariff item 1517 10 22, the entry “12.5%” shall be substituted;
- (b) for the entry in column (4) occurring against tariff item 1520 00 00, the entry “12.5%” shall be substituted;
- 15 (c) for the entry in column (4) occurring against all the tariff items of headings 1521 and 1522, the entry “12.5%” shall be substituted;
- (v) in Chapter 17, for the entry in column (4) occurring against all the tariff items of headings 1701 (except tariff items 1701 13 20 and 1701 14 20), 1702 (except tariff item 1702 90 10) and 1704, the entry “12.5%” shall be substituted;
- (vi) in Chapter 18, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;
- 20 (vii) in Chapter 19,—
- (a) for the entry in column (4) occurring against tariff items 1901 20 00, 1901 90 10 and 1901 90 90, the entry “12.5%” shall be substituted;
- (b) for the entry in column (4) occurring against tariff items 1902 40 10 and 1902 40 90, the entry “12.5%” shall be substituted;
- 25 (c) for the entry in column (4) occurring against all the tariff items of heading 1904, the entry “12.5%” shall be substituted;
- (d) for the entry in column (4) occurring against tariff items 1905 32 11, 1905 32 19 and 1905 32 90, the entry “12.5%” shall be substituted;
- (viii) in Chapter 21,—
- (a) for the entry in column (4) occurring against all the tariff items of heading 2101 (except tariff items 2101 30 10, 2101 30 20 and 2101 30 90), the entry “12.5%” shall be substituted;
- 30 (b) for the entry in column (4) occurring against all the tariff items of headings 2102, 2103 and 2104, the entry “12.5%” shall be substituted;
- (c) for the entry in column (4) occurring against all the tariff items of heading 2106 (except tariff items 2106 90 20 and 2106 90 92), the entry “12.5%” shall be substituted;
- 35 (ix) in Chapter 22,—
- (a) for the entry in column (4) occurring against all the tariff items of heading 2201 (except tariff item 2201 90 10), the entry “12.5%” shall be substituted;
- (b) for the entry in column (4) occurring against tariff items 2202 10 10, 2202 10 20 and 2202 10 90, the entry “18%” shall be substituted;
- 40 (c) for the entry in column (4) occurring against tariff items 2202 90 30 and 2202 90 90, the entry “12.5%” shall be substituted;
- (d) for the entry in column (4) occurring against tariff item 2207 20 00, the entry “12.5%” shall be substituted;
- (e) for the entry in column (4) occurring against all the tariff items of heading 2209, the entry “12.5%” shall be substituted;
- (x) in Chapter 24,—

- (a) for the entry in column (4) occurring against tariff items 2402 10 10 and 2402 10 20, the entry "12.5% or Rs.3375 per thousand, whichever is higher" shall be substituted;
- (b) for the entry in column (4) occurring against tariff item 2402 20 10, the entry "Rs. 1280 per thousand" shall be substituted;
- (c) for the entry in column (4) occurring against tariff item 2402 20 20, the entry "Rs. 2335 per thousand" shall be substituted; 5
- (d) for the entry in column (4) occurring against tariff item 2402 20 30, the entry "Rs. 1280 per thousand" shall be substituted;
- (e) for the entry in column (4) occurring against tariff item 2402 20 40, the entry "Rs.1740 per thousand" shall be substituted; 10
- (f) for the entry in column (4) occurring against tariff item 2402 20 50, the entry "Rs. 2335 per thousand" shall be substituted;
- (g) for the entry in column (4) occurring against tariff item 2402 20 90, the entry "Rs. 3375 per thousand" shall be substituted;
- (h) for the entry in column (4) occurring against tariff item 2402 90 10, the entry "Rs. 3375 per thousand" shall be substituted; 15
- (i) for the entry in column (4) occurring against tariff items 2402 90 20 and 2402 90 90, the entry "12.5% or Rs. 3375 per thousand, whichever is higher" shall be substituted;
- (j) for the entry in column (4) occurring against tariff item 2403 99 70, the entry "Rs.70 per kg." shall be substituted;
- (xi) in Chapter 25,— 20
- (a) for the entry in column (4) occurring against tariff item 2503 00 10, the entry "12.5%" shall be substituted;
- (b) for the entry in column (4) occurring against tariff items 2515 12 20 and 2515 12 90, the entry "12.5%" shall be substituted;
- (c) for the entry in column (4) occurring against tariff item 2523 10 00, the entry "12.5%" shall be substituted;
- (d) for the entry in column (4) occurring against tariff item 2523 21 00, the entry "12.5%" shall be substituted; 25
- (e) for the entry in column (4) occurring against all the tariff items of sub-heading 2523 29, the entry "Rs.1000 per tonne" shall be substituted;
- (f) for the entry in column (4) occurring against tariff items 2523 30 00, 2523 90 10, 2523 90 20 and 2523 90 90, the entry "12.5%" shall be substituted;
- (xii) in Chapter 26, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted; 30
- (xiii) in Chapter 27, for the entry in column (4) occurring against tariff item 2710 19 30, the entry "14% + Rs. 15 per litre" shall be substituted;
- (xiv) in Chapter 28, for the entry in column (4) occurring against all the tariff items (except tariff items 2804 40 10, 2844 30 22, 2845 10 00, 2845 90 10 and 2853 00 30), the entry "12.5%" shall be substituted;
- (xv) in Chapter 29, for the entry in column (4) occurring against all the tariff items (except tariff item 2933 41 00), the entry "12.5%" shall be substituted; 35
- (xvi) in Chapter 31, for the entry in column (4) occurring against all the tariff items of headings 3102, 3103, 3104 and 3105, the entry "12.5%" shall be substituted;
- (xvii) in Chapter 32, for the entry in column (4) occurring against all the tariff items (except tariff items 3215 90 10 and 3215 90 20), the entry "12.5%" shall be substituted; 40
- (xviii) in Chapter 33, for the entry in column (4) occurring against all the tariff items (except tariff item 3307 41 00), the entry "12.5%" shall be substituted;
- (xix) in Chapter 34, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xx) in Chapter 35, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xxi) in Chapter 36, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted; 45
- (xxii) in Chapter 37, for the entry in column (4) occurring against all the tariff items of headings 3701, 3702, 3703, 3704 and 3707, the entry "12.5%" shall be substituted;

(xxiii) in Chapter 38, for the entry in column (4) occurring against all the tariff items (except tariff items 3824 50 10, 3825 10 00, 3825 20 00 and 3825 30 00), the entry "12.5%" shall be substituted;

(xxiv) in Chapter 39,–

5 (a) for the entry in column (4) occurring against all the tariff items (except tariff items 3916 10 20, 3916 20 11, 3916 20 91, 3916 90 10, 3923 21 00, 3923 29 10 and 3923 29 90), the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against the tariff items 3923 21 00, 3923 29 10 and 3923 29 90, the entry "18% shall be substituted;

(xxv) in Chapter 40,–

10 (a) for the entry in column (4) occurring against all the tariff items of heading 4002, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff items 4003 00 00 and 4004 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 4005 to 4007, 4008 (except tariff items 4008 19 10, 4008 21 10 and 4008 29 20) and 4009 to 4011, the entry "12.5%" shall be substituted;

15 (d) for the entry in column (4) occurring against tariff items 4012 90 10 to 4012 90 90, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 4013, 4014 (except tariff items 4014 10 10 and 4014 10 20), 4015, 4016 and 4017, the entry "12.5%" shall be substituted;

(xxvi) in Chapter 42, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxvii) in Chapter 43, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

20 (xxviii) in Chapter 44,–

(a) for the entry in column (4) occurring against all the tariff items of headings 4401, 4403, 4404, 4406, 4408 (except tariff items 4408 10 30, 4408 31 30, 4408 39 30 and 4408 90 20) and 4409 to 4412, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff items 4413 00 00 and 4414 00 00, the entry "12.5%" shall be substituted;

25 (c) for the entry in column (4) occurring against all the tariff items of headings 4415 and 4416, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 4417 00 00, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 4418 to 4421, the entry "12.5%" shall be substituted;

30 (xxix) in Chapter 45, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(xxx) in Chapter 47, for the entry in column (4) occurring against all the tariff items of heading 4707, the entry "12.5%" shall be substituted;

(xxxi) in Chapter 48,–

35 (a) for the entry in column (4) occurring against all the tariff items of headings 4803, 4806 (except tariff items 4806 20 00 and 4806 40 10), 4809 and 4811, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 4812 00 00, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 4813, 4814, 4816, 4818, 4819 (except tariff item 4819 20 10), 4820 to 4822 and 4823 (except tariff item 4823 90 11), the entry "12.5%" shall be substituted;

40 (xxxii) in Chapter 49, for the entry in column (4) occurring against all the tariff items of heading 4908, the entry "12.5%" shall be substituted;

(xxxiii) in Chapter 50, for the entry in column (4) occurring against all the tariff items of headings 5004 to 5007, the entry "12.5%" shall be substituted;

(xxxiv) in Chapter 51, for the entry in column (4) occurring against all the tariff items of headings 5105 to 5113, the entry "12.5%" shall be substituted;

45 (xxxv) in Chapter 52, for the entry in column (4) occurring against all the tariff items of headings 5204 to 5212, the entry "12.5%" shall be substituted;

(xxxvi) in Chapter 53, for the entry in column (4) occurring against all the tariff items of headings 5302, 5305, 5306, 5307 (except tariff item 5307 10 90), 5308 (except tariff items 5308 10 10, 5308 10 20 and 5308 10 90), 5309, 5310 and 5311, the entry "12.5%" shall be substituted;

- (xxxvii) in Chapter 54, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xxxviii) in Chapter 55, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xxxix) in Chapter 56, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xl) in Chapter 57, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xli) in Chapter 58, for the entry in column (4) occurring against all the tariff items of headings 5801, 5802, 5803, 5804 (except tariff item 5804 30 00), 5806 and 5808 to 5811, the entry "12.5%" shall be substituted; 5
- (xlii) in Chapter 59, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xliii) in Chapter 60, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xliv) in Chapter 61, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (xlv) in Chapter 62, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted; 10
- (xlv) in Chapter 63,—
- (a) for the entry in column (4) occurring against all the tariff items of headings 6301 to 6307, the entry "12.5%" shall be substituted;
- (b) for the entry in column (4) occurring against tariff item 6308 00 00, the entry "12.5%" shall be substituted;
- (xlvii) in Chapter 64, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted; 15
- (xlviii) in Chapter 65, for the entry in column (4) occurring against all the tariff items (except tariff item 6503 00 00), the entry "12.5%" shall be substituted;
- (xlix) in Chapter 66, for the entry in column (4) occurring against all the tariff items of heading 6603, the entry "12.5%" shall be substituted;
- (l) in Chapter 67, for the entry in column (4) occurring against all the tariff items of headings 6702 to 6704, the entry "12.5%" shall be substituted; 20
- (li) in Chapter 68, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (lii) in Chapter 69, for the entry in column (4) occurring against all the tariff items (except tariff items 6901 00 10 and 6904 10 00), the entry "12.5%" shall be substituted;
- (liii) in Chapter 70, for the entry in column (4) occurring against all the tariff items (except tariff items 7012 00 00, 7018 10 10, 25  
7018 10 20, 7020 00 11, 7020 00 12 and 7020 00 21), the entry "12.5%" shall be substituted;
- (liv) in Chapter 71,—
- (a) for the entry in column (4) occurring against all the tariff items of headings 7101, 7103, 7104 (except tariff item 7104 10 00), 7105 and 7106, the entry "12.5%" shall be substituted;
- (b) for the entry in column (4) occurring against tariff item 7107 00 00, the entry "12.5%" shall be substituted; 30
- (c) for the entry in column (4) occurring against all the tariff items of heading 7108, the entry "12.5%" shall be substituted;
- (d) for the entry in column (4) occurring against tariff item 7109 00 00, the entry "12.5%" shall be substituted;
- (e) for the entry in column (4) occurring against all the tariff items of heading 7110, the entry "12.5%" shall be substituted;
- (f) for the entry in column (4), occurring against tariff item 7111 00 00, the entry "12.5%" shall be substituted;
- (g) for the entry in column (4) occurring against all the tariff items of headings 7112 to 7116 and 7118, the entry "12.5%" shall be substituted; 35
- (lv) in Chapter 72, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (lvi) in Chapter 73, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;
- (lvii) in Chapter 74,—
- (a) for the entry in column (4) occurring against all the tariff items of headings 7401 to 7404, the entry "12.5%" shall be substituted; 40
- (b) for the entry in column (4) occurring against tariff item 7405 00 00, the entry "12.5%" shall be substituted;
- (c) for the entry in column (4) occurring against all the tariff items of headings 7406 to 7412, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 7413 00 00, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 7415, 7418 and 7419, the entry "12.5%" shall be substituted;

(lviii) in Chapter 75, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

5 (lix) in Chapter 76, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lx) in Chapter 78, for the entry in column (4) occurring against all the tariff items of headings 7801, 7802, 7804 and 7806, the entry "12.5%" shall be substituted;

(lxi) in Chapter 79, for the entry in column (4) occurring against all the tariff items of headings 7901 to 7905 and 7907, the entry "12.5%" shall be substituted;

10 (lxii) in Chapter 80, for the entry in column (4) occurring against all the tariff items of headings 8001, 8002, 8003 and 8007, the entry "12.5%" shall be substituted;

(lxiii) in Chapter 81, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lxiv) in Chapter 82, for the entry in column (4) occurring against all the tariff items (except tariff items 8215 10 00, 8215 20 00, 8215 91 00 and 8215 99 00), the entry "12.5%" shall be substituted;

15 (lxv) in Chapter 83, for the entry in column (4) occurring against all the tariff items, the entry "12.5%" shall be substituted;

(lxvi) in Chapter 84, for the entry in column (4) occurring against all the tariff items of headings 8401 to 8423, 8424 (except tariff item 8424 81 00), 8425 to 8431, 8434, 8435, 8438 to 8451, 8452 (except tariff items 8452 10 12, 8452 10 22, 8452 30 10, 8452 30 90, 8452 90 11, 8452 90 19, 8452 90 91 and 8452 90 99), 8453 to 8468, 8469 (except tariff items 8469 00 30 and 8469 00 40), 8470 to 8478, 8479 (except tariff item 8479 89 92), 8480 to 8484, 8486 and 8487, the entry "12.5%" shall be substituted;

20 (lxvii) in Chapter 85,–

(a) for the entry in column (4) occurring against all the tariff items of headings 8501 to 8519, 8521, 8522, 8523, 8525 to 8533, the entry "12.5%" shall be substituted;

(b) for the entry in column (4) occurring against tariff item 8534 00 00, the entry "12.5%" shall be substituted;

25 (c) for the entry in column (4) occurring against all the tariff items of headings 8535 to 8547, the entry "12.5%" shall be substituted;

(d) for the entry in column (4) occurring against tariff item 8548 90 00, the entry "12.5%" shall be substituted;

(lxviii) in Chapter 86,–

(a) for the entry in column (4) occurring against tariff item 8604 00 00, the entry "12.5%" shall be substituted;

30 (b) for the entry in column (4) occurring against all the tariff items of headings 8607 and 8608, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against tariff item 8609 00 00, the entry "12.5%" shall be substituted;

(lxix) in Chapter 87,–

(a) for the entry in column (4) occurring against all the tariff items of headings 8701, 8702 (except tariff items 8702 10 11, 8702 10 12, 8702 10 19, 8702 90 11, 8702 90 12 and 8702 90 19), the entry "12.5%" shall be substituted;

35 (b) for the entry in column (4) occurring against tariff items 8703 10 10 and 8703 90 10, the entry "12.5%" shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 8704 (except tariff items 8704 10 90, 8704 31 90, 8704 32 19, 8704 32 90, 8704 90 19 and 8704 90 90) and 8705, the entry "12.5%" shall be substituted;

40 (d) for the entry in column (4) occurring against tariff items 8706 00 11, 8706 00 19, 8706 00 31, 8706 00 41 and 8706 00 50, the entry "12.5%" shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 8707, 8708 and 8709, the entry "12.5%" shall be substituted;

(f) for the entry in column (4) occurring against tariff item 8710 00 00, the entry "12.5%" shall be substituted;

45 (g) for the entry in column (4) occurring against all the tariff items of headings 8711, 8712 and 8714 to 8716, the entry "12.5%" shall be substituted;

(lxx) in Chapter 88, for the entry in column (4) occurring against all the tariff items of headings 8802 (except tariff item 8802 60 00) and 8803, the entry "12.5%" shall be substituted;

(lxxi) in Chapter 89,—

(a) for the entry in column (4) occurring against all the tariff items of headings 8903 and 8907, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 8908 00 00, the entry “12.5%” shall be substituted;

(lxxii) in Chapter 90,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9001 (except tariff items 9001 40 10, 9001 40 90 and 9001 50 00), 9002 to 9008, 9010 to 9016, 9017 (except tariff items 9017 20 10, 9017 20 20, 9017 20 30 and 9017 20 90), 9018 and 9019, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9020 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9022 to 9032, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 9033 00 00, the entry “12.5%” shall be substituted;

(lxxiii) in Chapter 91, for the entry in column (4) occurring against all the tariff items, the entry “12.5%” shall be substituted;

(lxxiv) in Chapter 92,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9201, 9202 and 9205, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9206 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9207 to 9209, the entry “12.5%” shall be substituted;

(lxxv) in Chapter 93,—

(a) for the entry in column (4) occurring against tariff item 9302 00 00, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against all the tariff items of heading 9303, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against tariff item 9304 00 00, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against all the tariff items of headings 9305 and 9306, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against tariff item 9307 00 00, the entry “12.5%” shall be substituted;

(lxxvi) in Chapter 94, for the entry in column (4) occurring against all the tariff items (except tariff item 9405 50 10), the entry “12.5%” shall be substituted;

(lxxvii) in Chapter 95, for the entry in column (4) occurring against all the tariff items of headings 9503 to 9508 (except tariff item 9508 10 00), the entry “12.5%” shall be substituted;

(lxxviii) in Chapter 96,—

(a) for the entry in column (4) occurring against all the tariff items of headings 9601 to 9603, the entry “12.5%” shall be substituted;

(b) for the entry in column (4) occurring against tariff item 9604 00 00, the entry “12.5%” shall be substituted;

(c) for the entry in column (4) occurring against all the tariff items of headings 9605, 9606 (except tariff items 9606 21 00, 9606 22 00, 9606 29 10, 9606 29 90 and 9606 30 10) and 9607 to 9608, the entry “12.5%” shall be substituted;

(d) for the entry in column (4) occurring against tariff item 9611 00 00, the entry “12.5%” shall be substituted;

(e) for the entry in column (4) occurring against all the tariff items of headings 9612 and 9613, the entry “12.5%” shall be substituted;

(f) for the entry in column (4) occurring against tariff item 9614 00 00, the entry “12.5%” shall be substituted;

(g) for the entry in column (4) occurring against all the tariff items of headings 9616 and 9617, the entry “12.5%” shall be substituted;

(h) for the entry in column (4) occurring against tariff item 9618 00 00, the entry “12.5%” shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give effect to the financial proposals of the Central Government for the financial year 2015-2016. The notes on clauses explain the various provisions contained in the Bill.

ARUN JAITLEY.

NEW DELHI;  
*The 24th February, 2015.*

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## PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No.F.2(6)-B(D)/2015, dated the 24th February, 2015 from Shri Arun Jaitley, Minister of Finance, to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends, under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Finance Bill, 2015 to the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

2. The Bill will be introduced in the Lok Sabha immediately after the presentation of the Budget on the 28th February, 2015.



## Notes on clauses

### Income-tax

Clause 2, read with the First Schedule to the Bill, specifies the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2015-16. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2015-16 from income other than "Salaries" subject to such deductions under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from, or paid on, income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2015-16.

#### Rates of income-tax for the assessment year 2015-16

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2015-16. These rates are the same as those specified in Part III of the First Schedule to the Finance (No.2) Act, 2014, 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 2014-15.

#### Rates for deduction of tax at source during the financial year 2015-16 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 2015-16 from income other than "Salaries". The rates are the same, as those specified in Part II of the First Schedule to the Finance (No.2) Act, 2014 for the purposes of deduction of income-tax at source during the financial year 2014-15 except that in case of payment of royalty and fees for technical services in case of agreements made on or after the 1st day of March, 1976, tax shall now be deducted at source at the rate of ten per cent. as against the earlier rate of twenty-five per cent.

The amount of tax so deducted shall be increased by a surcharge in the case of—

(i) every non-resident (other than a company) at the rate of twelve per cent. where the income or the aggregate of income paid or likely to be paid and subject to deduction exceeds one crore rupees;

(ii) every company other than a domestic company at the rate of two per cent. where the income or the aggregate of income paid or likely to be paid and subject to deduction exceeds one crore rupees but does not exceed ten crore rupees;

(iii) every company other than a domestic company at the rate of five per cent. where the income or the aggregate of income paid or likely to be paid and subject to deduction exceeds ten crore rupees.

#### 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 2015-16.

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 2015-16.

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

(i) in the case of every individual [other than those specifically mentioned in sub-paras (ii) and (iii)] or Hindu undivided family

or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies:—

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

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

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

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

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

The surcharge in cases of persons referred to in this paragraph, having income above one crore rupees, shall be levied at the rate of twelve per cent. Marginal relief will be provided.

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 2015-16. The surcharge in cases of co-operative societies, having income above one crore rupees shall be levied at the rate of twelve per cent. Marginal relief will be provided.

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 2015-16. The surcharge in cases of firms, having income above one crore rupees shall be levied at the rate of twelve per cent. Marginal relief will be provided.

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 2015-16. The surcharge in cases of local authorities, having income above one crore rupees shall be levied at the rate of twelve per cent. Marginal relief will be provided.

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 2015-16.

Surcharge in the case of domestic companies having total income above one crore rupees but not above ten crore rupees shall be levied at the rate of seven per cent. In the case of domestic companies having total income above ten crore rupees, surcharge shall be levied at the rate of twelve per cent. In the case of companies other than domestic companies having income above one crore rupees but not above ten crore rupees surcharge shall

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

In all other cases (including sections 115JB, 115-O, 115QA, 115R, 115TA, etc.) the surcharge will be applicable at the rate of twelve per cent.

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

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

It is proposed to substitute clause (13A) of the said section in order to define a “business trust” to mean a trust registered as,—

(i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or

(ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and

the units of which are required to be listed on a recognised stock exchange in accordance with the aforesaid regulations.

It is proposed to amend clause (15) of the aforesaid section to provide that the definition of charitable purpose shall include “yoga” as a separate category on the lines of education and medical relief.

It is further proposed to amend the said clause (15) to provide 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, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

It is also proposed to amend clause (37A) of the said section to provide that for the purposes of deduction of tax under section 194LBA, the “rates in force”, in relation to an assessment year or financial year shall mean the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year.

The existing provisions contained in clause (42A) of the said section provides the definition of the term “short-term capital asset”. *Explanation 1* of the said clause provides for determining the period for which the capital asset is held by the assessee.

It is proposed to amend the clause (i) of the said *Explanation* to provide that in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

Clause 4 of the Bill seeks to amend section 6 of the Income-tax Act relating to residence in India.

The existing provisions contained in sub-clause (c) of clause (1) of the aforesaid section provide that an individual is said to be resident in India in any previous year if he, having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year. Clause (a) of *Explanation* to clause (1) of the said section provides that in the case of an individual, being a citizen of India, who leaves India in any previous year as a member of the crew of an Indian ship, the above mentioned condition of sixty days is extended to one hundred and eighty-two days.

It is proposed to amend the said clause by insertion of a new *Explanation 2* so as to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

Under the existing provisions contained in clause (3) of the aforesaid section, a company is said to be resident in India in any previous year, if—

(i) it is an Indian company; or

(ii) during that year, the control and management of its affairs is situated wholly in India.

It is proposed to amend the said clause (3) to provide that a company shall be said to be resident in India, in any previous year, if—

(a) it is an Indian company; or

(b) its place of effective management, at any time in that year, is in India.

It is also proposed to insert an *Explanation* to clarify the expression “place of effective management” to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

*Clause 5* of the Bill seeks to amend section 9 of the Income-tax Act relating to income deemed to accrue or arise in India.

*Clause (i)* of sub-section (1) of the aforesaid section provides a set of circumstances in which income accruing or arising, directly or indirectly, is taxable in India. *Explanation 5* to the said clause provides that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India, shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

It is proposed to amend the said clause (i) by insertion of *Explanation 6* to provide that the share or interest shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets is more than ten crore rupees and represents at least fifty per cent. of the value of all the assets owned by the company or entity, as the case may be. The definition of value of assets and the specified date is also proposed to be provided in the said *Explanation*.

It is further proposed to insert *Explanation 7* in the said clause (i) so as to provide that the income shall not accrue or arise to a non-resident in case of transfer of any share or interest referred to in *Explanation 5*, unless—

(a) he along with its associate enterprises,—

(i) neither holds the right of management or control;

(ii) nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital, in the foreign company or entity directly holding the Indian assets (direct holding company);

(b) he along with its associate enterprises, in case of the transfer of shares or interest in a foreign entity which does not hold the Indian assets directly,—

(i) neither holds the right of management or control in relation to such company, as the case may be, or the entity;

(ii) nor holds any rights in such company which would entitle it to either exercise control and management of the direct holding company or entitle it to voting power exceeding five per cent. in the direct holding company or entity .

Clause (v) of sub-section (1) of section 9 relates to the interest income and provides that the income by way of interest, if payable by persons specified in the said clause, shall be deemed to accrue or arise in India.

It is proposed to amend the said clause in order to provide that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly.

It is further proposed to provide that "permanent establishment" shall have the same meaning assigned to it in clause (iii a) of section 92F.

These amendments will take effect from 1st April, 2016 and accordingly apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 6* of the Bill seeks to insert a new section 9A in the Income-tax Act relating to certain activities not to constitute business connection in India.

*Clause (i)* of sub-section (1) of section 9 provides a set of circumstances in which income is deemed to accrue or arise in India, directly or indirectly, and is taxable in India.

Sub-section (1) of the proposed new section 9A seeks to provide that in the case of an eligible investment fund, any fund management activity carried through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Sub-section (2) of the proposed new section seeks to provide that an eligible investment fund shall not be said to be resident for the purposes of section 6, merely because the eligible fund manager undertaking fund management activities on its behalf, is situated in India.

Sub-section (3) of the proposed new section seeks to provide that the eligible investment fund shall mean a fund, established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and certain conditions specified in the said sub-section.

Sub-section (4) of the proposed new section seeks to provide that the eligible fund manager in respect of an eligible investment fund shall mean any person who is engaged in the activity of fund management and fulfil certain conditions specified in the said sub-section.

Sub-section (5) of the proposed new section seeks to provide that every eligible investment fund shall furnish a statement in respect of its activities during a financial year in the prescribed form, to the prescribed income-tax authority within ninety days from the end of the financial year.

Sub-section (6) of the proposed new section seeks to provide that no such income shall be excluded from the total income which would have been so included irrespective of whether the activity or the eligible fund manager constituted the business connection in India of such fund or not.

Sub-section (7) of the proposed new section seeks to provide that the scope of total income or determination of total income in the case of the eligible fund manager shall not be affected by anything contained in this section.

Sub-section (8) of the proposed new section seeks to define certain terms such as "associate", "connected person", "corpus", "entity" and "specified regulations".

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 7* 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 amend the aforesaid section by inserting a new clause (11A) so as to provide that any payment from an account opened in accordance with the Sukanya Samridhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee.

The existing provisions of clause (23C) of the said section provide for exemption from tax in respect of the income of certain charitable funds or institutions like the Prime Minister's National Relief Fund; the Prime Minister's Fund (Promotion of Folk Art); the Prime Minister's Aid to Students Fund; the National Foundation for Communal Harmony etc.

It is proposed to amend the aforesaid clause by inserting two new sub-clauses (*iiiaa*) and (*iiiaaa*) so as to exempt income received by any person on behalf of the Swachh Bharat Kosh, set up by the Central Government and to exempt income received by any person on behalf of the Clean Ganga Fund, set up by the Central Government.

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

It is also proposed to insert a new clause (23EE) in the aforesaid section so as to provide for exemption in respect of any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Clause (23FB) of said section provides that any income of a venture capital company or venture capital fund from investment in a venture capital undertaking shall not be included in total income.

It is proposed to insert a proviso to the said clause to provide that the said clause shall not apply to a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the *Explanation 1* to section 115 UB, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2016.

It is further proposed to insert a new clause (23FBA) to provide that any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession" shall not be included in the total income of such fund.

It is also proposed to insert a new clause (23FBB) to provide that any income of a person accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession" shall not be included in total income of such person.

It is proposed to insert a new clause (23FCA) so as to provide that any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust, shall not be included in the total income.

It is further proposed to amend (23FD) of the said section to provide that any distributed income, referred to in section 115UA, received by a unit holder from the business trust, being that proportion of the income which is of the same nature as income by way of renting or leasing or letting out any real estate asset owned directly by the business trust, shall be included in total income and not be exempted.

It is also proposed to amend clause (38) of the said section to provide that any income in the nature of long term capital gain arising from transfer of units of a business trust which were acquired in consideration of exchange of shares of a special purpose vehicle and on which securities transaction tax has been paid shall not be included in the total income of the sponsor.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Clause 8 of the Bill seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

Sub-section (2) of the aforesaid section provides that where eighty-five per cent. of the income is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, for application to such purposes in India, then, such income accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income. However, the said exemption is subject to fulfilment of the following conditions that :

(i) such person specifies by notice in writing in Form 10, prescribed for such purpose, providing details of the purpose for which the income is being accumulated or set apart and that the period for which the income is to be accumulated or set apart does not exceed five years; and

(ii) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11.

With a view to amend the conditions specified in sub-section (2) of the aforesaid section, it is proposed to insert a new clause to provide that the statement referred to in the said clause (a) is required to be furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year. It is also proposed to substitute the existing first and second provisos with a new proviso to provide that in computing the period of five years referred to in the said clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

This amendment will take effect from 1st April, 2016 and accordingly apply in relation to the assessment year 2016-17 and subsequent years.

Clause 9 of the Bill seeks to amend section 13 of the Income-tax Act relating to section 11 not to apply in certain cases.

It is proposed to insert a new sub-section to provide that nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—

(i) the statement referred to in clause (a) of the said sub-section in respect of such income, is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or

(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.

This amendment will take effect from 1st April, 2016 and accordingly apply in relation to the assessment year 2016-17 and subsequent years.

Clause 10 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation.

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

It is proposed to insert a proviso in clause (iia) of sub-section (1) of the aforesaid section to provide that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia) shall have effect as if for the words "twenty per cent.", the words "thirty-five per cent." had been substituted:

Consequently, it is proposed to insert the reference of newly inserted proviso in clause (iia) in the second proviso to sub-section (1) of the aforesaid section 32.

The existing provisions contained in the second proviso to sub-section (1) of the aforesaid section 32 provide that where an asset referred to in clause (i) or clause (ii) or clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under sub-section (1) in respect of such asset shall be restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii) or clause (iia), as the case may be.

It is proposed to insert a proviso after the second proviso to sub-section (1) of section 32 so as to provide that where an asset referred to in clause (iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year and the deduction under sub-section (1) in respect of such asset is restricted to fifty per cent. of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent. of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be allowed under sub-section (1) in the immediately succeeding previous year in respect of such asset.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

Clause 11 of the Bill seeks to insert a new section 32AD in the Income-tax Act relating to investment in new plant or machinery in notified backward areas in certain States.

The proposed sub-section (1) of the aforesaid section seeks to provide that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs

any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

The proposed sub-section (2) of the aforesaid section provides that if any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or re-organisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

The proposed sub-section (3) of the aforesaid section provides that in case the new asset is sold or otherwise transferred in connection with the amalgamation or demerger or reorganisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the provision of sub-section (2) shall apply to the amalgamated company or the resulting company or the successor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, as the case may be, as they would have applied to the amalgamating company or the demerged company or the predecessor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47.

The proposed sub-section (4) of the aforesaid section provides that for the purposes of this section, "new asset" means any new plant or machinery (other than a ship or aircraft) but does not include—

- (a) any plant or machinery which before its installation by the assessee, was used either within or outside India by any other person;
- (b) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (c) any office appliances including computers or computer software;
- (d) any vehicle; or
- (e) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 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 proviso to sub-section (2AA) of the said section 35, *inter alia*, provides that the prescribed authority shall submit its report to Principal Director General or Director General. It is

proposed to insert the reference of Principal Chief Commissioner or Chief Commissioner in the said proviso so as to enable the prescribed authority to submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General.

The existing provision contained in clause (3) of sub-section (2AB) of the said section provides that no company shall be entitled for deduction under clause (1) of the said sub-section (2AB) unless it enters into an agreement with the prescribed authority for cooperation in such research and development facility and for audit of the accounts maintained for that facility.

It is proposed to amend clause (3) of sub-section (2AB) of the said section to provide that no company shall be entitled for deduction under clause (1) of the said sub-section (2AB) unless it enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfils conditions with regard to maintenance and audit of accounts and furnishing of report, as may be prescribed.

The existing provisions contained in clause (4) of sub-section (2AB) of the said section 35 further provides that the prescribed authority shall submit its report in relation to the approval of the research and development facility to the Principal Director General or Director General. It is proposed to insert the reference of Principal Chief Commissioner or Chief Commissioner in the said clause so as to enable the prescribed authority to submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 13* of the Bill seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

The existing provisions contained in section 47 of the Act provide that capital gains are not applicable to the transfers specified in the said section.

*Clause (via)* of the said section provides that transfer of capital asset being shares of an Indian company by a foreign company to another foreign company under scheme of amalgamation shall not be treated as transfer subject to conditions provided in the said clause. *Clause (vic)* of the said section provides that transfer of capital asset being shares of an Indian company by a foreign company to another foreign company under a demerger shall not be treated as transfer subject to conditions provided in the said clause.

It is proposed to amend the said section in order to provide that the following transfers shall not be regarded as transfer under said section, namely:—

(i) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in *Explanation 5* to clause(i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, subject to conditions provided therein;

(ii) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in *Explanation 5* to clause(i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of

an Indian company, held by the demerged foreign company to the resulting foreign company, subject to conditions provided therein.

It is further proposed to amend section 47 so as to provide that capital gains shall not apply to any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, if the transfer is made in consideration of the allotment to him of any unit or units in the consolidated scheme of the mutual fund under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992. Provided, the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.

It is further proposed to define the terms “consolidating scheme”, “consolidated scheme”, “equity oriented fund” and “mutual fund”.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 14* of the Bill seeks to amend section 49 of the Income-tax Act relating to cost with reference to certain modes of acquisition.

The existing provisions contained in sub-section (1) of the aforesaid section provide that where the capital asset became the property of the assessee under certain situations the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

It is proposed to amend sub-clause (e) of clause (iii) of said sub-section (1) so as to include the transfer referred to in clause (vib) of section 47.

It is proposed to amend the aforesaid sub-clause (e) to provide for determination of cost of acquisition in respect of shares or interest of foreign company or entity in certain cases.

It is also proposed to amend the said section so as to provide that where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 15* of the Bill seeks to amend section 80C of the Income-tax Act relating to deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, etc.

It is proposed to amend sub-section (2) and sub-section (4) of the aforesaid section so as to provide that a sum paid or deposited during the year as a subscription in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction, if the scheme so specifies.

This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent years.

*Clause 16* of the Bill seeks to amend section 80CCC of the Income-tax Act relating to deduction in respect of contribution to certain pension funds.

Under the existing provisions contained in sub-section (1) of the aforesaid section, an assessee, being an individual is allowed a deduction up to one lakh rupees in the computation of his total income, of an amount paid or deposited by him to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme.

It is proposed to amend sub-section (1) of the said section so as to raise the limit of deduction from one lakh rupees to one hundred and fifty thousand rupees.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 17* of the Bill seeks to amend section 80CCD of the Income-tax Act relating to deduction in respect of contribution to pension scheme of Central Government.

The existing provisions contained in sub-section (1) of section 80CCD, *inter alia*, provides that in the case of an individual, employed by the Central Government on or after 1st January, 2004, or being an individual employed by any other employer or any other assessee being an individual who has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, a deduction of such amount not exceeding ten per cent. of his salary is allowed.

It is proposed to omit sub-section (1A) and insert a new sub-section (1B) so as to provide that an assessee referred to in sub-section (1), shall, be allowed an additional deduction in computation of his total income, of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees. It is also propose to provide that no deduction under this sub-section shall be allowed in respect of the amount on which deduction has been claimed and allowed under sub-section (1).

Consequential amendments have been proposed in sub-section (3) and sub-section (4) of section 80CCD.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 18* of the Bill seeks to amend section 80D of the Income-tax Act relating to deduction in respect of health insurance premia.

The existing provisions contained in the aforesaid section *inter alia* provide for deduction of up to fifteen thousand rupees to an assessee, being an individual or a Hindu undivided family in respect of health insurance premia, paid by any mode, other than cash, to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or any other notified scheme or any payment made on account of preventive health check up of the assessee or his family. An additional deduction of fifteen thousand rupees is provided to an individual assessee to effect or to keep

in force insurance on the health of the parent or parents of the assessee. The deduction is enhanced to twenty thousand rupees in both cases if the person insured is a senior citizen of age sixty years or above.

It is proposed to amend the said section so as to raise the limit of deduction from fifteen thousand rupees to twenty-five thousand rupees.

It is also proposed to define a 'very senior citizen' to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

It is further proposed to raise the limit of deduction in respect of senior citizens or very senior citizens from twenty thousand rupees to thirty thousand rupees.

It is also proposed to provide that any payment made on account of medical expenditure in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person, as does not exceed thirty thousand rupees shall be allowed as deduction under section 80D.

It is also proposed to provide that the aggregate of the deduction on account of health insurance premium and the medical expenditure in respect of the assessee or his family would not be more than thirty thousand rupees. Similarly, such aggregate deduction in respect of the parents is also proposed to be not more than thirty thousand rupees.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 19* of the Bill seeks to amend section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

The existing provisions of section 80DD, *inter alia*, provide for a deduction to an individual or HUF, who is a resident in India, who has incurred only (a) expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; or (b) any amount paid to LIC or any other insurer in respect of a scheme for the maintenance of a disabled dependant.

The aforesaid section provides for a deduction of fifty thousand rupees if the dependant is suffering from disability and one lakh rupees if the dependant is suffering from severe disability.

It is proposed to amend said section so as to raise the limit of deduction in respect of a dependant with disability from fifty thousand rupees to seventy-five thousand rupees.

It is further proposed to amend the said section so as to raise the limit of deduction in respect of a dependant with severe disability from one lakh rupees to one hundred and twenty-five thousand rupees.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 20* of the Bill seeks to amend section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

The existing provisions contained in section 80DDB provide for a deduction to an assessee, being an individual or Hindu undivided family of an amount actually paid, for expenditure

incurred for the medical treatment of the individual himself or a dependent or any member of a Hindu undivided family in respect of disease or ailment as specified in the rules. The deduction is limited to forty thousand rupees. The deduction in respect of a senior citizen is allowable up to sixty thousand rupees. The deduction is allowed only if the assessee furnishes with the return of income, a certificate in the prescribed form, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist working in a Government hospital.

It is proposed to substitute first proviso to section 80DDB so as to provide that no such deduction shall be allowed unless the assessee obtains, a copy of the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist as may be prescribed.

It is further proposed to provide that where the aforesaid amount actually paid is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee, who is a very senior citizen, a deduction up to eighty thousand rupees would be allowed.

It is also proposed to omit the definition of the term "Government hospital" from the *Explanation* to the aforesaid section.

It is also proposed to insert a new clause in the *Explanation* of the aforesaid section so as to define the term 'very senior citizen' to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 21* of the Bill, seeks to amend section 80G of the Income-tax Act relating to deduction in respect of donations to certain funds, charitable institutions, etc.

Under the existing provisions of the aforesaid section, an assessee is allowed a deduction from his total income in respect of donations made by him to certain funds and charitable institutions. The deduction is allowed at the rate of hundred per cent. of the amount of donations made to certain funds and institutions formed for a social purpose of national importance, like the Prime Ministers' National Relief Fund, National Foundation for Communal Harmony etc.

It is proposed to amend sub-section (1) and sub-section (2) of the said section so as to provide for a deduction of hundred per cent. in respect of the sum donated by an assessee to the Swachh Bharat Kosh set up by the Central Government, other than the sum spent by such assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013.

It is further proposed to amend sub-section (1) and sub-section (2) of the said section so as to provide for a deduction of hundred per cent. in respect of the sum donated by a resident assessee to the Clean Ganga Fund set up by the Central Government, other than the sum spent by such assessee in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013.

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

It is further proposed to amend sub-section (1) and sub-section (2) of the said section so as to provide hundred per cent. deduction in respect of donations made to the National Fund for Control of Drug Abuse constituted under section 7A the Narcotics Drugs and Psychotropic Substances Act, 1985.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 22* of the Bill seeks to amend section 80JJAA of the Income-tax Act relating to deduction in respect of employment of new workmen.

The existing provisions contained in sub-section (1) of the aforesaid section, *inter alia*, provide for deduction to an Indian Company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

*Clause (a)* of sub-section (2), *inter alia*, provides that no deduction under sub-section (1) shall be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.

The *Explanation* to the said section defines "additional wages" to mean the wages paid to the new regular workmen in excess of one hundred workmen employed during the previous year.

It is proposed to amend sub-section (1) of the said section so as to provide that where the gross total income of any assessee includes any profits and gains derived from the manufacture of goods in a factory, the assessee shall be allowed a deduction equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

It is further proposed to amend clause (a) of sub-section (2) so as to provide that no deduction under sub-section (1) shall be allowed, if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation.

It is also proposed to amend clause (i) of the said *Explanation* so as to provide "additional wages" to mean the wages paid to the new regular workmen in excess of fifty workmen employed during the previous year.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 23* of the Bill, seeks to amend section 80U of the Income-tax Act relating to deduction in case of a person with disability.

The existing provisions of section 80U, *inter alia*, provide for a deduction to an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability.

The section provides for a deduction of fifty thousand rupees if the person is suffering from disability and one lakh rupees if the person is suffering from severe disability.



It is proposed to amend the said section so as to raise the limit of deduction for a person with disability from fifty thousand rupees to seventy-five thousand rupees.

It is further proposed to amend the said section so as to raise the limit of deduction for a person with severe disability from one lakh rupees to one hundred and twenty-five thousand rupees.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 24* seeks to amend section 92BA of the Income-tax Act relating to meaning of specified domestic transaction.

The existing provisions of the said section define "specified domestic transaction" in case of an assessee to mean any of the specified transactions, not being an international transaction, where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.

It is proposed to amend the said section in order to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as 'specified domestic transaction'.

The amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

*Clause 25* of the Bill seeks to amend section 95 of the Income-tax Act relating to applicability of General Anti Avoidance Rule.

The said section provides that an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising therefrom may be determined subject to the provisions of Chapter X-A.

It is proposed to renumber the said section as sub-section (1).

It is also proposed to insert a new sub-section (2) so as to provide that the provisions of Chapter X-A shall apply in respect of any assessment year beginning on or after the 1st day of April, 2018.

This amendment will take effect from 1st April, 2015.

*Clause 26* of the Bill seeks to amend section 111A of the Income-tax Act relating to tax on short-term capital gains in certain cases.

The second proviso to sub-section (1) of the said section provides that the provisions of the aforesaid section shall not be applicable in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in exchange of the shares of a special purpose vehicle.

It is proposed to omit the said second proviso to provide that the provisions of the said section shall now be applicable in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in exchange of the shares of a special purpose vehicle.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 27* of the Bill seeks to amend section 115A of the Income-tax Act relating to tax on dividends, royalty and technical service fees in the case of foreign companies.

The existing provisions of the aforesaid section provide for determination of tax in case of a non-resident taxpayer where the total income includes any income by way of Royalty and Fees for technical services received by such non-resident from Government or an Indian concern after the 31st March, 1976, and which is not effectively connected with permanent establishment, if any, of the non-resident in India. The rate of tax currently provided is twenty-five per cent. and is applicable on the gross amount of such income.

It is proposed to amend the said section to provide that in case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical Services received under an agreement entered after the 31st March, 1976, and which are not effectively connected with permanent establishment, if any, of the non-resident in India, the rate of tax on the gross amount of such income shall be ten per cent.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

*Clause 28* of the Bill seeks to amend section 115ACA of the Income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Clause (a) of the *Explanation* to the aforesaid section defines the expression "Global Depository Receipts" for the purposes of the section to mean an instrument in the form of a depository receipt or certificate created by the Overseas Depository Bank outside India and issued to non-resident investors against the issue of ordinary shares or foreign currency convertible bonds of issuing company.

It is proposed to amend the definition of "Global Depository Receipts" provided in the said clause to mean an instrument in the form of a depository receipt or certificate created by the Overseas Depository Bank outside India and issued to investors against the issue of,—

(i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or

(ii) foreign currency convertible bonds of issuing company.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

*Clause 29* of the Bill seeks to amend section 115JB of the Income-tax Act relating to special provision for payment of tax by certain companies.

Under the existing provisions contained in sub-section (1) of the aforesaid section, in case of a company, if the tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 2012, is less than eighteen and one-half per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee for the relevant previous year shall be eighteen and one-half per cent. of its book profit.

It is proposed to insert new clause (fa) in *Explanation 1* so as to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to, income, being share of income of an assessee on which no tax is payable in accordance with the provisions of section 86.

It is further proposed to insert new clause (iic) in *Explanation 1* so as to provide that the amount of income, being the share of income of an assessee on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account, shall be reduced from the book profit.

It is also proposed to insert a new clause (fb) in *Explanation 1* so as to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accrued or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

It is also proposed to insert a new clause (iid) in *Explanation 1* so as to provide that the amount of income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accrued or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992, if any such amount is credited to the profit and loss account, shall be reduced from the book profit.

It is also proposed to provide that the expression "Foreign Institutional Investor" shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD and the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-2017 and subsequent assessment years.

*Clause 30* of the Bill seeks to amend section 115U of the Income-tax Act relating to tax on income in certain cases.

Section 115U of the Act provides that income accruing or arising or received by a person out of investment made in venture capital company or venture capital fund shall be taxable in the same manner, on current year basis, as if the person had made direct investment in the venture capital undertaking. The section further exempts the distribution by Venture capital company and the Venture capital fund to its investors from dividend distribution tax and tax deduction at source requirement.

It is proposed to amend the said section so as to provide that the existing pass through scheme contained in the provisions of section 10 (23FB) and section 115U shall not apply to such investment fund to which the new regime provided in section 10(23FBA) and section 115UB applies.

The amendment will take effect from 1st April, 2016 and accordingly apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 31* of the Bill seeks to amend section 115UA of the Income-tax Act relating to tax on income of unit holder and business trust.

It is proposed to amend the aforesaid section to provide that the distributed income or any part thereof, received by a unit holder from the business trust, being a real estate investment trust, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such business trust,

shall be deemed to be income of such unit holder and shall be charged to tax.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 32* of the Bill seeks to insert a new Chapter XII-FB consisting of a new section 115UB in the Income-tax Act relating to tax on income of investment funds and income received from such funds.

Sub-section (1) of the proposed new section seeks to provide that any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investment made by the investment fund been made directly by him.

Sub-section (2) of the proposed new section seeks to provide that where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss, such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI and such loss shall not be allowed to be passed through to the investors.

Sub-section (3) of the proposed new section seeks to provide that the income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2).

Sub-section (4) of the proposed new section seeks to provide that the total income of the investment fund shall be charged to tax—

- (i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or
- (ii) at maximum marginal rate in any other case.

Sub-section (5) of the proposed new section seeks to provide that the provisions of Chapter XIID or Chapter XIIE shall not apply to the income paid by an investment fund under this Chapter.

Sub-section (6) of the proposed new section seeks to provide that the income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the investor, shall subject to the provisions of the proposed sub-section (2), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

Sub-section (7) of the proposed new section seeks to provide that the person responsible for crediting or making payment of income on behalf of an investment fund and the investment fund shall furnish within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details as may be prescribed.

*Explanation 1* to the proposed new section seeks to define certain terms such as “investment fund”, “trust” and “unit”.

Further, *Explanation 2* to the proposed new section clarifies that if any income has been included in total income on accrual basis in case of a person, the same shall not be included in total income when such income is actually received by the person.

This amendment will take effect from 1st April, 2016 and accordingly apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 33* of the Bill seeks to amend section 132B of the Income-tax Act relating to application of seized or requisitioned assets.

The existing provisions contained in the aforesaid section provides that the assets seized under section 132 or requisitioned under section 132A may be adjusted against the amount of existing liability under the Income-tax Act, the Wealth-tax Act, etc., and the amount of liability determined on completion of assessment.

It is proposed to amend the said section to provide that the asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C.

This amendment will take effect from 1st June, 2015.

*Clause 34* of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

Section 139, *inter alia*, specifies certain persons which are required to file return of income.

The existing provisions contained in sub-section (4C) of the aforesaid section, *inter alia*, provide for filing return of income by certain entities where income is exempt under section 10 of the Act.

It is proposed to amend the said sub-section (4C) so as to provide that a university, hospital or other institution referred to in sub-clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be required to furnish a return of income if the total income of such university, hospital or other institution without giving effect to provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax.

It is proposed to amend the said section to provide that every investment fund referred to in section 115UB, which is not required furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 139.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent years.

*Clause 35* of the Bill seeks to amend section 151 of the Income-tax Act relating to sanction for issue of notice.

The existing provisions contained in section 151 of the Act provides for sanction from certain authorities before issue of notice under section 148. The section specifies different sanctioning authorities for the cases where earlier assessment has been made under sub-section (3) of section 143 or section 147 and other

cases (where no assessment has been so made). Requirement of sanction are also dependent on whether notice is proposed to be issued within or after four years from the end of relevant assessment year. The rank of the Assessing Officer proposing to issue such notice is also relevant to decide whose sanction is required.

It is proposed to amend the said section so as to provide that no notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice. It is further proposed that in any other case, no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied on the reasons recorded by such Assessing Officer that it is a fit case for the issue of such notice.

This amendment will take effect from 1st day of June, 2015.

*Clause 36* of the Bill seeks to amend section 153C of the Income-tax Act relating to assessment of income of any other person.

The existing provisions contained in section 153C provide that in the course of an assessment proceeding, in the case of a person in whose case search action under section 132 or action under section 132A have been conducted, and whether the Assessing Officer is satisfied that the assets or books of account or documents seized belong to another person, then, the assets or books of account or documents seized shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against such other person, if he is satisfied that the books of accounts or documents or assets seized have a bearing on determination on the total income of such other person.

It is proposed to amend sub-section (1) of the said section so as to provide that where the Assessing Officer is satisfied that,

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned, shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if that Assessing Officer is satisfied that the books of account or documents or assets, seized or requisitioned, have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A.

This amendment will take effect from 1st June, 2015.

*Clause 37* of the Bill seeks to amend section 154 of the Income-tax Act relating to rectification of mistake.

It is proposed to insert a new clause (d) in sub-section (1) of the aforesaid section so as to provide that an income-tax authority may amend an intimation issued under sub-section (1) of section 206CB.

It is further proposed to amend sub-section (2) of the aforesaid section to insert the reference of "collector" in addition to assessee or deductor, so as to enable him to file an application under the said section.

It is also proposed to amend sub-section (3) of the aforesaid section to insert the reference of "collector" in addition to assessee or deductor, so as to provide a reasonable opportunity of being heard to collector in accordance with the provision of said sub-section.

It is also proposed to amend sub-section (5) of the aforesaid section to insert the reference of "collector" in addition to assessee or deductor, so as to enable issue of refund to the collector in accordance with the provisions of said sub-section.

It is also proposed to amend sub-section (6) of the aforesaid section to insert the reference of "collector" in addition to assessee or deductor, so as to enable service of notice of demand on the collector in accordance with the provisions of said sub-section.

It is also proposed to amend sub-section (8) of the aforesaid section to insert the reference of "collector" in addition to assessee or deductor so as to provide that where an application for amendment under the aforesaid section is filed by the collector, the income-tax authority shall pass an order within the time specified therein.

These amendments will take effect from 1st June, 2015.

*Clause 38* of the Bill seeks to amend section 156 of the Income-tax Act relating to notice of demand.

The existing provisions contained in the proviso to the aforesaid section provide that where any sum is determined to be payable by the assessee or by the deductor under sub-section (1) of section 143 or sub-section (1) of section 200A, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.

It is proposed to amend the aforesaid proviso to section 156 so as to provide that where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.

This amendment will take effect from 1st June, 2015.

*Clause 39* of the Bill seeks to insert a new section 158AA in the Income-tax Act relating to procedure when in an appeal by revenue an identical question of law is pending before Supreme Court.

Sub-section (1) of the proposed new section seeks to provide that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution against the order of the High Court in favour of the assessee, he may, instead of directing the Assessing Officer to file appeal to the Appellate Tribunal, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

Sub-section (2) of the proposed new section, *inter alia*, seeks to provide that the Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under sub-section(1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in sub-section(2) or sub section(2A) of section 253.

Sub-section (3) of the proposed new section seeks to provide that where the order of the Commissioner (Appeals) referred to in sub-section(1) is not in conformity with the final decision on the question of law in the other case, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order and, save as otherwise provided in this section, all other provisions of Part B of chapter XX shall apply accordingly.

Sub-section (4) of the proposed new section seeks to provide that every appeal under sub-section (3) shall be filed within sixty days of the date on which the order of the Supreme Court in the other case is communicated to the Commissioner or Principal Commissioner.

This amendment will take effect from 1st June, 2015.

*Clause 40* of the Bill seeks to amend section 192 of the Income-tax Act relating to salary.

Under the existing provisions contained in sub-section (1) of the aforesaid section, any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made on the estimated income of the assessee under the head "Salaries" for that financial year.

It is proposed to insert sub-section (2D) in the said section to provide that the person responsible for making the payment referred to in sub-section (1) of the said section shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

This amendment will take effect from 1st June, 2015.

*Clause 41* of the Bill seeks to insert a new section 192A in the Income-tax Act relating to payment of accumulated balance due to an employee.

It is proposed to insert a new section 192A so as to provide that notwithstanding anything contained in any other provisions of this Act, the trustees of the Employees' Provident Fund Scheme, 1952 framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.

It is further proposed to provide that no deduction under the aforesaid section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees.

It is further proposed to provide that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

This amendment will take effect from 1st June, 2015.

*Clause 42* of the Bill seeks to amend section 194A of the Income-tax Act relating to interest other than interest on securities.

Under the existing provisions contained in the proviso to clause (i) of sub-section (3) of the aforesaid section, income credited or paid in respect of time deposits with a banking company or co-operative society or deposits with a public company, as the case may be, shall be computed with reference to the branch of the banking company or co-operative society or public company, as the case may be.

It is proposed to insert a proviso after the existing proviso to the said clause (i) of sub-section (3) of the aforesaid section so as to provide that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions.

The existing provisions of clause (v) of sub-section (3) of the aforesaid section provide that the provisions of sub-section (1) of the aforesaid section shall not apply to income credited or paid by a co-operative society to a member thereof or to any other co-operative society.

It is proposed to amend the said sub-clause so as to provide that the provisions of sub-section (1) of section 194A shall not apply to income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society.

It is further proposed to provide an *Explanation* below clause (v) of sub-section (3) of aforesaid section 194A to define the expression "co-operative bank".

The existing provisions of clause (ix) of sub-section (3) of section 194A provides that the provisions of sub-section (1) of section 194A shall not apply to income credited or paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees.

It is proposed to substitute the aforesaid clause so as to provide that the provisions of sub-section (1) of section 194A shall not apply to income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal.

It is also proposed to insert a new clause (ixa) in sub-section (3) of section 194A to provide that the provisions of sub-section (1) of section 194A shall not apply to income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case

may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees.

*Explanation 1* to sub-section (3) of the aforesaid section defines the expression 'time deposits' for the purposes of clauses (i), (vii) and (viii) of the said sub-section (3) as deposits (excluding recurring deposits) repayable on the expiry of fixed periods. It is proposed to amend the said definition of 'time deposits' so as to provide that for the purposes of said clauses the expression 'time deposits' shall not exclude but include recurring deposits.

These amendments will take effect from 1st June, 2015.

*Clause 43* of the Bill seeks to amend section 194C of the Income-tax Act relating to payments to contractors.

Under the existing provisions contained in sub-section (6) of the aforesaid section, no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

It is proposed to amend sub-section (6) of the said section so as to provide that no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns ten or less than ten goods carriages at any time during the previous year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

This amendment will take effect from 1st June, 2015.

*Clause 44* of the Bill seeks to amend section 194-I of the Income-tax Act relating to rent.

The aforesaid section provides for deduction of tax at source on payment of any income by way of rent to a resident.

It is proposed to amend the said section by inserting a proviso that no deduction shall be made under the section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.

This amendment will take effect from 1st June, 2015.

*Clause 45* of the Bill seeks to amend section 194LBA of the Income-tax Act relating to certain income from units of a business trust.

It is proposed to amend the sub-section (1) of the aforesaid section to provide that where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates of ten per cent.

It is further proposed to amend the said section to provide that where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident

(not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

These amendments will take effect from 1st June, 2015.

*Clause 46* of the Bill seeks to insert a new section 194LBB in the Income-tax Act relating to income in respect of units of investment fund.

The proposed new section seeks to provide that where any income other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the *Explanation 1* to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee, or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent.

This amendment will take effect from 1st June, 2015.

*Clause 47* of the Bill, seeks to amend section 194LD of the Income-tax Act relating to Income by way of interest on certain bonds and Government securities.

Under the existing provisions contained in sub-section (2) of the aforesaid section, the interest income eligible for lower withholding tax rate of five per cent. as provided in sub-section (1) has been specified to be the interest payable on or after the 1st day of June, 2013 but before the 1st day of June, 2015.

It is proposed to amend aforesaid sub-section (2) to provide that the concessional rate of five per cent. withholding tax on interest payment in respect of investments in Government securities and rupee denominated corporate bonds shall now be available on interest payable before the 1st day of July, 2017.

This amendment will take effect from 1st June, 2015.

*Clause 48* of the Bill seeks to amend section 195 of the Income-tax Act relating to other sums.

The existing provisions contained in sub-section (6) of the aforesaid section provide that the person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.

It is proposed to substitute sub-section (6) of the aforesaid section so as to provide that the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

This amendment will take effect from 1st June, 2015.

*Clause 49* of the Bill seeks to amend section 197A of the Income-tax Act relating to no deduction to be made in certain cases.

The existing provisions contained in sub-sections (1A) and (1C) of the aforesaid section provide that no deduction of tax shall be made under the sections referred to in the said sub-sections in the case of a person specified therein, if such person furnishes

to the persons responsible for paying any income of the nature referred to in specified sections, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.

It is proposed to amend the sub-section (1A) and sub-section (1C) of the said section so as to give the reference of section 192A and section 194DA also in the said sub-sections.

These amendments will take effect from 1st June, 2015.

*Clause 50* of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of the person deducting tax.

The existing provisions contained in sub-section (1) of the aforesaid section provide that any person deducting any sum in accordance with the provisions of Chapter XVII shall pay within the prescribed time the sum so deducted to the credit of the Central Government or as the Board directs. The existing provisions contained in sub-section (2) of the said section provide that the employer referred to in sub-section (1A) of section 192 shall pay within the prescribed time, the tax to the credit of the Central Government or as the Board directs.

It is proposed to insert sub-section (2A) in the said section to provide that in case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

This amendment will take effect from 1st June, 2015.

*Clause 51* of the Bill seeks to amend section 200A of the Income-tax Act relating to processing of statements of tax deducted at source.

The existing provisions contained in sub-section (1) of the aforesaid section provide that statement of tax deduction at source or a correction statement made under section 200 shall be processed in the manner specified therein.

It is proposed to amend sub-section (1) of the said section to provide that statement of tax deduction at source or correction statement made under section 200 shall be processed and sum deductible under Chapter XVII shall be computed after also taking into account the fee, if any, payable in accordance with the provisions of section 234E. The sum payable or refundable shall be determined after adjusting the aforesaid computed sum against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

This amendment will take effect from 1st June, 2015.

*Clause 52* of the Bill seeks to amend section 203A of the Income-tax Act relating to tax deduction and collection account number.

Under the existing provisions contained in sub-section (1) of the aforesaid section, every person deducting or collecting tax in accordance with Chapter XVII, who has not been allotted a "tax deduction account number" or, as the case may be, a "tax collection account number", is required to apply for "tax deduction and collection account number". Sub-section (2) of the said section provides that a person, to whom "tax deduction account number" or, as the case may be, "tax collection account number" or "tax deduction and collection account number" is allotted, is required to quote such number in the challans, certificates, statements, returns or documents as specified in clauses (a) to (d) of the said sub-section.

It is proposed to insert sub-section (3) in the said section so as to provide that the provisions of the said section shall not apply to a person notified by the Central Government in this behalf.

This amendment will take effect from 1st June, 2015.

*Clause 53* of the Bill seeks to amend section 206C of the Income-tax Act relating to profit and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

The existing provisions contained in sub-section (3) of the aforesaid section provide that any person collecting any amount under sub-section (1) or sub-section (1C) or sub-section (1D) shall pay within the prescribed time, the amount so collected to the credit of the Central Government or as the Board directs.

It is proposed to insert sub-section (3A) in the said section to provide that in case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) or sub-section (1D) has been paid to the credit of the Central Government without the production of a challan by the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

The existing provisions contained in the proviso to sub-section (3) of the said section provide that any person collecting tax on or after 1st April, 2005 in accordance with the provisions of the said 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 and deliver or cause to be delivered to the prescribed authority, or to 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 proposed to insert sub-section (3B) in the said section so as to provide that the person referred to in proviso to sub-section (3) may also deliver to the prescribed authority under the said proviso, a correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said proviso in such form and verified in such manner, as may be specified by the authority.

This amendment will take effect from 1st June, 2015.

*Clause 54* of the Bill seeks to insert a new section 206CB of the Income-tax Act relating to processing of statements of tax collected at source.

The existing provisions contained in the Income-tax Act provide the method of processing of statements of tax deducted at source. Since there is no procedure specified with respect to the processing of tax collected at source, it is proposed to insert a new section 206CB relating to processing of statements of tax collected at source and the said section provide that statement of tax collection at source or a correction statement made under section 206C shall be processed in the manner specified therein.

This amendment will take effect from 1st June, 2015.

*Clause 55* of the Bill seeks to amend section 220 of the Income-tax Act relating to when tax payable and when assessee deemed in default.

It is proposed to insert sub-section (2C) in the aforesaid section so as to provide that notwithstanding anything contained in sub-section (2) of section 220, where interest is charged under sub-section (7) of section 206C on the amount of tax specified in the intimation issued under sub-section (1) of section 206CB for any period, then, no interest shall be charged under the said sub-section (2) on the same amount for the same period.

This amendment will take effect from 1st June, 2015.

*Clause 56* of the Bill seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

It is proposed to insert a new sub-section (2A) in the aforesaid section so as to provide that,—

(a) where an assessee has made an application under sub-section (1) of section 245C for any assessment year, he shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;

(b) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.

The existing provisions contained in sub-section (3) of the said section provides that where the total income is increased on reassessment under section 147 or section 153A, the assessee shall be liable for interest at the rate of one per cent. on the amount of the increase in total income for the period commencing from the date of determination of total income under sub-section (1) of section 143 or on regular assessment and ending on the date of reassessment under section 147 or section 153A.

It is proposed to amend sub-section (3) of the said section so as to provide that the period for which the interest is to be computed will begin from the 1st day of April next following the financial year and end on the date of determination of total income under section 147 or section 153A.

These amendments will take effect from 1st day of June, 2015.

*Clause 57* of the Bill seeks to amend section 245A of the Income-tax Act relating to definitions in respect of settlement of cases.

The existing provision contained in clause (b) of the aforesaid section defines a case for the purpose of Chapter XIX-A as any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made. The *Explanation* to the said clause provides for deemed commencement of proceedings under different situations.

It is proposed to amend clause (i) of the *Explanation* to clause (b) of the said section to provide that a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

(a) from the date on which a notice under section 148 is issued for any assessment year;

(b) from the date of issuance of such notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142.

The existing provisions contained in clause (iv) of the *Explanation* to clause (b) of section 245A provide that a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia) of the *Explanation*, shall be deemed to have commenced from the 1st day of the assessment year and concluded on the date on which the assessment is made.

It is proposed to amend clause (iv) of the said *Explanation* to provide that the proceeding for assessment shall be deemed to have commenced from the date on which a return of income for that assessment year is furnished under section 139 or in response to notice under section 142 and concluded on the date on which the assessment is made, or on the expiry of two years from the end of relevant assessment year in case where no assessment is made.

This amendment will take effect from 1st June, 2015.

*Clause 58* of the Bill seeks to amend section 245D of the Income-tax Act relating to procedure on receipt of an application under section 245C.

The existing provision contained in sub-section (6B) of section 245D of the Income-tax Act provides that the Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4).

It is proposed to amend the said sub-section (6B) to provide that the Settlement Commission may, with a view to rectify any mistake apparent from the record, amend any order passed by it under sub-section (4)—

(a) at any time within a period of six months from the end of month in which the order was passed;

(b) on an application made by the Principal Commissioner or Commissioner before the end of the period of six months from the end of the month in which such application was made.

This amendment will take effect from 1st June, 2015.

*Clause 59* of the Bill seeks to amend section 245H of the Income-tax Act relating to power of Settlement Commission to grant immunity from prosecution and penalty.

The existing provision contained in sub-section (1) of section 245H of the Income-tax Act provides that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, immunity from prosecution.

It is proposed to amend the said sub-section to provide that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, for the reasons to be recorded in writing, immunity from prosecution.

This amendment will take effect from 1st June, 2015.

*Clause 60* of the Bill seeks to amend section 245HA of the Income-tax Act relating to abatement of proceeding before Settlement Commission.

The existing provision contained in sub-section (1) of section 245HA of the Income-tax Act provides for abatement of proceedings in different situations.

It is proposed to amend sub-section (1) of section 245HA of the Income-tax Act to provide that where in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement then, the proceedings before the Settlement Commission shall abate on the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement.

This amendment will take effect from 1st June, 2015.

*Clause 61* of the Bill seeks to amend section 245K of the Income-tax Act relating to bar on subsequent application for settlement.

The existing provisions contained in the aforesaid section provides that where an application of a person has been allowed to be proceeded with under sub-section (1) of section 245D, then, such person shall not be subsequently entitled to make an application before the Settlement Commission. It further provides that in certain situations the person shall not be entitled to apply for settlement before the Settlement Commission.

It is proposed to amend section 245K of the Income-tax Act to provide that any person related to the person who is barred on subsequent application for settlement also cannot make any application subsequently before the Settlement Commission. The expression "related person" with respect to a person has also been clarified to mean, —

(i) where such person is an individual, any company in which such person holds more than fifty per cent. of the shares or voting power at any time, or any firm or association of person or body of individual in which such person is entitled to more than fifty per cent. of the profits at any time, or any Hindu undivided family in which such person is a *karta*;



(ii) where such person is a company, any individual who held more than fifty per cent. of the shares or voting power in such company at any time before the date of application before the Settlement Commission by such person;

(iii) where such person is a firm or association of person or body of individual, any individual who was entitled to more than fifty per cent. of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;

(iv) where such person is an undivided Hindu family, the *karta* of that Hindu undivided family.

This amendment will take effect from 1st June, 2015.

Clause 62 of the Bill seeks to amend section 246A of the Income-tax Act relating to appealable order before Commissioner (Appeals).

The existing provisions of aforesaid section, *inter alia*, provide for appeal to be preferred by any assessee or deductor to the Commissioner (Appeals) as against the orders passed under various provisions of the Income-tax Act as specified in sub-section (1) thereof. It is proposed to include the reference of "any collector", in addition to any assessee or any deductor, in sub-section (1) of the said sub-section so as to enable such collector also to prefer an appeal under the said section.

It is further proposed to amend clause (a) of sub-section (1) of the said section so as to provide that the collector may prefer an appeal to the Commissioner (Appeals) against an intimation issued under sub-section (1) of section 206CB.

This amendment will take effect from 1st June, 2015.

Clause 63 of the Bill seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

The existing provision contained in sub-section (1) of section 253 specifies the orders appealable before the Income-Tax Appellate Tribunal.

It is proposed to amend sub-section (1) of the said section by insertion of a new clause (f) so as to provide that an assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 may prefer an appeal to the Appellate Tribunal.

This amendment will take effect from 1st June, 2015.

Clause 64 of the Bill seeks to amend section 255 of the Income-tax Act relating to the procedure of Appellate Tribunal.

The existing provision contained in sub-section (3) of section 255 of the Income-tax Act provides for constitution of a single member Bench and a Special Bench. It provides that the single member Bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed five hundred thousand rupees.

It is proposed to amend sub-section (3) of the said section so as to provide that a single member Bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

This amendment will take effect from 1st June, 2015.

Clause 65 of the Bill seeks to amend section 263 of the Income-tax Act relating to revision of orders prejudicial to revenue.

The existing provisions contained in sub-section (1) of section 263 provide that if the Principal Commissioner or Commissioner considers that any order passed by the assessing officer is erroneous in so far as it is prejudicial to the interest of revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made an enquiry, as he deems necessary, pass an order modifying the assessment made by the assessing officer or cancelling the assessment and directing fresh assessment.

It is proposed to amend sub-section (1) of the aforesaid section to insert an *Explanation* so as to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which, should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment will take effect from 1st June, 2015.

Clause 66 of the Bill seeks to substitute section 269SS of the Income-tax Act relating to mode of taking or accepting certain loans and deposits.

The existing provision contained in section 269SS provides that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more.

It is proposed to substitute the said section so as to provide that no person shall take from any person, any loan or deposit or specified sum, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit or specified sum is twenty thousand rupees or more.

It is also proposed to define "specified sum" as any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property whether or not the transfer materialises.

These amendments will take effect from 1st June, 2015.

Clause 67 of the Bill seeks to amend section 269T of the Income-tax Act relating to mode of repayment of certain loans and deposits.

The existing provision contained in section 269T provides that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the said section, if the amount of such loan or deposit is twenty thousand rupees or more.

It is proposed to amend the said section so as to provide that any loan or deposit or specified advance shall not be repaid,

otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the person specified in the said section, if the amount of such loan or deposit or specified advance is twenty thousand rupees or more.

It is further proposed to define "specified advance" as any sum of money received, as an advance or otherwise, in relation to transfer of an immovable property and becomes repayable if the negotiations do not result in transfer of such immovable property.

These amendments will take effect from 1st June, 2015.

*Clause 68* of the Bill seeks to amend section 271 of the Income-tax Act relating to failure to furnish returns, comply with notices, concealment of income, etc.

The existing provisions contained in clause (iii) of sub-section (1) of the aforesaid section provide that if a person has concealed the particulars of his income or furnished inaccurate particulars of such income such person shall pay by way of penalty a sum of one hundred per cent. to three hundred per cent. of tax sought to be evaded. *Explanation 4* to aforesaid sub-section provides for the meaning of the expression amount of tax sought to be evaded.

It is proposed to provide that the amount of tax sought to be evaded shall be determined in accordance with the following formula—

$$(A - B) + (C - D)$$

where

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (hereinafter called general provisions);

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;

C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under general provisions and under the provisions contained in section 115JB or section 115JC, such amount shall not be reduced from total income assessed while determining the amount under item D:

Provided further that where the provisions contained in section 115JB or section 115JC are not applicable, the item (C - D) in the formula shall be ignored.

It is further proposed to provide that where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula contained in clause (a) with the modification that the amount to be determined for item (A - B) in that formula shall be the amount of tax that would have been chargeable on the income in respect of which

particulars have been concealed or inaccurate particulars have been furnished had such income been the total income.

It is also proposed to provide that where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent years.

*Clause 69* of the Bill seeks to amend section 271D of the Income-tax relating to penalty for failure to comply with the provisions of section 269SS.

The existing provision contained in section 271D of the Income-tax Act provides that if a person accepts any loan or deposit in contravention of the provisions of section 269SS, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so accepted.

It is proposed to amend section 271D of the Income-tax Act to provide that if a person accepts any loan or deposit or specified sum referred to in section 269SS in contravention of the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so accepted.

This amendment will take effect from 1st June, 2015.

*Clause 70* of the Bill seeks to amend section 271E of the Income-tax relating to penalty for failure to comply with the provisions of section 269T.

The existing provision contained in section 271E of the Income-tax Act provides that if a person repays any loan or deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so repaid.

It is proposed to amend section 271E of the Income-tax Act to provide that if a person repays any loan or deposit or specified advance referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified advance so repaid.

This amendment will take effect from 1st June, 2015.

*Clause 71* seeks to insert a new section 271FAB of the Income-tax Act relating to penalty for failure to furnish statement or information or document by an eligible investment fund.

It is proposed to provide that if any eligible investment fund which is required to furnish a statement or any information and document under sub-section (5) of section 9A fails to furnish such statement or information and the document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum equal to five hundred thousand rupees.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*Clause 72* of the Bill seeks to insert a new section 271GA relating to penalty for failure to furnish information or document under section 285A.

It is proposed to provide that if any Indian concern which is required to furnish any information or document under the proposed section 285A, fails to do so, the Income-tax authority as may be prescribed in the said section 285A, may direct that such Indian concern shall pay, by way of penalty,—

(i) a sum equal to two per cent. of the value of the transaction, in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;

(ii) a sum of five hundred thousand rupees in any other case.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 73* of the Bill seeks to insert a new section 271-I in the Income-tax Act relating to penalty for failure to furnish information or for furnishing inaccurate information under section 195.

It is proposed to insert a new section 271-I so as to provide that if a person, who is required to furnish information under sub-section (6) of section 195, fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.

This amendment will take effect from 1st June, 2015.

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

The proposed amendment seeks to insert a new clause (m) in sub-section (2) of the aforesaid section to provide that if any person fails to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C, then, such person shall pay, by way of penalty, a sum of one hundred rupees for every day of such default.

It is also proposed to amend first proviso to sub-section (2) of the said section so as to provide that the amount of penalty for failure to file statements under sub-section (2A) of section 200 or under sub-section (3A) of section 206C shall not exceed the amount of tax deductible or tax collectible, as the case may be.

These amendments will take effect from 1st June, 2015.

*Clause 75* of the Bill seeks to amend section 273B of the Income-tax Act relating to penalty not to be imposed in certain cases.

The section provides for non-levy of penalty under various sections of the Income-tax Act enumerated in the said section, if the assessee is able to show existence of reasonable cause for the failure for which penalty is leviable.

It is proposed to amend the aforesaid section so as to include the proposed new section 271FAB relating to penalty for failure to furnish statement or information or document by an eligible investment fund.

It is further proposed to amend the said section to include the reference of the proposed new section 271 GA relating to penalty for failure to furnish information or document under section 285A.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

It is also proposed to amend the aforesaid section so as to include the reference of new section 271-I.

This amendment will take effect from 1st June, 2015.

*Clause 76* of the Bill seeks to insert a new section 285A relating to furnishing of information by an Indian concern in certain cases.

It is proposed to provide that where any share or interest in a company or entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India as referred to in the *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity holds such assets in India through or in an Indian concern, then, any such Indian concern shall, for the purposes of determination of income accruing or arising in India, under the clause (i) of sub-section (1) of section 9, furnish within the prescribed period to the prescribed income-tax authority the relevant information or document, in such manner and form as is prescribed in this behalf.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

*Clause 77* of the Bill seeks to amend section 288 of the Income-tax Act relating to appearance by authorised representative.

The existing *Explanation* below sub-section (2) of aforesaid section provides that in the aforesaid section, "accountant" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949, and includes, in relation to any State, any person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies registered in that State.

It is proposed to substitute the said *Explanation* so as to provide that the expression "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act. It is further proposed to provide that the accountant shall not include the following persons (except for the purposes of representing an assessee under sub-section (1))—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or

(b) in any other case, (i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family; (ii) in case of the assessee, being a trust or institution, any persons referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13; (iii) in case of a person other than persons referred to in sub-clause (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of the section 140; (iv) any relative of any of the persons referred to in sub-clauses (i), (ii)

and (iii); (v) an officer or employee of the assessee; (vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee; (vii) an individual who, or his relative or partner is holding any security of or interest in the assessee. It is also provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees; an individual who, or his relative or partner is indebted to the assessee. It is also provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees; an individual who, or his relative or partner has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee. It is also provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees; (viii) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed; (ix) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.

It is further proposed to amend sub-section (4) of the said section so as to provide that a person who has been convicted by a court of an offence involving fraud shall not be qualified to represent an assessee under sub-section (1) of the said section for a period of ten years from the date of conviction.

It is also proposed to insert an *Explanation* at the end of the said section so as to provide that the expression "relative" in relation to an individual means (a) spouse of the individual; (b) brother or sister of the individual; (c) brother or sister of the spouse of the individual; (d) any lineal ascendant or descendant of the individual; (e) any lineal ascendant or descendant of the spouse of the individual; (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e); (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

These amendments will take effect from 1st June, 2015.

*Clause 78* of the Bill seeks to amend section 295 of the Income-tax Act relating to power to make rules.

The existing provisions contained in sub-section (1) of the aforesaid section provide that the Board may make rules for the whole or any part of India for carrying out the purposes of this Act. Sub-section (2) of the said section specifies the matters in respect of which such rules may be provided.

It is proposed to amend the said sub-section (2) so as to provide that the Board may, by rules, provide the procedures for the granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act.

This amendment will take effect from 1st June, 2015.

*Clause 79* of the Bill seeks to amend section 3 of the Wealth-tax Act relating to charge of wealth-tax.

The existing provisions contained in sub-section (2) of the aforesaid section provides that wealth-tax in respect of net wealth of every individual, Hindu undivided family and company is charged at the rate of one per cent. of the amount of taxable net wealth for the assessment year commencing on 1st day of April, 1993 and subsequent assessment years.

It is proposed to amend the said sub-section (2) so as to provide that wealth-tax shall not be charged in respect of assessment year commencing on or after 1st day of April, 2016.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

### Customs

*Clause 80* of the Bill seeks to amend section 28 of the Customs Act, so as to—

(i) insert a proviso in sub-section (2) thereof to provide that where notice under clause (a) has been served and the proper officer is of the opinion that the amount of duty with interest leviable under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings in respect of such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded;

(ii) impose a penalty of "fifteen per cent." in place of "twenty-five per cent." of the duty referred to in sub-section (5) thereof;

(iii) insert an *Explanation* after *Explanation 2* thereof to declare that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.

*Clause 81* of the Bill seeks to amend section 112 of the Customs Act, so as to substitute sub-clause (ii) of clause (b) thereof to specify a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher. The clause further seeks to provide that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA, is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined.

*Clause 82* of the Bill seeks to amend section 114 of the Customs Act, so as to substitute clause (ii) thereof to specify a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher. The clause further seeks to provide that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA, is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined.

*Clause 83* of the Bill seeks to amend section 127A of the Customs Act, so as to omit the words "in any appeal or revision, as the case may be," occurring in the proviso to clause (b) thereof.

*Clause 84* of the Bill seeks to amend section 127B of the Customs Act, so as to omit sub-section (1A) thereof.

*Clause 85* of the Bill seeks to amend section 127C of the Customs Act, so as to omit sub-section (6) thereof.

*Clause 86* of the Bill seeks to omit section 127E of the Customs Act.

*Clause 87* of the Bill seeks to amend section 127H of the Customs Act, so as to omit the *Explanation* thereto.

*Clause 88* of the Bill seeks to amend sub-section (1) of section 127L of the Customs Act, so as to omit certain words.

#### *Customs Tariff*

*Clause 89* of the Bill seeks to amend Chapters 27, 72, 73 and 87 of the First Schedule to the Customs Tariff Act in the manner specified in the Second Schedule so as to revise tariff rates in respect of the tariff items specified therein.

#### *Central Excise*

*Clause 90* of the Bill seeks to amend section 3A of the Central Excise Act with a view to insert *Explanation 3* therein, so as to explain that, for the purposes of sections (2) and (3) of section 3A of the Central Excise Act, the word “factor” includes “factors”.

*Clause 91* of the Bill seeks to amend section 11A of the Central Excise Act, so as to—

(i) omit sub-sections (5), (6) and (7) thereof;

(ii) omit the words “or sub-section (5)” occurring in sub-sections (7A), (8) and clause (b) of sub-section (11);

(iii) amend *Explanation* thereof;

(iv) insert a new sub-section (16) therein to provide that the provisions of this section shall not apply to cases where the liability of duty not paid or short-paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.

(v) substitute *Explanation 2* thereof to provide that any non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015;

*Clause 92* of the Bill seeks to substitute a new section for section 11AC of the Central Excise Act so as to rationalise the penalty provisions contained therein.

*Clause 93* of the Bill seeks to amend section 31 of the Central Excise Act, so as to omit the words “in any appeal or revision, as the case may be,” occurring in the proviso in clause (c) thereof.

*Clause 94* of the Bill seeks to amend section 32 of the Central Excise Act, so as to omit the proviso to sub-section (3) thereof.

*Clause 95* of the Bill seeks to amend section 32B of the Central Excise Act, so as to substitute the words “the Member” for the words “, as the case may be, such one of the Vice-Chairmen”.

*Clause 96* of the Bill seeks to amend section 32E of the Central Excise Act, so as to omit sub-section (1A) thereof.

*Clause 97* of the Bill seeks to amend section 32F of the Central Excise Act so as to omit certain words therefrom.

*Clause 98* of the Bill seeks to omit section 32H of the Central Excise Act.

*Clause 99* of the Bill seeks to omit the *Explanation* to sub-section (1), of section 32K of the Central Excise Act.

*Clause 100* of the Bill seeks to amend sub-section (1) of section 32-O of the Central Excise Act, so as to omit certain words therefrom.

*Clause 101* of the Bill seeks to amend sub-sections (4) and (5) of section 37 of the Central Excise Act so as to substitute the words “two thousand rupees” with the words “five thousand rupees”.

*Clause 102* of the Bill seeks to amend the notification of the Government of India in the Ministry of Finance issued under sub-section (1) of section 5A of the Central Excise Act bearing number G.S.R. 163 (E), dated the 17th March, 2012 in the manner specified in the Third Schedule so as to amend the said notification retrospectively for the period as specified in the said Schedule.

*Clause 103* of the Bill seeks to amend the Third Schedule to the Central Excise Act in the manner specified in the Fourth Schedule, so as to insert and amend certain entries therein.

#### *Central Excise Tariff*

*Clause 104* of the Bill seeks to amend the First Schedule to the Central Excise Tariff Act in the manner specified in the Fifth Schedule so as to revise tariff rates in respect of certain tariff items.

#### *Service Tax*

*Clause 105* of the Bill seeks to amend section 65B of 1994 Act so as to insert certain clauses, modify or clarify the scope of certain definitions and

(a) to omit clauses (9), (24), and (49);

(b) to omit certain words in clause (40),

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

*Clause 106* of the Bill seeks to amend section 66B of 1994 Act so as to increase the service tax rate from twelve to fourteen per cent.

*Clause 107* of the Bill seeks to amend section 66D of 1994 Act so as to modify the scope of the services specified in negative list.

*Clause 108* of the Bill seeks to insert an illustration in sub-section (1) of section 66F of 1994 Act, so as to clarify the scope of that sub-section by means of an illustration.

*Clause 109* of the Bill seeks to amend section 67 of 1994 Act so as to substitute clause (a) of the *Explanation* to amplify the scope of the term “consideration”.

*Clause 110* of the Bill seeks to amend section 73 of 1994 Act so as to—

(a) insert a new sub-section (1B) to provide that the recovery may be made under section 87 of the self-assessed service tax, declared in the return but not paid, without service of any notice under sub-section (1);

(b) omit sub-section (4A).

*Clause 111* of the Bill seeks to substitute a new section for section 76 of 1994 Act relating to penalty for failure to pay service tax in cases other than by reason of fraud, collusion, willful mis-statement, suppression of facts or contravention of the provisions of the Act or the rules made thereunder with the intent to evade payment of service tax.

*Clause 112* of the Bill seeks to substitute a new section for section 78 of 1994 Act relating to penalty for failure to pay service tax by reason of fraud, collusion, willful mis-statement, suppression of facts or contravention of the provisions of the Act or the rules made thereunder with the intent to evade payment of service tax.

*Clause 113* of the Bill seeks to insert a new section 78B so as to provide transitional provisions with respect to the amended sections 76 and 78 of 1994 Act.

*Clause 114* of the Bill seeks to omit section 80 of 1994 Act.

*Clause 115* of the Bill seeks to amend section 86 of 1994 Act so as to insert a proviso therein to provide that the cases specified thereunder shall be dealt in accordance with the provisions of section 35EE of Central Excise Act.

*Clause 116* of the Bill seeks to amend section 94 of 1994 Act relating to power to make rules so as to substitute clause (aa) therein.

#### *Swachh Bharat Cess*

*Clause 117* of the Bill seeks to insert a new Chapter VI so as to levy a cess to be called the Swachh Bharat Cess, as service tax on all or any of the taxable services for the purposes of the Union for financing and promoting Swachh Bharat initiatives and any other purpose relating thereto.

*Clauses 118 to 142* of the Bill seeks to insert a new Chapter VII in the Finance Bill, 2015 which deals with the Public Debt Management Agency.

The said Chapter proposes—

(a) to empower the Central Government to establish an Agency called Public Debt Management Agency with a view to minimising the cost of raising and servicing public debt over the long-term within an acceptable level of risk at all times under the general superintendence of the Central Government;

(b) to provide that the general superintendence, direction and management of the affairs and business of the Agency shall vest in the Board which shall consist of such number of executive and nominee Members as may be notified by the Central Government;

(c) to specify the functions of the Agency which shall include—

(i) collecting and publishing information about public debt, including borrowing by the Central Government otherwise than under this Chapter;

(ii) purchasing, re-issuing and trading in Government securities; and

(iii) carrying out such other transactions as may be required for management of public debt;

(d) to provide that the Central Government shall entrust the Agency with the issue of Government securities;

(e) to provide that the Agency shall be responsible for making the payment to holders of Government securities in accordance with the terms of such Government securities;

(f) to empower the Central Government to issue directions to the Agency from time to time; and

(g) to exempt the Agency from payment of taxes.

*Clauses 143 to 150* of the Bill seek to insert a new Chapter VIII relating to Senior Citizens' Welfare Fund.

*Clause 143* of the Bill provides for the extent and commencement of the said Chapter.

*Clause 144* of the Bill defines certain terms and expressions.

*Clause 145* of the Bill provides for the establishment of a Fund known as "the Senior Citizens' Welfare Fund".

*Clause 146* of the Bill provides for the constitution of a Committee for administration of the said Fund.

*Clause 147* of the Bill deals with the payment of claims in respect of the unclaimed amount.

*Clause 148* of the Bill relates to publication of information with respect to the unclaimed amount by the Institutions.

*Clause 149* of the Bill provides that if no request is made with respect to such unclaimed amount within a period of twenty-five years, the same escheat to the Central Government.

*Clause 150* of the Bill deals with accounts and audit of the Fund.

*Clause 151* of the Bill empowers the Central Government to make rules and laying of the same before both Houses of Parliament.

*Clauses 152 to 153* of the Bill deal with power of the Central Government to exempt in certain cases and power of the Central Government to issue an order for removing the difficulties with respect to the implementation of the said chapter.

*Clause 154* of the Bill seeks to amend certain provisions of the Reserve Bank of India Act, 1934. It is proposed to amend section 17 of the said Act so as to insert a proviso providing that the Reserve Bank may exercise the functions specified in clauses (e) and (f) of sub-section (11) of said section, if the Central Government issues a notification under sub-section (2) of section 21 of the said Act entrusting the Bank with the functions of the managing public debt and issuing managing bonds and debentures of the Central Government.

*Clauses 155 to 157* of the Bill seeks to make further amendments in sections 21, 45U and 45W of the Reserve Bank of India Act, 1934.

*Clause 158* of the Bill seeks to amend certain provisions of the Forward Contracts (Regulation) Act, 1952. It is proposed to amend the said Act so as to insert a new section 28A which relates to saving of recognised associations.

*Clause 159* of the Bill seeks to insert a new section 29A which relating to repeal of the Forward Contracts (Regulation) Act and saving of certain provisions. It is also proposed to insert a new section 29B which relates to transfer and vesting of undertaking of the Commission with the Securities and Exchange Board of India. The said amendments are consequential in the light of insertion of the new Chapter "Public Debt Management Agency".

*Clause 160* of the Bill seeks to amend certain provisions of the Securities Contracts (Regulation) Act, 1956. It is proposed to amend section 2 of the said Act so as to amend certain definitions and to insert new definitions like “goods”, “commodity derivative”, “non-transferrable specific delivery contract”, “specific delivery contract”, etc., in the said section.

*Clause 161* of the Bill seeks to amend section 18-A of the securities contracts (Regulation) Act, 1952 relating to contracts in derivatives so as to empower the central Government to notify such contracts in derivatives.

*Clause 162* of the Bill seeks to insert a new section 30A which relates to special provisions in respect of commodity derivatives. These amendments relate to the Securities Contracts (Regulation) Act, 1956 providing for merger of the Forward Market Commission and the Securities Exchange Board of India and are consequential in view of new Chapter VII “Public Management Agency”.

*Clause 163* seeks to amend the Second Schedule to the Finance (No. 2) Act, 1998, so as to increase the rates of additional duty of customs and additional duty of excise on motor spirit commonly known as petrol from rupees two per litre to rupees eight per litre.

*Clause 164* seeks to amend the Second Schedule to the Finance Act, 1999, so as to increase the rates of additional duty of customs and additional duty of excise on high speed diesel oil from rupees two per litre to rupees eight per litre.

*Clause 165* of the Bill seeks to amend certain provisions of the Foreign Exchange and Management Act, 1999. It is proposed to amend section 6 of the Act so as to provide that the Central Government may, in consultation with the Reserve Bank, prescribe any class or classes of capital account transactions, not involving debt instruments, which are permissible; the limit up to which foreign exchange shall be admissible for such transactions; and any conditions which may be placed on such transactions. It is further proposed to insert a new sub-section (7) in the said section which provides that the term “debt instruments” shall mean such instruments as may be determined by the Central Government in consultation with the Reserve Bank.

*Clauses 166 and 170* of the Bill seek to amend sections 18, 34, 46 and 47 of the Foreign Exchange and Management Act, 1999. The said amendments are consequential to the Part VII providing for the amendments to the Prevention of Money-laundering Act, 2002.

*Clause 171* of the Bill seeks to amend sub-section (1) of section 2 of the Prevention of Money-laundering Act, 2002 (2002 Act) relating to definitions. Sub-clause (i) seeks to insert in clause (u), after the words, “or the value of any such property”, the words “or where such property is taken or held outside the country, then the property equivalent in value held within the country”. Sub-clause (ii) seeks to substitute in clause (y), the words “thirty lakh rupees” by “one crore rupees”.

*Clause 172* of the Bill seeks to amend the second proviso to sub-section (1) of section 5 of the 2002 Act so as to substitute the reference of clause (b) with the reference of “first proviso” and the said amendment is clarificatory in nature.

*Clause 173* of the Bill seeks to amend section 8 of the 2002 Act relating to Adjudication. Sub-clause (i) seeks to substitute the words “Adjudicating Authority” occurring in clause (b) of sub-section (3) of said section with the words “Special Court”. Sub-clause (ii) seeks to amend section 8 of the Act by inserting sub-

section (8) so as to provide for restoring confiscated property, on the directions of Special Court, to claimants with legitimate legal interest who may have suffered a quantified loss as a result of the offences of money laundering.

*Clause 174* of the Bill seeks to amend section 20 of the 2002 Act. This clause seeks to amend sub-section (5) of the said section so as to substitute the words “the Court or the Adjudicating Authority as the case may be”, with the words “Special Court”. Sub-clause (ii) seeks to make modifications in sub-section (6) wherein reference to “Special Court” has been made instead of “Court” and to insert the expression “receipt of” in sub-section (6) to clearly specify the date from which the period of 90 days for which Enforcement Directorate can withhold release of property or record under section 20, shall be counted.

*Clause 175* of the Bill seeks to amend section 21 of the 2002 Act. Sub-section (5) of section 21 deals with the order of confiscation under sub-section (5) or sub-section (7) of section 8, but does not deal with cases where the order of release is made by the Special Court under sub-section (6) of section 8 or under section 58B or order of confiscation under sub-section (2A) of section 60. Thus, sub-clause (i) seeks to substitute “or release under sub-section (5) or sub-section (6) or sub-section (7) of section 8 or section 58B or sub-section (2A) of section 60” for “under sub-section (5) or sub-section (7) of section 8”. Sub-clause (ii) seeks to substitute the words “Adjudicating Authority” with the word “Court” and seeks to insert the expression “receipt of” in sub-section (6) to clearly specify the date from which period of 90 days for which Enforcement Directorate can withhold release of property or record under section 21 shall be counted.

*Clause 176* of the Bill seeks to amend section 60 of the 2002 Act relating to attachment, seizure and confiscation, etc., of property in a contracting State or India. The power of confiscation vests with Special Court and not the Adjudicating Authority as mentioned in sub-section (2A) of section 60. Thus, this clause seeks to substitute the words “Adjudicating Authority” with the “Special Court”.

*Clause 177* of the Bill seeks to amend the Schedule to the 2002 Act. It seeks to insert section 132 of the Customs Act, 1962 as predicate offence in paragraph 1 to Part B.

*Clause 178* of the Bill seeks to amend section 4 of the fiscal responsibility and Budget Management Act, 2003 so as to enhance the period specified in the said section from 2015 to 2018.

*Clause 179* of the Bill seeks to omit section 95 of the Finance (No. 2) Act, 2004 with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

*Clause 180* of the Bill seeks to insert a new clause (5AA) in section 97 of the 2004 Act. It is also proposed to provide that taxable securities transaction shall also include sale of unlisted units of a business trust by any holder of such units which were acquired in consideration of a transfer referred to in clause (xvii) of section 47 of the Income-tax Act, 1961 under an offer for sale to the public included in an initial offer and where such units are subsequently listed on a recognised stock exchange.

*Clause 181* of the Bill seeks to amend the Table given under section 98 of the 2004 Act which specifies the rates at which the securities transaction tax shall be charged to provide for securities transaction tax at the rate of 0.2 per cent. to be payable by the seller on sale of unlisted units of a business trust under an initial offer.

*Clause 182* of the Bill seeks to amend section 100 of the 2004 Act to provide that—

(a) the lead merchant banker appointed by the business trust in respect of an initial offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (ab) of clause (13) of section 97 at the rate specified in section 98; and

(b) the securities transaction tax collected during any calendar month from every person who enters into a taxable securities transaction referred to in sub-clause (ab) of clause (13) of section 97 at the rate specified in section 98 shall be paid by every recognised stock exchange or the lead merchant banker in the case of an initial offer to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

*Clause 183* of the Bill seeks to amend section 101 of the 2004 Act to provide that every stock exchange or the lead merchant banker in the case of an initial offer shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board on this behalf, a return in such form and setting forth such particular as may be prescribed, in respect of all taxable securities transaction entered into during such financial year in that stock exchange.

These amendments will take effect from 1st June, 2015.

*Clause 184* seeks to amend the Seventh Schedule to the Finance Act, 2005 so as to omit the sub-heading 2202 10 and the entries relating thereto.

*Clause 185* of the Bill seeks to amend certain provisions of the Government Securities Act, 2006. It is proposed to amend the said Act so as to insert a new section 34A relating to power of the Bank transitioned to the Public Debt Management Agency.

*Clause 186* of the Bill seeks to insert a new section 35A which relates to repeal of the 2006 Act on the date notified by the Central Government and saving of certain provisions. The said amendments are consequential in view of insertion of the new Chapter "Public Debt Management Agency".

*Clause 187* of the Bill seeks to omit section 140 of the Finance Act, 2007 so as to withdraw levy of Secondary and Higher Education Cess on taxable services with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

*Clause 188 of the Bill* seeks to amend the Tenth Schedule to the Finance Act, 2010, so as to increase the rate of Clean Energy Cess on coal, lignite and peat from "Rs. 100 per tonne" to "Rs. 300 per tonne".



## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 6 of the Income-tax Act relating to residence in India.

The proposed amendment seeks to insert a new Explanation 2 in sub-section (1) of said section 6 so as to provide that in the case of an individual being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India, shall in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

Clause 5 of the Bill seeks to amend section 9 of the Income-tax Act relating to Income deemed to accrue or arise in India.

The proposed amendment seeks to provide that in a case where all assets owned by the company or entity referred to in *Explanation 5* of the said section are not located in India only such part of Income shall accrue or arise in India as is reasonably attributable to assets located in India and determined in such manner as may be prescribed.

Clause 6 of the Bill seeks to insert a new section 9A in the Income-tax Act relating to certain activities not to constitute business connection in India.

Sub section (5) of the proposed new section 9A provides for furnishing of statement in prescribed form to the prescribed Income-tax authority containing information regarding fulfilment of conditions specified therein and also to provide such other relevant information or document as may be prescribed.

Clause 8 of the Bill seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

The proposed amendment seeks to provide that trust or institution shall exercise its option under Explanation to sub-section (1) of said section in such form and manner as may be prescribed.

The proposed amendment further seeks to provide that the trust or institutions shall for the purpose of sub-section (2) of section 11, furnish the statement in the prescribed form and manner.

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

It is proposed to amend clause (3) of sub-section (2AB) of the said section to provide that no company

shall be entitled for deduction under clause (1) of the said sub-section (2AB) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.

Clause 20 of the Bill seeks to amend section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

It is proposed to substitute the first proviso to section 80DDB so as to provide that no such deduction shall be allowed unless the assessee obtains, a copy of the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist as may be prescribed.

Clause 32 of the Bill seeks to insert a new section 115UB in the Income-tax Act relating to tax on income in certain cases.

Sub-section (7) of the proposed section provides that the person referred to therein shall within such time as may be prescribed furnish to the prescribed income-tax authority a statement in the prescribed form, verified in such manner and giving such other relevant details as may be prescribed.

Clause 40 of the Bill seeks to amend section 192 of the Income-tax Act relating to salary.

It is proposed to insert sub-section (2D) in the said section to provide that the person responsible for making the payment referred to in sub-section (1) of the said section shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1) therein, obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

Clause 48 of the Bill seeks to amend section 195 of the Income-tax Act relating to other sums.

It is proposed to substitute sub-section (6) of the aforesaid section so as to provide that the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum in such form and manner as may be prescribed.

Clause 50 of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of person deducting tax.

It is proposed to insert sub-section (2A) in the said section to provide that in case of an office of the Government, where the sum deducted in accordance with the provisions of Chapter XVII or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called, who is responsible for crediting such sum or tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

Clause 53 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.

It is proposed to insert sub-section (3A) in the said section to provide that in case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) or sub-section (1D) has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

Clause 76 of the Bill seeks to insert a new section 285A in the Income-tax Act relating to furnishing of information or document by an Indian concern in certain cases.

It is proposed to provide that where any share or interest in a company or entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India as referred to in the *Explanation 5* to clause (i) of sub-section (1) of section 9, and such company or, as the case may be, entity holds such assets in India through or in an Indian concern, then, such Indian concern shall, for the purposes of determination of income accruing

or arising in India, furnish within the prescribed period to the prescribed income-tax authority the relevant information and document in such manner and form as may be prescribed.

Clause 77 of the Bill seeks to amend section 288 of the Income-tax Act relating to appearance by authorised representative.

It is proposed to substitute the Explanation after sub-section (2) of the said section so as to define the expression "accountant". The proposed definition, *inter alia*, provide vide sub-clause (viii) of clause (b) of the said *Explanation* that in case of an assessee, not being a company, a person who whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed shall not be qualified to be an "accountant" except for the purposes of representing an assessee under sub-section (1) of section 288.

Clause 78 of the Bill seeks to amend section 295 of the Income-tax Act relating to power to make rules.

It is proposed to amend said sub-section (2) so as to provide that the Board may, by rules, provide the procedures for granting of relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India under section 90 or section 90A or section 91, against the income-tax payable under this Act.

#### *Indirect-tax*

Clause 91 of the Bill seeks to amend section 11A of the Central Excise Act, *inter alia*, to insert a new sub-section (16) therein. The said sub-section (16) empowers the Central Government to make rules to provide for the manner of recovery of non-payment or short-payment of duty.

Clause 109 of the Bill seeks to amend section 67 of the 1994 Act to substitute clause (a) of the *Explanation* thereto, so as to enlarge the scope of the term "consideration". Sub-clause (ii) of said clause (a) empowers the Central Government to make rules to provide for circumstances and conditions in which the expression "consideration" shall not include any reimbursable expenditure or cost incurred by the service provider and charged.

Clause 118 of the Bill seeks to insert a new Chapter VII with respect to the establishment of Public Debt Management Agency.

Clause 138 of the Bill empowers the Central Government, by notification make rules for carrying out the purposes of the said Chapter.

Clause 143 of the Bill seeks to insert a new Chapter VIII with respect to the establishment of the Senior Citizen's Welfare Fund.

Clause 151 of the Bill empowers the Central Government to make rules for carrying out the provisions of the said Chapter.

2. The matters in respect of which rules may be made or notification or order may be issued in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

LOK SABHA

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BILL

to give effect to the financial proposals of the Central Government  
for the financial year 2015-2016.

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*(Shri Arun Jaitley,  
Minister of Finance.)*

**The Finance Bill, 2015**  
**(As introduced in Lok Sabha)**  
**CORRIGENDA**

Page No.	Column	Line(s) No.	For	Read
6	-	41	"the value"	"the fair market value"
13	-	5	"clause 10"	"section 10"
13	-	29	"assesse"	"assessee"
20	-	32	"same as"	"same"
36	-	51	"32 of 1944."	"32 of 1994."
37	-	9	"32 of 1944."	"32 of 1994."
38	-	3	"this Part"	"Part III"
40	-	13	"is liable"	"shall be liable"
43	-	54	"expiry two years"	"expiry of a period of two years"
47	-	21	"Amendment"	"Amendment"
		(marginal heading)		
47	-	47	"21 of 1988."	"21 of 1998."
47	-	55 to 57 (marginal heading)	"Commencement and amendment of Act 42 of 1999."	"Commencement and amendment of Act 42 of 1999."
48	-	7 (marginal heading)	"Amendment "	"Amendment "
51	-	31 to 33 (marginal heading)	"Commencement and amendment of Act 38 of 2006."	"Commencement and amendment of Act 38 of 2006."
70	-	42	illegible portion	'tariff item 7405 00 00, the entry "12.5%" shall be substituted;'
70	-	43	-do-	"the entry"
			<b>(in Notes on clauses)</b>	
77	1	14	"realtion"	"relation"
94	2	34	"Bill of seeks"	"Bill seeks"
95	1	3	"will ful"	"wilful"
95	1	9	"will full"	"wilful"

# FINANCE BILL, 2015

## PROVISIONS RELATING TO DIRECT TAXES

### Introduction

The provisions of the Finance Bill, 2015 relating to direct taxes seek to amend the Income-tax Act and Finance (No.2) Act, 2004, *inter alia*, in order to provide for –

- A. Rates of Income-tax
- B. Measures to Curb Black Money
- C. Measures to Promote Domestic Manufacturing and Improving the Investment Climate (Make in India)
- D. Ease of Doing Business/ Dispute Resolution
- E. Benefits for Individual Taxpayers
- F. Swachchh Bharat
- G. Rationalisation Measures

2. The Finance Bill, 2015 seeks to prescribe the rates of income-tax on income liable to tax for the assessment year 2015-2016; the rates at which tax will be deductible at source during the financial year 2015-2016 from interest (including interest on securities), winnings from lotteries or crossword puzzles, winnings from horse races, card games and other categories of income liable to deduction or collection of tax at source under the Income-tax Act; rates for computation of “advance tax”, deduction of income-tax from, or payment of tax on ‘Salaries’ and charging of income-tax on current incomes in certain cases for the financial year 2015-2016.

3. The substance of the main provisions of the Bill relating to direct taxes is explained in the following paragraphs:-

## DIRECT TAXES

### A. RATES OF INCOME-TAX

#### I. Rates of income-tax in respect of income liable to tax for the assessment year 2015-2016.

In respect of income of all categories of assessee liable to tax for the assessment year 2015-2016, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance (No.2) Act, 2014, for the purposes of computation of “advance tax”, deduction of tax at source from “Salaries” and charging of tax payable in certain cases.

#### (1) Surcharge on income-tax—

Surcharge shall be levied in respect of income liable to tax for the assessment year 2015-2016, in the following cases:—

- (a) 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, 1961 (hereinafter referred to as ‘the Act’), cooperative societies, firms or local authorities, the amount of income-tax shall be increased by a surcharge for the purposes of the Union at the rate of ten per cent. of such income-tax in case of a person having a total income exceeding one crore rupees.

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Also, in the case of persons mentioned in (a) above having total income chargeable to tax under section 115JC of the Income-tax Act and where such income exceeds one crore rupees, surcharge at the rate mentioned above shall be levied and marginal relief shall also be provided.

- (b) in the case of a domestic company-

- (i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income tax;

- (ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax.
- (c) in the case of a company, other than a domestic company,-
  - (i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of two per cent. of such income tax;
  - (ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income tax.

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Also, in the case of every company having total income chargeable to tax under section 115JB of the Act and where such income exceeds one crore rupees but does not exceed ten crore rupees, or exceeds ten crore rupees, as the case may be, surcharge at the rates mentioned above shall be levied and marginal relief shall also be provided.

- (d) In other cases (including sections 115-O, 115QA, 115R or 115TA), the surcharge shall be levied at the rate of ten percent.

## **(2) Education Cess —**

For assessment year 2015-2016, additional surcharge called the “Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax” shall continue to be levied at the rate of two per cent. and one per cent., respectively, on the amount of tax computed, inclusive of surcharge, in all cases. No marginal relief shall be available in respect of such Cess.

## **II. Rates for deduction of income-tax at source during the financial year 2015-2016 from certain incomes other than “Salaries”.**

The rates for deduction of income-tax at source during the financial year 2015-2016 from certain incomes other than “Salaries” have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance (No.2) Act, 2014, for the purposes of deduction of income-tax at source during the financial year 2014-2015, except that in case of certain payments made to a non-resident (other than a company) or a foreign company, in the nature of income by way of royalty or fees for technical services, the rate shall be ten per cent. of such income.

### **(1) Surcharge—**

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees . The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,-

- (i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;
- (ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

No surcharge will be levied on deductions in other cases.

### **(2) Education Cess—**

“Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax” shall continue to be levied at the rate of two per cent. and one per cent. respectively, of income tax including surcharge wherever applicable, in the cases of persons not resident in India including company other than a domestic company.

## **III. Rates for deduction of income-tax at source from “Salaries”, computation of “advance tax” and charging of income-tax in special cases during the financial year 2015-2016.**

The rates for deduction of income-tax at source from “Salaries” during the financial year 2015-2016 and also for computation of “advance tax” payable during the said year in the case of all categories of assesseees have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 2015-2016 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc.

The salient features of the rates specified in the said Part III are indicated in the following paragraphs—

**A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.**

Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:-

- (i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) 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) are as under:—

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

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

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

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

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

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge at the rate of twelve percent. of such income-tax in case of a person having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**B. Co-operative Societies**

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for financial year 2014-15.

The amount of income-tax shall be increased by a surcharge at the rate of twelve percent. of such income-tax in case of a co-operative society having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**C. Firms**

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for financial year 2014-15.

The amount of income-tax shall be increased by a surcharge at the rate of twelve percent. of such income-tax in case of a firm having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

**D. Local authorities**

The rate of income-tax in the case of every local authority is specified in Paragraph D of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the financial year 2014-15.



The amount of income-tax shall be increased by a surcharge at the rate of twelve percent. of such income-tax in case of a local authority having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

### **E. Companies**

The rates of income-tax in the case of companies are specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified for the financial year 2014-15 .

Surcharge at the rate of seven per cent shall be levied in case of a domestic company if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of twelve percent shall be levied if the total income of the domestic company exceeds ten crore rupees. In case of companies other than domestic companies, the existing surcharge of two per cent. shall continue to be levied if the total income exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of five percent shall continue to be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

In other cases (including sections 115-O, 115QA, 115R or 115TA) the surcharge shall be levied at the rate of twelve percent.

For financial year 2015-2016, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent. respectively, on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such Cess.

*[Clause 2 & First Schedule]*

## **B. MEASURES TO CURB BLACK MONEY**

### **Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances**

The existing provisions contained in section 269SS of the Income-tax Act provide that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions have been provided in the section. Similarly, the existing provisions contained in section 269T of the Income-tax Act provide that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the section if the amount of loan or deposit is twenty thousand rupees or more.

In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS, of the Income-tax Act so as to provide that no person shall accept from any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

It is also proposed to amend section 269T of the Income-tax Act so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more. The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively.

These amendments will take effect from 1<sup>st</sup> day of June, 2015.

*[Clauses 66, 67, 69 & 70]*

**C. MEASURES TO PROMOTE DOMESTIC MANUFACTURING AND IMPROVING  
THE INVESTMENT CLIMATE (Make in India)**

**Deferment of provisions relating to General Anti Avoidance Rule (“GAAR”)**

The existing provisions of the General Anti Avoidance Rule (GAAR) introduced by the Finance Act, 2013 are contained in Chapter X-A (consisting of section 95 to 102) and section 144BA of the Act. Chapter X-A provides the substantive provision of GAAR whereas section 144BA provides the procedure to be undertaken for invoking GAAR and passing of the assessment order in consequence of GAAR provisions being invoked.

As provided in the Act, GAAR provisions are to come into effect from 1.04.2016. These provisions, therefore, shall be applicable to the income of the financial year 2015-16 (Assessment Year 2016-17) and subsequent years.

The implementation of GAAR provisions has been reviewed. Concerns have been expressed regarding certain aspects of GAAR. Further, it has been noted that the Base Erosion and Profit Shifting (BEPS) project under Organisation of Economic Cooperation and Development (OECD) is continuing and India is an active participant in the project. The report on various aspects of BEPS and recommendations regarding the measures to counter it are awaited. It would, therefore, be proper that GAAR provisions are implemented as part of a comprehensive regime to deal with BEPS and aggressive tax avoidance.

Accordingly, it is proposed that implementation of GAAR be deferred by two years and GAAR provisions be made applicable to the income of the financial year 2017-18 (Assessment Year 2018-19) and subsequent years by amendment of the Act. Further, investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR by amendment in the relevant rules in this regard.

This amendment will take effect from 1<sup>st</sup> April, 2015.

[Clause 25 ]

**Pass through status to Category –I and Category –II Alternative Investment Funds**

The existing provisions of section 10(23FB) of the Act provide that any income of a Venture Capital Company (VCC) or a Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U of the Act provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner, on current year basis, as if the person had made direct investment in the VCU.

These sections provide a tax pass through (i.e. income is taxable in the hands of investors instead of VCF/VCC) only to the funds, being set up as a company or a trust, which are registered (i) before 21.05.2012 as a VCF under SEBI (Venture Capital Funds) Regulations, 1996, or (ii) as venture capital fund being one of the sub-categories under category-I Alternative investment fund (AIF) regulated by SEBI (AIF) Regulations, 2012 w.e.f. 21.05.2012. The existing pass through is available only in respect of income which arises to the fund from investment in VCU (Venture Capital Undertaking), being a company which satisfies the conditions provided in SEBI (VCF) Regulations, 1996 or SEBI (AIF) Regulations, 2012 (AIF regulations) .

Under the AIF regulations, various types of AIFs have been classified under three separate categories as Category I, II and III AIFs. Category I includes AIFs which invest in start-up or early stage ventures or social ventures or SMEs or infrastructure or other sectors or areas which the Government or regulators consider as socially or economically desirable. Category II AIFs are funds including private equity funds or debt funds which do not fall in Category I and III and which do not undertake leverage or borrowing other than to meet day-to-day operational requirements. Category III AIFs are funds which employ diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives. The funds can be set up as a trust, company, limited liability partnership and any other body corporate. Similarly, investment by AIFs can be in entities which can be a company, firm etc.

Pooled investment vehicles (other than hedge funds) engaged in making passive investments have been accorded pass through in certain tax jurisdictions. In order to rationalize the taxation of Category-I and Category-II AIFs (hereafter referred to as investment fund) it is proposed to provide a special tax regime. The taxation of income of such investment fund and their investors shall be in accordance with the proposed regime which is applicable to such funds irrespective of whether they are set up as a trust, company, or limited liability firm etc. The salient features of the special regime are:-

- (i) income of a person, being a unit holder of an investment fund, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments, made by the investment fund, been made directly by him.
- (ii) income in the hands of investment fund, other than income from profits and gains of business, shall be exempt from tax. The income in the nature of profits and gains of business or profession shall be taxable in the case of investment fund.
- (iii) income in the hands of investor which is of the same nature as income by way of profits and gain of business at investment fund level shall be exempt.
- (iv) where any income, other than income which is taxable at investment fund level, is payable to a unit holder by an investment fund, the fund shall deduct income-tax at the rate of ten per cent.
- (v) the income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had been received by, or had accrued or arisen to, the investment fund.

- (vi) if in any year there is a loss at the fund level either current loss or the loss which remained to be set off, the loss shall not be allowed to be passed through to the investors but would be carried over at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI of the Income-tax Act.
- (vii) the provisions of Chapter XII-D (Dividend Distribution Tax) or Chapter XII-E (Tax on distributed income) shall not apply to the income paid by an investment fund to its unit holders.
- (viii) the income received by the investment fund would be exempt from TDS requirement. This would be provided by issue of appropriate notification under section 197A(1F) of the Act subsequently.
- (ix) it shall be mandatory for the investment fund to file its return of income. The investment fund shall also provide to the prescribed income-tax authority and the investors, the details of various components of income, etc. for the purposes of the scheme.

Further, the existing pass through regime is proposed to be continued to apply to VCF/VCC which had been registered under SEBI (VCF) Regulations, 1996. Remaining VCFs, being part of Category-I AIFs, shall be subject to the new pass through regime.

### Illustration

*The broad features of the above regime can be explained through the following Examples. For simplicity, it is assumed that the investment fund has ten unit holders each having one unit and the income from investment in the investment fund is the only income of the unit holder.*

Example 1: *If in a previous year, the income stream of the investment fund consists of:*

Income by way of capital gains	Rs. 800
Income from other sources	Rs. 200

Then:

Total Income of the investment fund	NIL
Total income of the unit holders	Rs. 1,000
Total income of a unit holder	Rs. 100

Break up:

Chargeable under the head "Capital gain"	Rs. 80
Chargeable under the head "Income from other sources"	Rs. 20

Example 2: *If in Example 1, the income stream of investment fund consists of:*

Business income	Rs. 100
Income by way of capital gains	Rs. 700
Income from other sources	Rs. 200

Then:

Total Income of the investment fund	Rs. 100
(Tax shall be charged at applicable rate if investment fund is a company or a firm, else at maximum marginal rate)	
Income arising to a unit holder	Rs. 100
Income of unit holder which is exempt	Rs. 10
Total income of a unit holder (chargeable to tax)	Rs. 90

Break up:

Chargeable under the head "Capital gain"	Rs. 70
Chargeable under the head "Income from other sources"	Rs. 20

Example 3: *If the income stream of the investment fund consists of:*

Business Loss	Rs. 100
Capital gains Loss	Rs. 300
Income from other sources	Rs. 400

Then:

The business loss of Rs. 100 is set off against Income from other sources whereas Capital gain loss cannot be set off. The result is:

Total Income of the investment fund (Loss of Rs. 300 remains at investment fund level to be carried forward for set off in subsequent years)	NIL
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Total income of the unit holders	Rs. 300
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Total income of a unit holder	Rs. 30
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(Chargeable under the head "Income from other sources")

Example 4: *If in the previous year immediately succeeding the previous year mentioned in Example 3, the income stream of the investment fund consists of:*

Business income	Rs. 100
Income by way of capital gains	Rs. 450
Income from other sources	Rs. 500

Then:

Total Income of the investment fund	Rs. 100
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(Business income)

Exempt Income –

Capital Gain (Rs. 450 – Rs. 300)	Rs. 150
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Income from other sources	Rs. 500
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Income accruing or arising to the unit holders	Rs. 750
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Income of a unit holder including exempt income	Rs. 75
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Total Income of a unit holder	Rs. 65
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Break up:

Exempt Income	Rs. 10
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Chargeable under the head "Capital gain"	Rs. 15
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Chargeable under the head "Income from other sources"	Rs. 50
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These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 3, 7, 30, 32, 34 & 46]

### **Fund Managers in India not to constitute business connection of offshore funds**

The existing provisions of section 9 of the Act deal with cases of income which are deemed to accrue or arise in India. Section 9(1)(i) provides a set of circumstances in which income is deemed to accrue or arise in India, and is taxable in India. One of the conditions for the income of a non-resident to be deemed to accrue or arise in India is the existence of a business connection in India. Once such a business connection is established, income attributable to the activities which constitute business connection becomes taxable in India. Similarly, under Double Taxation Avoidance Agreements (DTAAs), the source country assumes taxation rights on certain incomes if the non-resident has a Permanent Establishment (PE) in that country.

Further, section 6 of the Act provides for conditions under which a person is said to be resident in India. In the case of a person other than an individual, the test is dependent upon the location of its "control and management".

In the case of off-shore funds, under the existing provisions, the presence of a fund manager in India may create sufficient nexus of the off-shore fund with India and may constitute a business connection in India even though the fund manager may be an independent person. Similarly, if the fund manager located in India undertakes fund management activity in respect of

investments outside India for an off-shore fund, the profits made by the fund from such investments may be liable to tax in India due to the location of fund manager in India and attribution of such profits to the activity of the fund manager undertaken on behalf of the off-shore fund. Therefore, apart from taxation of income received by the fund manager as fees for fund management activity, income of off-shore fund from investments made in countries outside India may also get taxed in India due to such fund management activity undertaken in, and from, India constituting a business connection. Further, presence of the fund manager under certain circumstances may lead to the off shore fund being held to be resident in India on the basis of its control and management being in India.

There are a large number of fund managers who are of Indian origin and are managing the investment of offshore funds in various countries. These persons are not locating in India due to the above tax consequence in respect of income from the investments of offshore funds made in other jurisdictions.

In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfillment of certain conditions by the fund and the fund manager,-

- (i) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
- (ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.

The proposed regime provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. Further, it is proposed that an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. This specific exception from the general rules for determination of business connection and 'resident status' of off-shore funds and fund management activity undertaken on its behalf is subject to the following:-

- (1) The offshore fund shall be required to fulfill the following conditions during the relevant year for being an eligible investment fund:
  - (i) the fund is not a person resident in India;
  - (ii) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into;
  - (iii) the aggregate participation or investment in the fund, directly or indirectly, by persons being resident in India does not exceed five percent. of the corpus of the fund;
  - (iv) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident ;
  - (v) the fund has a minimum of twenty five members who are, directly or indirectly, not connected persons;
  - (vi) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten percent.;
  - (vii) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty percent. ;
  - (viii) the investment by the fund in an entity shall not exceed twenty percent of the corpus of the fund;
  - (ix) no investment shall be made by the fund in its associate entity;
  - (x) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees and if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year;
  - (xi) the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;
  - (xii) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf.
  - (xiii) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken on its behalf is not less than the arm's length price of such activity.

- (2) The following conditions shall be required to be satisfied by the person being the fund manager for being an eligible fund manager:
- (i) the person is not an employee of the eligible investment fund or a connected person of the fund;
  - (ii) the person is registered as a fund manager or investment advisor in accordance with the specified regulations;
  - (iii) the person is acting in the ordinary course of his business as a fund manager;
  - (iv) the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty percent of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through such fund manager.

It is further proposed that every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form to the prescribed income-tax authority containing information relating to the fulfillment of the above conditions or any information or document which may be prescribed. In case of non furnishing of the prescribed information or document or statement, a penalty of Rs. 5 lakh shall be leviable on the fund.

It is also proposed to clarify that this regime shall not have any impact on taxability of any income of the eligible investment fund which would have been chargeable to tax irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not. Further, the proposed regime shall not have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 6, 71 & 75]

### **Incentives for the State of Andhra Pradesh and the State of Telangana**

Section 94 of the Andhra Pradesh Reorganisation Act, 2014 *inter alia* provides that the Central Government shall take appropriate fiscal measures, including offer of tax incentives to the State of Andhra Pradesh and the State of Telangana, to promote industrialization and economic growth in both the States.

Manufacturing sector plays significant role in the economic growth of any region. Therefore, in order to encourage the setting up of industrial undertakings in the backward areas of the State of Andhra Pradesh and the State of Telangana, it is proposed to provide following Income-tax incentives:-

#### **(A) Additional Investment Allowance**

It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—

- (a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1<sup>st</sup> April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
- (b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1<sup>st</sup> April, 2015 to 31<sup>st</sup> March, 2020.

This deduction shall be available over and above the existing deduction available under section 32AC of the Act. Accordingly, if an undertaking is set up in the notified backward areas in the States of Andhra Pradesh or Telangana by a company, it shall be eligible to claim deduction under the existing provisions of section 32AC of the Act as well as under the proposed section 32AD if it fulfills the conditions (such as investment above a specified threshold) specified in the said section 32AC and conditions specified under the proposed section 32AD.

The phrase “new asset” has been defined as plant or machinery but does not include—

- (i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;
- (ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (iii) any office appliances including computers or computer software;
- (iv) any vehicle;
- (v) any ship or aircraft; or
- (vi) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.

With a view to ensure that the manufacturing units which are set up by availing this proposed incentive actually contribute to economic growth of these backward areas by carrying out the activity of manufacturing for a substantial period of time, it is proposed to provide suitable safeguards for restricting the transfer of the plant or machinery for a period of 5 years. However, this restriction shall not apply to the amalgamating or demerged company or the predecessor in a case of amalgamation or demerger or business reorganisation but shall continue to apply to the amalgamated company or resulting company or successor, as the case may be.

**(B) Additional Depreciation at the rate of 35%**

To incentivise investment in new plant or machinery, additional depreciation of 20% is allowed under the existing provisions of section 32(1)(iia) of the Act in respect of the cost of plant or machinery acquired and installed by certain assesseees. This depreciation allowance is allowed over and above the deduction allowed for general depreciation under section 32(1)(ii) of the Act. In order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh or the State of Telangana, it is proposed to allow higher additional depreciation at the rate of 35% (instead of 20%) in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana on or after the 1<sup>st</sup> day of April, 2015. This higher additional depreciation shall be available in respect of acquisition and installation of any new machinery or plant for the purposes of the said undertaking or enterprise during the period beginning on the 1<sup>st</sup> day of April, 2015 and ending before the 1<sup>st</sup> day of April, 2020. The eligible machinery or plant for this purpose shall not include the machinery or plant which are currently not eligible for additional depreciation as per the existing proviso to section 32(1)(iia) of the Act.

It is also proposed to make consequential amendments in the second proviso to section 32(1) of the Act for applying the existing restriction of the allowance to the extent of 50% for assets used for the purpose of business for less than 180 days in the year of acquisition and installation. However, the balance 50% of the allowance is also proposed to be allowed in the immediately succeeding financial year (discussed under the head "Allowance of balance 50% additional depreciation").

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 10 & 11]

**Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)**

The Finance (No.2) Act, 2014 had amended the Act to put in place a special taxation regime in respect of business trusts. The business trust as defined in section 2(13A) of the Act includes a Real Estate investment Trust (REIT) or an Infrastructure Investment Trust(InvIT) which is registered under regulations framed by Securities and Exchange Board of India (SEBI) in this regard.

The existing tax regime for the business trust and their investors as contained in different sections of the Income-tax Act, *inter alia*, provides that:-

- (i) The listed units of a business trust, when traded on a recognised stock exchange, would be liable to securities transaction tax (STT), and the long term capital gains shall be exempt and the short term capital gains shall be taxable at the rate of 15%.
- (ii) In case of capital gains arising to the sponsor at the time of exchange of shares in Special Purpose Vehicle (SPV), being the unlisted company through which income generating assets are held indirectly by the business trusts, with units of the business trust, the taxation of gains is deferred.
- (iii) The tax on such gains is to be levied at the time of disposal of units by the sponsor.
- (iv) However, the preferential capital gains regime (consequential to levy of STT) available to other unit holders of business trust, is not available to the sponsor in respect of these units at the time of their transfer.
- (v) For the purpose of computing capital gain, the cost of these units is considered as cost of the shares to the sponsor. The holding period of shares is included in computing the holding period of such units.
- (vi) The pass through is provided in respect of income by way of interest received by the business trust from SPV i.e., there is no taxation of such interest income in the hands of the trust and no withholding tax at the level of SPV.
- (vii) However, withholding tax at the rate of 5 per cent. in case of payment of interest component of income distributed to non-resident unit holders, and at the rate of 10 per cent. in respect of payment of interest component of distributed income to a resident unit holder is required to be effected by the trust.
- (viii) The dividend received by the trust is subject to dividend distribution tax at the level of SPV and is exempt in the hands of the trust, and the dividend component of the income distributed by the trust to the unit holders is also exempt.

The deferral of capital gains provided to the sponsor of business trust places such a sponsor at a disadvantageous tax position vis-a vis direct listing of the shares of the SPV. In case the sponsor holding the shares of the SPV decides to exit through the Initial Public Offer (IPO) route, then the benefit of concessional tax regime relating to capital gains arising on transfer of shares

subject to levy of STT is available to him. The tax on short term capital gains (STCG) in such cases is levied @ 15% and the long term capital gain (LTCG) is exempt under section 10(38) of the Act. However, the benefit of concessional regime is not available to the sponsor at the time it offloads units of business trust acquired in exchange of its shareholding in the SPV through Initial offer at the time of listing of business trust on stock exchange.

In order to provide parity, it is proposed that,-

- (i) the sponsor would get the same tax treatment on offloading of units under an Initial offer on listing of units as it would have been available had he offloaded the underlying shareholding through an IPO.
- (ii) the Finance (No. 2) Act, 2004 be amended to provide that STT shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an Initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.
- (iii) the benefit of concessional tax regime of tax @15 % on STCG and exemption on LTCG under section 10(38) of the Act shall be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.

Further, in case of a business trust, being REITs, the income is predominantly in the nature of rental income. This rental income arises from the assets held directly by REIT or held by it through an SPV. The rental income received at the level of SPV gets passed through by way of interest or dividend to the REIT, the rental income directly received by the REIT is taxable at REIT level and does not get pass through benefit.

In order to provide pass through to the rental income arising to REIT from real estate property directly held by it, it is proposed to provide that :-

- (i) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be exempt;
- (ii) the distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, shall be deemed to be income of such unit holder and shall be charged to tax.
- (iii) the REIT shall effect TDS on rental income allowed to be passed through. In case of resident unit holder, tax shall deducted @ 10%, and in case of distribution to non-resident unit holder, the tax shall be deducted at rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax .
- (iv) no deduction shall be made under section 194-I of the Act where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset held directly by such REIT.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 3, 7, 26, 31, 44 & 45]

#### **Extension of eligible period of concessional tax rate under section 194LD**

The existing provisions of section 194LD of the Act, provide for lower withholding tax at the rate of 5 percent in case of interest payable at any time on or after the 1<sup>st</sup> day of June, 2013 but before the 1<sup>st</sup> day of June, 2015 to FII's and QFI's on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this regard.

The limitation date of the eligibility period for benefit of reduced rate of tax available under section 194LC in respect of external commercial borrowings (ECB) has been extended from 30<sup>th</sup> June, 2015 to 30<sup>th</sup> June, 2017 by Finance (No.2) Act, 2014.

Accordingly, it is proposed to amend section 194LD to provide that the concessional rate of 5% withholding tax on interest payment under the section will now be available on interest payable upto 30<sup>th</sup> June, 2017.

This amendment will take effect from 1<sup>st</sup> June, 2015.

[Clause 47]

#### **Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents**

The existing provisions of section 115A of the Act provide that in case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical services (FTS) received by such non-resident from Government or an Indian concern after 31.03.1976, and which is not effectively connected with permanent establishment, if any, of the non-resident in India, tax shall be levied at the rate of 25% on the gross amount of such income. This rate of 25% was provided by Finance Act, 2013.

In order to reduce the hardship faced by small entities due to high rate of tax of 25%, it is proposed to amend the Act to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents to 10%.



This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 27]

### **Deduction for employment of new workmen**

The existing provisions contained in section 80JJAA of the Act, *inter alia*, provide for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Clause (a) of sub-section (2), *inter alia*, provides that no deduction under sub-section (1) shall be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company. *Explanation* to the section defines "Additional wages" to mean the wages paid to the new regular workmen in excess of hundred workmen employed during the previous year.

With a view to encourage generation of employment, it is proposed to amend the section so as **to extend the benefit to all assessees having manufacturing units** rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

Accordingly, it is proposed to amend sub-section (1) of the aforesaid section. It is also proposed to amend clause (i) of the *Explanation* so as to provide "additional wages" to mean the wages paid to the new regular workmen in excess of fifty workmen employed during the previous year.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 22]

### **Allowance of balance 50% additional depreciation**

To encourage investment in plant or machinery by the manufacturing and power sector, additional depreciation of 20% of the cost of new plant or machinery acquired and installed is allowed under the existing provisions of section 32(1)(iia) of the Act over and above the general depreciation allowance. On the lines of allowability of general depreciation allowance, the second proviso to section 32(1) *inter alia* provides that the additional depreciation would be restricted to 50% when the new plant or machinery acquired and installed by the assessee, is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in the previous year. Non-availability of full 100% of additional depreciation for acquisition and installation of new plant or machinery in the second half of the year may motivate the assessee to defer such investment to the next year for availing full 100% of additional depreciation in the next year. To remove the discrimination in the matter of allowing additional depreciation on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 10]

## **D. EASE OF DOING BUSINESS/DISPUTE RESOLUTION**

### **Clarity relating to Indirect transfer provisions**

The existing provisions of section 9 of the Act deal with cases of income which are deemed to accrue or arise in India. Sub-section(1) of the said section creates a legal fiction that certain incomes shall be deemed to accrue or arise in India. Clause(i) of said sub-section (1) provides a set of circumstances in which income accruing or arising, directly or indirectly, is taxable in India. The said clause provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India shall be deemed to accrue or arise in India.

The Finance Act, 2012 inserted certain clarificatory amendments in the provisions of section 9. The amendments, *inter alia*, included insertion of *Explanation 5* in section 9(1)(i) w.r.e.f. 1.04.1962. The *Explanation 5* clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India. Considering the concerns raised by various stakeholders regarding the scope and impact of these amendments an Expert Committee under the Chairmanship of Dr. Parthasarathi Shome was constituted by the Government to go into the various aspects relating to the amendments.

The recommendations of the Expert Committee were considered and a number of recommendations (either in full or with partial modifications) have been accepted for implementation either by way of an amendment of the Act or by way of issuance of a clarificatory circular in due course. In order to give effect to the recommendations, the following amendments are proposed in the provisions of section 9 relating to indirect transfer:-

- (i) the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-
  - (a) exceeds the amount of ten crore rupees ; and
  - (b) represents at least fifty per cent. of the value of all the assets owned by the company or entity.
- (ii) value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.
- (iii) the specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.
- (iv) however, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned in (iii) above, the date of transfer shall be the specified date of valuation.
- (v) the manner of determination of fair market value of the Indian assets vis-a vis global assets of the foreign company shall be prescribed in the rules.
- (vi) the taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality are proposed to be provided in the rules.
- (vii) the exemption shall be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises,
  - (a) neither holds the right of control or management,
  - (b) nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital,
 in the foreign company or entity directly holding the Indian assets (direct holding company).
- (viii) in case the transfer is of shares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if he along with its associated enterprises,-
  - (a) neither holds the right of management or control in relation to such company or the entity,
  - (b) nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent. in the direct holding company or entity.
- (ix) exemption shall be available in respect of any transfer, subject to certain conditions ,in a scheme of amalgamation, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.
- (x) exemption shall be available in respect of any transfer, subject to certain conditions, in a demerger, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company.
- (xi) there shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity. The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be-
  - (a) a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and
  - (b) a sum of five hundred thousand rupees in any other case.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 5, 13, 14, 72, 75 & 76]

### **Raising the threshold for specified domestic transaction**

The existing provisions of section 92BA of the Act define "specified domestic transaction" in case of an assessee to mean any of the specified transactions, not being an international transaction, where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.

In order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, it is proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as 'specified domestic transaction'.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 24]

### **Rationalisation of definition of charitable purpose in the Income-tax Act**

The primary condition for grant of exemption to a trust or institution under section 11 of the Act is that the income derived from property held under trust should be applied for charitable purposes in India. 'Charitable purpose' is defined in section 2(15) of the Act. The section, *inter alia*, provides that 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. However, this restriction shall not apply if the aggregate value of the receipts from the activities referred above is twenty five lakh rupees or less in the previous year.

The institutions which, as part of genuine charitable activities, undertake activities like publishing books or holding program on yoga or other programs as part of actual carrying out of the objects which are of charitable nature are being put to hardship due to first and second proviso to section 2(15).

The activity of Yoga has been one of the focus areas in the present times and international recognition has also been granted to it by the United Nations. Therefore, it is proposed to include 'yoga' as a specific category in the definition of charitable purpose on the lines of education.

In so far as the advancement of any other object of general public utility is concerned, there is a need is to ensure appropriate balance being drawn between the object of preventing business activity in the garb of charity and at the same time protecting the activities undertaken by the genuine organization as part of actual carrying out of the primary purpose of the trust or institution.

It is, therefore, proposed to amend the definition of charitable purpose to provide 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, unless,-

- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- (ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed twenty percent. of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year .

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 3]

### **Exemption to income of Core Settlement Guarantee Fund (SGF) of the Clearing Corporations**

Under the provisions of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (SECC) notified by SEBI, the Clearing Corporations are mandated to establish a fund, called Core Settlement Guarantee Fund (Core SGF) for each segment of each recognized stock exchange to guarantee the settlement of trades executed in respective segments of the exchange.

Under the existing provisions, income by way of contributions to the Investor Protection Fund set up by recognised stock exchanges in India, or by commodity exchanges in India or by a depository shall be exempt from taxation.

On similar lines, it is proposed to exempt the income of the Core SGF arising from contribution received and investment made by the fund and from the penalties imposed by the Clearing Corporation subject to similar conditions as provided in case of Investor Protection Fund set up by a recognised stock exchange or a commodity exchange or a depository.

However, where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is shared.

The specified person for this purpose is defined to mean any recognized clearing corporation which establishes and maintains the Core Settlement Guarantee Fund and the recognised stock exchange being the shareholder of such clearing corporation.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clause 7]*

### **Raising the income-limit of the cases that may be decided by single member bench of ITAT**

The existing provision contained in sub-section (3) of section 255 of the Income-tax Act provides for constitution of a single member bench and a Special Bench. It provides that single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed five lakh rupees. The limit of five lakh rupees for a single member bench was last revised in 1998.

Accordingly, it is proposed to amend sub-section (3) of section 255 of the Income-tax Act so as to provide that a bench constituted of a single member may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

This amendment will take effect from 1<sup>st</sup> day of June, 2015.

*[Clause 64]*

### **Tax neutrality on merger of similar schemes of Mutual Funds**

Securities and Exchange Board of India has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer numbers of schemes. However, such mergers/consolidations are treated as transfer and capital gains are imposed on unitholders under the Income-tax Act.

In order to facilitate consolidation of such schemes of mutual funds in the interest of the investors, it is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund. It is further proposed that the cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme and period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee. It is also proposed to define consolidating scheme as the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 and consolidated scheme as the scheme with which the consolidating scheme merges or which is formed as a result of such merger.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clauses 13 & 14]*

### **Procedure for appeal by revenue when an identical question of law is pending before Supreme Court**

Section 158A of the Income-tax Act provides that during pendency of proceedings in his case for an assessment year an assessee can submit a claim before the Assessing Officer or any appellate authority that a question of law arising in the instant case for the assessment year under consideration is identical with the question of law already pending in his own case before the High Court or Supreme Court for another assessment year and if the Assessing Officer or any appellate authority agrees to apply the final decision on the question of law in that earlier year to the present year, he will not agitate the same question of law once again for the present year before higher appellate authorities. The Assessing Officer or any appellate authority before whom his case is pending can admit the claim of the assessee and as and when the decision on the question of law becomes final, they will apply the ratio of the decision of the High Court or Supreme Court for that earlier case to the relevant years case also.

There is presently no parallel provision for revenue to not file appeal for subsequent years where the Department is in appeal on the same question of law for an earlier year. As a result, appeals are filed by the revenue year after year on the same question of law until it is finally decided by the Supreme Court thus, multiplying litigation.

Accordingly, it is proposed to insert a new section 158AA so as to provide that notwithstanding anything contained in this Act, where any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal or in a special leave petition under Article 136 of the Constitution filed by the revenue, against the order of the High Court in favour of the assessee, the Commissioner or Principal Commissioner may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case.

It is further proposed to provide that the Commissioner or Principal Commissioner shall proceed under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case. However, in case no such acceptance is received the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in section (2) or section (2A) of section 253 and accordingly may, if he objects to the order passed by the Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal.

It is also proposed to provide that where the order of the Commissioner (Appeals) is not in conformity with the final decision on the question of law in the other case (if the Supreme Court decides the earlier case in favour of the Department), the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order within sixty days from the date on which the order of the Supreme Court is communicated to the Commissioner or Principal Commissioner and save as otherwise provided in the said section 158AA, all other provisions of Part B of Chapter XX shall apply accordingly.

This amendment will take effect from the 1<sup>st</sup> day of June, 2015.

[Clause 39]

#### **Enabling the Board to notify rules for giving foreign tax credit**

Sub-section (1) of section 91 of the Income-tax Act provides for relief in respect of income-tax on the income which is taxed in India as well as in the country with which there is no Double Taxation Avoidance Agreement (DTAA). It provides that an Indian resident is entitled to a deduction from the Indian income-tax of a sum calculated on such doubly taxed income, at the Indian rate of tax or the rate of tax of said country, whichever is lower. In cases of countries with which India has entered into an agreement for the purposes of avoidance of double taxation under section 90 or section 90A, a relief in respect of income-tax on doubly taxed income is available as per the respective DTAA's.

The Income-tax Act does not provide the manner for granting credit of taxes paid in any country outside India. Accordingly, it is proposed to amend section sub-section (2) of section 295 of the Income-tax Act so as to provide that CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act.

This amendment will take effect from 1<sup>st</sup> day of June, 2015.

[Clause 78]

#### **Abolition of levy of wealth-tax under Wealth-tax Act, 1957**

Wealth-tax Act, 1957 ('the WT Act') was introduced w.e.f. 01.04.1957 on the recommendation of Prof. Nicholas Kaldor for achieving twin major objectives of reducing inequalities and helping the enforcement of Income-tax Act through cross checks. Accordingly, all the assets of the assesseees were taken into account for computation of net-wealth. The levy of wealth-tax was thoroughly revised on the recommendation of Tax Reform Committee headed by Raja J. Chelliah vide Finance Act, 1992 with effect from 01.04.1993. The Chelliah Committee had recommended abolition of wealth-tax in respect of all items of wealth other than those which can be regarded as unproductive forms of wealth or other items whose possession could legitimately be discouraged in the social interest.

Currently, wealth-tax is levied on an individual or HUF or company, if the net wealth of such person exceeds Rs.30 lakh on the valuation date, i.e. last date of the previous year. For the purpose of computation of taxable net wealth, only few specified assets are taken into account.

The actual collection from the levy of wealth-tax during the financial year 2011-12 was Rs.788.67 crore and during the financial year 2012-13 was Rs.844.12 crore only. The number of wealth-tax assessee was around 1.15 lakh in 2011-12. Although only a nominal amount of revenue is collected from the levy of wealth-tax, this levy creates a significant amount of compliance burden on the assesseees as well as administrative burden on the department. This is because the assesseees are required to value the assets as per the provisions of Wealth-tax Rules for computation of net wealth and for certain assets like jewellery, they are required to obtain valuation report from the registered valuer. Further, the assets which are specified for levy of wealth-tax, being unproductive, such as jewellery, luxury cars, etc. are difficult to be tracked and this gives an opportunity to the assesseees to under report/under value the assets which are liable for wealth-tax. Due to this, the collection of wealth-tax over the years has not shown any significant growth and has only resulted into disproportionate compliance burden on the assesseees and administrative burden on the department. It is, therefore, proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957 with effect from the 1<sup>st</sup> April, 2016. It is also proposed that the objective of taxing high net worth persons shall be achieved by levying a surcharge on tax payer earning higher income as levy of surcharge is easy to collect & monitor and also does not result into any compliance burden on the assessee and administrative burden on the department. The details regarding levy of enhanced surcharge on this account are given under the heading "Rates of Income-tax". It is also proposed that information relating to assets which is currently required to be furnished in the wealth-tax return shall be captured by suitably modifying income-tax return.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 79]

## E. BENEFITS FOR INDIVIDUAL TAXPAYERS

### Tax benefits under section 80C for the girl child under the Sukanya Samriddhi Account Scheme

Pursuant to the Budget announcement in July 2014, a special small savings instrument for the welfare of the girl child has been introduced under the Sukanya Samriddhi Account Rules, 2014. The following tax benefits have been envisaged in the Sukanya Samriddhi Account scheme:-

- (i) The investments made in the Scheme will be eligible for deduction under section 80C of the Act.
- (ii) The interest accruing on deposits in such account will be exempt from income tax.
- (iii) The withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.

Accordingly, a new clause (11A) is proposed to be inserted in section 10 of the Act so as to provide that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 shall not be included in the total income of the assessee. As a result, the interest accruing on deposits in, and withdrawals from any account under the scheme would be exempt.

The Scheme has been notified under clause (viii) of sub-section (2) of section 80C vide Notification number 9/2015 S.O.210 (E),F.No. 178/3/2015-ITA-I dated 21.012015.

With a view to allow the deduction under section 80C to the parent or legal guardian of the girl child, amendment of section 80C of the Act is proposed to be made so as to provide that a sum paid or deposited during the year in the Scheme in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction under section 80C of the Act.

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

[Clauses 7 & 15]

### Amendment in section 80D relating to deduction in respect of health insurance premia

The existing provisions contained in section 80D, *inter alia*, provide for deduction of

- a) upto fifteen thousand rupees to an assessee, being an individual in respect of health insurance premia, paid by any mode, other than cash, to effect or to keep in force an insurance on the health of the assessee or his family or any contribution made to the Central Government Health Scheme or any other notified scheme or any payment made on account of preventive health check up of the assessee or his family; and
- b) an additional deduction of fifteen thousand rupees is provided to an individual assessee to effect or to keep in force insurance on the health of the parent or parents of the assessee.

A similar deduction is also available to a Hindu undivided family (HUF) in respect of health insurance premia, paid by any mode, other than cash, to effect or to keep in force insurance on the health of any member of the HUF. The section also presently provides for a deduction of twenty thousand rupees in both the cases if the person insured is a senior citizen of sixty years of age or above.

The quantum of deduction allowed under Section 80D to individuals and HUF in respect of premium paid for health insurance had been fixed vide Finance Act, 2008 at Rs.15000/- and Rs.20,000/- (for senior citizens). In view of continuous rise in the cost of medical expenditure, it is proposed to amend section 80D so as to raise the limit of deduction from **fifteen thousand rupees to twenty five thousand rupees**. It is further proposed to raise the limit of deduction for senior citizens from **twenty thousand rupees to thirty thousand rupees**.

Further, very senior citizens are often unable to get health insurance coverage and are therefore unable to take tax benefit under section 80D. Accordingly, as a welfare measure towards very senior citizens, it is also proposed to provide that any payment made on account of medical expenditure in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person, as does not exceed thirty thousand rupees shall be allowed as deduction under section 80D. The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred would however be limited to thirty thousand rupees. Similarly aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to thirty thousand rupees.

Example:

(i) For Individual and his family	Rs.
Health insurance premia	21,000
(ii) For parents	
Health insurance of Mother :	18,000
Medical expenditure on father (very senior citizen)	15,000
Deduction eligible u/s 80D	Rs. 21000 + Rs. 30000 = Rs. 51,000

It is also proposed to define a 'very senior citizen' to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

These amendments will take effect from the 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 18]

### **Raising the limit of deduction under section 80DDB**

Under the existing provisions of section 80DDB of the Act, an assessee, resident in India is allowed a deduction of a sum not exceeding forty thousand rupees, being the amount actually paid, for the medical treatment of certain chronic and protracted diseases such as Cancer, full blown AIDS, Thalassaemia, Haemophilia etc. This deduction is allowed up to sixty thousand rupees where the expenditure is in respect of a senior citizen i.e. a person who is of the age of sixty years or more at any time during the relevant previous year.

The above deduction is available to an individual for medical expenditure incurred on himself or a dependant relative. It is also available to a Hindu undivided family (HUF) for such expenditure incurred on its members. Dependant in case of an individual means the spouse, children, parents, brother or sister of an individual and in case of an HUF means a member of the HUF, wholly or mainly dependant on such individual or HUF for his support and maintenance.

Under the existing provisions of this section, a certificate in the prescribed form, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist working in a Government hospital is required. It has been represented that the requirement of a certificate from a doctor working in a Government hospital causes undue hardship to the persons intending to claim the aforesaid deduction. Government hospitals at many places do not have doctors specialising in the above branches of medicine. For this and other reasons, it may be difficult for the taxpayer to obtain a certificate from a Government hospital.

In view of the above, it is proposed to amend section 80DDB so as to provide that **the assessee will be required to obtain a prescription from a specialist doctor** for the purpose of availing this deduction.

Further, it is also proposed to amend section 80DDB to provide for a higher limit of deduction of upto eighty thousand rupees, for the expenditure incurred in respect of the medical treatment of a "very senior citizen". A "very senior citizen" is proposed to be defined as an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 20]

### **Raising the limit of deduction under section 80DD and 80U for persons with disability and severe disability**

The existing provisions of section 80DD, *inter alia*, provide for a deduction to an individual or HUF, who is a resident in India, who has incurred—

- (a) Expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability as defined under the said section; or
- (b) paid any amount to LIC or any other insurer in respect of a scheme for the maintenance of a disabled dependant.

The section presently provides for a deduction of fifty thousand rupees if the dependant is suffering from disability and one lakh rupees if the dependant is suffering from severe disability (as defined under the said section).

The existing provisions of section 80U, *inter alia*, provide for a deduction to an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability (as defined under the said section).

The said section provides for a deduction of fifty thousand rupees if the person is suffering from disability and one lakh rupees if the person is suffering from severe disability (as defined under the said section).

The limits under section 80DD and section 80U in respect of a person with disability were fixed at fifty thousand rupees by Finance Act, 2003. Further, the limit under section 80DD and section 80U in respect of a person with severe disability was last enhanced from seventy five thousand rupees to one lakh rupees by Finance (No.2) Act, 2009.

In view of the rising cost of medical care and special needs of a disabled person, it is proposed to amend section 80DD and section 80U so as to raise the limit of deduction in respect of a person with disability from **fifty thousand rupees to seventy five thousand rupees**.

It is further proposed to amend the section so as to raise the limit of deduction in respect of a person with **severe disability from one lakh rupees to one hundred and twenty five thousand rupees**.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 19 & 23]

#### **Raising the limit of deduction under 80CCC**

Under the existing provisions contained in sub-section (1) of the section 80CCC, an assessee, being an individual is allowed a deduction upto one lakh rupees in the computation of his total income, of an amount paid or deposited by him to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme.

In order to promote social security, it is proposed to amend sub-section (1) of the said section so as to raise the limit of deduction under section 80CCC from one lakh rupees to one hundred and fifty thousand rupees, within the overall limit provided in section 80CCE.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 16]

#### **Additional deduction under 80CCD**

Under the existing provisions contained in sub-section (1) of section 80CCD of the Income-tax Act, 1961 if an individual, employed by the Central Government on or after 1<sup>st</sup> January, 2004, or being an individual employed by any other employer, or any other assessee being an individual has paid or deposited any amount in a previous year in his account under a notified pension scheme, a deduction of such amount not exceeding ten per cent. of his salary in the case of an employee and ten per cent. of the gross total income in case of any other individual is allowed. Similarly, the contribution made by the Central Government or any other employer to the said account of the individual under the pension scheme is also allowed as deduction under sub-section (2) of section 80CCD, to the extent it does not exceed ten per cent. of the salary of the individual in the previous year. Sub-section (1A) of section 80CCD provides that the amount of deduction under sub-section (1) shall not exceed one hundred thousand rupees. Till date, under section 80CCD, only the National Pension System (NPS) has been notified by the Ministry of Finance.

With a view to encourage people to contribute towards NPS, it is proposed to omit sub-section (1A). In addition to the enhancement of the limit under section 80CCD(1), it is further proposed to insert a new sub-section (1B) so as to provide for an additional deduction in respect of any amount paid, of upto fifty thousand rupees for contributions made by any individual assessee under the NPS.

Consequential amendments are also proposed in sub-section (3) and sub-section (4) of section 80CCD.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 17]

#### **Enabling of filing of Form 15G/15H for payment made under life insurance policy**

The Finance (No.2) Act, 2014, inserted section 194DA in the Act with effect from 1.10.2014 to provide for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year is less than Rs. 1,00,000. In spite of providing high threshold for deduction of tax under this section, there may be cases where the tax payable on recipient's total income, including the payment made under life insurance, will be nil. The existing provisions of section 197A of the Act *inter alia* provide that tax shall not be deducted, if the recipient of the certain payment on which tax is deductible furnishes to the payer a self-declaration in prescribed Form No.15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. It is, therefore, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

This amendment will take effect from 1<sup>st</sup> June, 2015.

[Clause 49]

#### **Relaxing the requirement of obtaining TAN for certain deductors**

Under the provisions of section 203A of the Act, every person deducting tax (deductor) or collecting tax (collector) is required to obtain Tax Deduction and Collection Account Number (TAN) and quote the same for reporting of tax deduction/collection to the Income-tax Department. However, currently, for reporting of tax deducted from payment over a specified threshold made for acquisition of immovable property (other than rural agricultural land) from a resident transferor under section 194-IA of the Act, the deductor is not required to obtain and quote TAN and he is allowed to report the tax deducted by quoting his Permanent Account Number (PAN).



The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195 of the Act. To reduce the compliance burden of these types of deductors, it is proposed to amend the provisions of section 203A of the Act so as to provide that the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductors or collectors.

This amendment will take effect from 1<sup>st</sup> June, 2015.

[Clause 52]

### **One hundred per cent deduction for National Fund for Control of Drug Abuse**

Under the existing provisions of section 80G, an assessee is allowed a deduction from his total income in respect of donations made by him to certain funds and charitable institutions. The deduction is allowed at the rate of hundred percent of the amount of donations made to certain funds and institutions formed for a social purpose of national importance, like the Prime Ministers' National Relief Fund, National Foundation for Communal Harmony etc.

The National Fund for Control of Drug Abuse is a fund created by the Government of India in the year 1989, under the Narcotic Drugs and Psychotropic Substances Act, 1985. Since National Fund for Control of Drug Abuse is also a Fund of national importance, it is proposed amend section 80G so as to provide hundred percent. deduction in respect of donations made to the said National Fund for Control of Drug Abuse.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 21]

## **F. SWACHCHH BHARAT**

### **Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund**

Under the existing provisions of section 80G of the Income-tax Act, a deduction is allowed in computing the total income of a person in respect of donations made to certain funds and charitable institutions. The deduction is allowed at the rate of fifty percent of the amount of donations made except in the case of donations made to certain funds and institutions formed for a social purpose of national importance, where it is allowed at the rate of one hundred percent, such as the National Defence Fund set up by the Central Government, the Prime Minister's National Relief Fund, the Prime Minister's Armenia Earthquake Relief Fund, the Africa (Public Contributions-India) Fund, the National Children's Fund, the National Foundation for Communal Harmony etc.

"Swachh Bharat Kosh" has been set up by the Central Government to mobilize resources for improving sanitation facilities in rural and urban areas and school premises through the Swachh Bharat Abhiyan. Similarly, Clean Ganga Fund has been established by the Central Government to attract voluntary contributions to rejuvenate river Ganga.

With a view to encourage and enhance people's participation in the national effort to improve sanitation facilities and rejuvenation of river Ganga, it is proposed to amend section 80G of the Act so as to incentivise donations to the two funds. It is proposed to provide that donations made by any donor to the Swachh Bharat Kosh and donations made by domestic donors to Clean Ganga Fund will be eligible for a deduction of hundred per cent from the total income. However, any sum spent in pursuance of Corporate Social Responsibility under sub-section (5) of section 135 of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor.

The existing provisions of section 10(23C) of the Act provide for exemption from tax in respect of the income of certain charitable funds or institutions like the Prime Minister's National Relief Fund ; the Prime Minister's Fund (Promotion of Folk Art); the Prime Minister's Aid to Students Fund; the National Foundation for Communal Harmony. Considering the importance of Swachh Bharat Kosh and Clean Ganga Fund, it is also proposed to amend section 10(23C) of the Act so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund from income-tax.

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

[Clauses 7 & 21]

## G. RATIONALISATION MEASURES

### Clarity regarding source rule in respect of interest received by the non-resident in certain cases

The provisions of section 5 of the Act provide for scope of total income for the purposes of its chargeability to tax. In case of a non-resident person, the chargeability of income in India is on the basis of source rule under which certain categories of income are deemed to accrue or arise in India. The existing provisions of section 9 provide for the circumstances under which income is deemed to accrue or arise in India. Section 9(1) (v) relates specifically to the interest income. The said clause provides that the income by way of interest is deemed to accrue or arise in India if it is payable by—

- (a) the Government ; or
- (b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or
- (c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India.

Section 90 of the Act provides that Central Government may enter into an agreement with the Government of any country or specified territory outside India among other things for providing relief from double taxation. India has entered into Double Taxation Avoidance Agreements (DTAAs) with 92 countries. Further sub-section (2) of the said section provides that in respect of an assessee to whom such DTAA applies, the provisions of the Act shall apply to the extent they are more beneficial to him. Therefore, the taxpayer is entitled to relief from the provisions of the Act if such relief is available under the DTAA and to that extent the provisions of the Act are not applicable.

Further, income of a non-resident from business activity is taxable in India if it has a business connection in India in accordance with the provisions contained in section 9(1)(i) and only such income is taxable as is attributable to the business connection. Similarly, under the DTAA income from business activity in the case of a non-resident shall be taxable only if such non-resident has a permanent establishment (PE) in India and only such income is taxable which is attributable to the PE. The concept of PE is almost on similar lines as business connection with variations as per different DTAAs. The DTAA further provides the manner of computation of income attributable to the PE. It is provided that for the purpose of computation of income the PE shall be deemed to be an independent enterprise with certain restrictions regarding allowability of expense paid to head office by the PE. Under DTAAs in case of a banking company the interest paid by a PE to its head office and other branches is allowed as deduction treating such a permanent establishment as an independent enterprise.

The CBDT, in its Circular No. 740 dated 17/4/1996 had clarified that branch of a foreign company in India is a separate entity for the purpose of taxation under the Act and accordingly TDS provisions would apply along with separate taxation of interest paid to head office or other branches of the non-resident, which would be chargeable to tax in India.

Some of the judicial rulings in this context have held that although under the provisions of the Income-tax law the payment of interest by the branch to head office is non-deductible under domestic law being payment to the self, however, such interest is deductible due to computation mechanism provided under the DTAA but it is not taxable in the hands of the Bank being income generated from self. The view expressed in the CBDT circular has not found favour in these judicial decisions. If the legal fiction created under the treaty is treated to be of limited effect, it would lead to base erosion. The interest paid by the permanent establishment to the head office or other branch etc. is an interest payment sourced in India and is liable to be taxed under the source rule in India. This position is also recognised in some of our DTAAs in particular the Indo-USA DTAA in Article 14 (3) reads as under:-

*“In the case of a banking company which is resident of the United States, the interest paid by the permanent establishment of such a company in India to the head office may be subject in India to tax in addition to the tax imposable under the other provisions of this Convention at a rate which shall not exceed the rate specified in paragraph 2(a) of Article 11 (Interest)”*

The Special Bench of the ITAT in the case of Sumitomo Mitsui Banking Corporation [136 ITD- 66 TBOM] had mentioned that there are instances of other countries providing for specific provisions in their domestic law which allows for the taxability of interest paid by a permanent establishment to its head office and other branches and had pointed out absence of such a specific provision in the Income-tax Act.

Considering that there are several disputes on the issue which are pending and likely to arise in future, it is essential that necessary clarity and certainty is provided for in the Act. Accordingly, it is proposed to amend the Act to provide that, in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the

permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply. Accordingly, the PE in India shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

These amendments shall be effective from 1<sup>st</sup> April, 2016 and will, accordingly, apply to the assessment year 2016-17 and subsequent assessment years.

[Clause 5]

#### **Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions**

Under the provisions of section 11 of the Act, the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust is that the income derived from property held under trust should be applied for the charitable purposes in India. Where such income cannot be applied during the previous year, it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section. While 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the prescribed Form 10 to the assessing Officer in this regard and the money so accumulated or set apart is invested or deposited in the specified forms or modes. If the accumulated income is not applied in accordance with these conditions, then such income is deemed to be taxable income of the trust or institution.

In order to remove the ambiguity regarding the period within which the assessee is required to file Form 10, and to ensure due compliance of the above conditions within time, it is proposed to amend the Act to provide that the said Form shall be filed before the due date of filing return of income specified under section 139 of the Act for the fund or institution. In case the Form 10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable rate. Further, the benefit of accumulation would also not be available if return of income is not furnished before the due date of filing return of income.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clauses 8 & 9]

#### **Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) of the Act**

Under the provisions of section 10 of the Act, exemption under sub-clause (iiiab) and (iiiac) of clause (23C), subject to specified conditions, is available to such university or educational institution, hospital or other institution which is wholly or substantially financed by the Government.

Under the existing provisions of section 139, all entities whose income is exempt under clause (23C) of section 10, other than those referred to in sub-clauses (iiiab) and (iiiac) of the said clause, are mandatorily required to file their return of income.

It is proposed to amend the Act in order to provide that entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be mandatorily required to file their return of income.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 34]

#### **Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India**

The provisions of sub-section (1) of section 6 provide the conditions under which an individual is held to be resident in India. The determination is based, *inter alia*, on the number of days during which such individual has been in India during a previous year.

In the case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens.

In view of the above, it is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

This amendment will take effect retrospectively from 1<sup>st</sup> April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 4]

### **Rationalising the provisions of section 115JB**

The existing provisions contained in section 115JB of the Act provide that in the case of a company, if the tax payable on the total income as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after the 1<sup>st</sup> day of April, 2012, is less than eighteen and one-half percent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be eighteen and one-half percent of its book profit. This tax is termed as minimum alternate tax (MAT). Explanation below sub-section (2) of section 115JB provides that the expression “book profit” means net profit as shown in the profit and loss account prepared in accordance with the provisions of the Companies Act, or in accordance with the provisions of the Act governing a company as increased or reduced by certain adjustments, as specified in the section.

Section 86 of the Act provides that no income-tax is payable on the share of a member of an AOP, in the income of the AOP in certain circumstances. However, under the present provisions, a company which is a member of an AOP is liable to MAT on such share also since such income is not excluded from the book profit while computing the MAT liability of the member. In the case of a partner of a firm, the share in the profits of the firm is exempt in the hands of the partner as per section 10(2A) of the Act and no MAT is payable by the partner on such profits.

In view of the above, it is proposed to amend the section 115JB so as to provide that the share of a member of an AOP, in the income of the AOP, on which no income-tax is payable in accordance with the provisions of section 86 of the Act, should be excluded while computing the MAT liability of the member under 115JB of the Act. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

Further, vide Finance Act (No.2), 2014 it was provided that any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be capital asset. Consequently, the income arising to a Foreign Institutional Investor from transactions in securities would always be in the nature of capital gains.

It is, therefore, proposed to amend the provisions of section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

In view of the above,

- a new clause (iib) is proposed to be inserted in Explanation 1 so as to provide that the amount of income, being the share of income of an assessee on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the section. Further by inserting a new clause (fa) in Explanation 1 it is proposed that the book profit shall be increased by the amount or amounts of expenditure relatable to the above income.
- A new clause (iic) is also proposed to be inserted in Explanation 1 so as to provide that the amount of income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992, if any such amount is credited to the profit and loss account, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the section. Further by inserting a new clause (fb) in Explanation 1, it is proposed that the book profit shall be increased by the amount or amounts of expenditure relatable to the above income.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clause 29]*

### **Amendments relating to Global Depository receipts (GDRs)**

The Depository Receipts Scheme, 2014 has been notified by the Department of Economic affairs (DEA) vide Notification F.No.9/1/2013–ECB dated 21<sup>st</sup> October, 2014. This scheme replaces “Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through depository receipt mechanism) Scheme, 1993”.

The current taxation scheme of income arising in respect of depository receipts under the Act is aligned with the earlier scheme which was limited to issue of Depository Receipts (DRs) based on the underlying shares of the company issued for this purpose (i.e sponsored GDR) or FCCB of the issuing company and where the company was either a listed company or was to list simultaneously. Besides, the holder of such DRs was a non-resident only.

As per the new scheme, DRs can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc; Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted. DRs can be freely held and transferred by both residents and non-residents.

Since the tax benefits under the Act were intended to be provided in respect of sponsored GDRs and listed companies only, it is proposed to amend the Act in order to continue the tax benefits only in respect of such GDRs as defined in the earlier depository scheme.

These amendments will take effect from the 1<sup>st</sup> day of April, 2016 and will, accordingly, apply to the assessment year 2016-17 and subsequent assessment years.

[Clause 28]

### Settlement Commission

The existing provision contained in clause (b) of section 245A of the Act defines a case for the purpose of Chapter XIX-A as any proceeding for assessment under this Act, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application under sub-section (1) of section 245C is made. The *Explanation* to the said clause provides for deemed commencement of proceedings under different situations.

Clause (i) of the *Explanation* to clause (b) of section 245A provides that the proceeding for assessment or reassessment under section 147 of the Act is deemed to commence from the date of issue of notice under section 148 of the Act. It has been observed that issue relating to escapement of income is often involved in more than one assessment year. In such case the assessee becomes eligible to approach Settlement Commission only for the assessment year for which notice under section 148 has been issued. Therefore, to take the proceeding for all other assessment years where there is escapement, the assessee becomes eligible only after notice under section 148 has been issued for all such assessment years.

In order to obviate the need for issue of notice in all such assessment years for commencement of pendency, it is proposed to amend clause (i) of the said *Explanation* to provide that where a notice under section 148 is issued for any assessment year, the assessee can approach Settlement Commission for other assessment years as well even if notice under section 148 for such other assessment years has not been issued. However, a return of income for such other assessment years should have been furnished under section 139 of the Act or in response to notice under section 142 of the Act.

The existing provision contained in clause (iv) of the *Explanation* provides that a proceeding for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iii a), shall be deemed to have commenced from the 1<sup>st</sup> day of the assessment year and concluded on the date on which the assessment is made.

It is proposed to amend clause (iv) of the *Explanation* to provide that a proceeding for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iii a), shall be deemed to have commenced from the date on which a return of income is furnished under section 139 or in response to notice under section 142 and concluded on the date on which the assessment is made or on the expiry of two years from the end of relevant assessment year, in a case where no assessment is made.

The existing provision contained in sub-section (6B) of section 245D of the Income-tax Act provides that the Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4).

There is no provision for additional time where the assessee or the Commissioner files an application for rectification towards the end of the limitation period. Accordingly, it is proposed to amend sub-section (6B) of section 245D of the Income-tax Act to provide that the Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4),-

- (a) at any time within a period of six months from the end of month in which the order was passed;
- (b) on an application made by the Principal Commissioner or Commissioner before the end of period of six months from the end of month in which the order was passed, at any time within a period of six months from the end of month in which such application was made.

The existing provision contained in sub-section (1) of section 245H of the Income-tax Act provides that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, immunity from prosecution.

As immunity is provided from prosecution by the Settlement Commission, it is proposed to amend sub-section (1) of section 245H of the Income-tax Act so as to provide that the Settlement Commission while granting immunity to any person shall record the reasons in writing in the order passed by it.

The existing provision contained in sub-section (1) of section 245HA of the Income-tax Act provides for abatement of proceedings in different situations.

It is proposed to amend sub-section (1) of section 245HA of the Income-tax Act to provide that where in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed without providing the terms of settlement the proceedings before the Settlement Commission shall abate on the day on which such order under sub-section (4) of section 245D was passed.

The existing provision contained in section 245K of the Income-tax Act, provides that where an application of a person has been allowed to be proceeded with under sub-section (1) of section 245D, then such person shall not be subsequently entitled to make an application before Settlement Commission. It further provides that in certain situations the person shall not be entitled to apply for settlement before Settlement Commission.

The restriction is presently applicable to a person. Therefore, an individual who has approached the Settlement Commission once can subsequently approach again through an entity controlled by him. This defeats the purpose of restricting the opportunity of approaching the Settlement Commission only once for any person. Accordingly, it is proposed to amend section 245K of the Income-tax Act to provide that any person related to the person who has already approached the Settlement Commission once, also cannot approach the Settlement Commission subsequently. The related person with respect to a person means,-

- (i) where such person is an individual, any company in which such person holds more than fifty percent. of the shares or voting power at any time, or any firm or association of person or body of individual in which such person is entitled to more than fifty percent of the profits at any time, or any Hindu undivided family in which such person is a karta;
- (ii) where such person is a company, any individual who held more than fifty percent. of the shares or voting power in such company at any time before the date of application before the Settlement Commission by such person;
- (iii) where such person is a firm or association of person or body of individual, any individual who was entitled to more than fifty percent. of the profits in such firm, association of person or body of individual, at any time before the date of application before the Settlement Commission by such person;
- (iv) where such person is an Hindu undivided family, the karta of that Hindu undivided family.

The existing provision contained in section 132B of the Income-tax Act, provides that the asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of existing liability under the Income-tax Act, the Wealth-tax Act etc. and the amount of liability determined on completion of assessment.

It is proposed to amend section 132B of the Income-tax Act to provide that the asset seized under section 132 or requisitioned under section 132A may also be adjusted against the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C.

These amendments will take effect from 1<sup>st</sup> day of June, 2015.

*[Clauses 35, 57, 58, 59, 60 & 61]*

**Orders passed by the prescribed authority under section sub-clauses (vi) and (via) of clause (23C)  
of section 10 made appealable before Income-tax Appellate Tribunal**

Sub-clause (vi) of clause (23C) of section 10 provides that any income received by a person on behalf of any university or other educational institution existing solely for educational purposes and not for purpose of profit and which may be approved by the prescribed authority is not liable to tax. Similarly, sub-clause (via) of clause (23C) of section 10 provides that any income received by a person on behalf of any hospital or other institution for treatment of persons suffering from illness or mental defectiveness or treatment of persons during convalescence or persons requiring medical attention, existing solely for philanthropic purposes and not for the purpose of profit is not liable for tax if such hospital or institution is approved by the prescribed authority.

The existing provisions contained in sub-section (1) of section 253 of the Income-tax specify orders that are appealable before ITAT. Order passed by the prescribed authority under sub-clauses (vi) and (via) of clause (23C) of section 10 is not included in this sub-section.

The decision of the prescribed authority to refuse to grant approval can have significant implications for the educational or medical institution under the Income-tax Act. Further, under a comparable provision an order for refusal to register a charitable trust is appealable before the Appellate Tribunal.

Accordingly, it is proposed to amend the said sub-section (1) of section 253 so as to provide that an assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or (via) of section 10(23C) may appeal to the Appellate Tribunal.

This amendment will take effect from 1<sup>st</sup> day of June, 2015.

[Clause 63]

**Assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned.**

Section 153C of the Act relates to assessment of income of any other person. The existing provisions contained in sub-section (1) of the said section 153C provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

Disputes have arisen as to the interpretation of the words "belongs to" in respect of a document as for instance when a given document seized from a person is a copy of the original document. Accordingly, it is proposed to amend the aforesaid section to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing belongs to, or any books of account or documents seized or requisitioned pertain to, or any information contained therein, relates to, any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

This amendment will take effect from the 1<sup>st</sup> day of June, 2015.

[Clause 36]

**Simplification of approval regime for issue of notice for re-assessment**

Section 151 of the Act provides for sanction from certain authorities before issue of notice for reassessment of income under section 148. Under certain specified circumstances, the Assessing Officer is required to obtain sanction before issue of notice under section 148. Section 151 specifies different sanctioning authorities based on- (i) whether scrutiny under sub-section (3) of section 143 or section 147 has been made earlier or not, (ii) whether notice is proposed to be issued within or after four years from the end of relevant assessment year, and (iii) the rank of the Assessing Officer proposing to issue notice.

To bring simplicity, it is proposed to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

This amendment will take effect from 1<sup>st</sup> day of June, 2015.

[Clause 35]

**Interest for defaults in payment of advance tax in case of re-assessment and where additional income is disclosed before the Settlement Commission under section 245C**

The existing provisions contained in clause (3) of section 234B of the Income-tax Act provides that where the total income is increased on reassessment under section 147 or section 153A the assessee shall be liable for interest at the rate of 1 per cent. on the amount of the increase in total income for the period commencing from date of determination of total income under sub-section (1) of section 143 or on regular assessment and ending on the date of reassessment under section 147 or section 153A.

Interest is charged under section 234B on the principle that the amount of tax determined on the total income determined under section 143(1) or on assessment or reassessment or total income declared in a settlement application was the tax payer's true liability right from the beginning and it was with reference to that amount the advance tax should have been paid within the prescribed due date.

Accordingly, it is proposed to amend clause (3) of section 234B of the Income-tax Act to provide that the period for which the interest is to be computed will begin from the 1<sup>st</sup> day of April next following the financial year and end on the date of determination total income under section 147 or section 153A.

The existing provision contained in sub-section (4), *inter alia*, provide that where on an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) or sub-section (3) is increased or reduced, the interest shall be increased or reduced accordingly. However, in case an application is filed before the Settlement Commission under section 245C declaring an additional amount of income-tax, there is no specific provision in section 234B for charging interest on that additional amount.

Accordingly, it is proposed to insert a new subsection (2A) so as to provide that where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1<sup>st</sup> day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section. Further, where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1<sup>st</sup> day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.

These amendments will take effect from 1<sup>st</sup> day of June, 2015.

[Clause 56]

#### **Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue**

The existing provisions contained in sub-section (1) of section 263 of the Income-tax Act provides that if the Principal Commissioner or Commissioner considers that any order passed by the assessing officer is erroneous in so far as it is prejudicial to the interests of the Revenue, he may, after giving the assessee an opportunity of being heard and after making an enquiry pass an order modifying the assessment made by the assessing officer or cancelling the assessment and directing fresh assessment.

The interpretation of expression "erroneous in so far as it is prejudicial to the interests of the revenue" has been a contentious one.

In order to provide clarity on the issue it is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

- (a) the order is passed without making inquiries or verification which, should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment will take effect from 1<sup>st</sup> day of June, 2015.

[Clause 65]

#### **Clarification regarding deduction of tax from payments made to transporters**

Under the existing provisions of section 194C of the Act payment to contractors is subject to tax deduction at source (TDS) at the rate of 1% in case the payee is an individual or Hindu undivided family and at the rate of 2% in case of other payees if such payment exceeds Rs. 30,000 or aggregate of such payment in a financial year exceeds Rs. 75,000. Prior to 1.10.2009, section 194C of the Act provided for exemption from TDS to an individual transporter who did not own more than two goods carriage at any time during the previous year. Subsequently, Finance (No.2) Act, 2009 substituted section 194C of the Act with effect from 1.10.2009, which *inter alia* provided for non- deduction of tax from payments made to the contractor during the course of plying, hiring and leasing goods carriage if the contractor furnishes his Permanent Account Number (PAN) to the payer.

The memorandum explaining the provisions of Finance (No.2) Bill, 2009 indicates that the intention was to exempt only small transport operators (as defined in section 44AE of the Act) from the purview of TDS on furnishing of Permanent Account Number (PAN). Thus, the intention was to reduce the compliance burden on the small transporters. However, the current language of sub-section (6) of section 194C of the Act does not convey the desired intention and as a result all transporters, irrespective of their size, are claiming exemption from TDS under the existing provisions of sub-section (6) of section 194C of the Act on furnishing of PAN.



As there is no rationale for exempting payment to all transporters, irrespective of their size, from the purview of TDS, it is proposed to amend the provisions of section 194C of the Act to expressly provide that the relaxation under sub-section (6) of section 194C of the Act from non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to a contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e. a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.

This amendment will take effect from 1<sup>st</sup> June, 2015.

[Clause 43]

#### **Rationalisation of provisions relating to deduction of tax on interest (other than interest on securities)**

Section 194A(1) read with section 194A(3)(i) of the Act provide for deduction of tax on interest (other than interest on securities) over a specified threshold, i.e. Rs.10,000 for interest payment by banks, co-operative society engaged in banking business (co-operative bank) and post office and Rs.5,000 for payment of interest by other persons. Further, sub-section (3) of section 194A *inter alia* also provides for exemption from deduction of tax in respect of following interest payments by co-operative society:

- (i) Interest payment by a co-operative society to a member thereof or any other co-operative society. [Section 194A(3)(v) of the Act]
- (ii) Interest payments on deposits by a primary agricultural credit society or primary credit society or co-operative land mortgage bank or co-operative land development bank. [Section 194A(3)(vii)(a) of the Act]
- (iii) Interest payment on deposits other than time deposit by a co-operative society engaged in the business of banking other than those mentioned in section 194A(3)(vii)(a) of the Act. [Section 194A(3)(vii)(b) of the Act]

Therefore, as per the provisions of section 194A(1) read with provisions of sections 194A(3)(i)(b) and 194A(3)(vii)(b), co-operative bank is required to deduct tax from interest payment on time deposits if the amount of such payment exceeds specified threshold of Rs.10,000/-. However, as the provisions of section 194A(3)(v) of the Act provide a general exemption from making tax deduction from payment of interest by all co-operative societies to its members, the co-operative banks tried to avail this exemption by making their depositors as members of different categories. This has led to dispute as to whether the co-operative banks, for which the specific provisions of tax deduction exist in the form of section 194A (1), section 194A(3)(i)(b) and section 194A(3)(vii)(b) of the Act, can take the benefit of general exemption provided to all co-operative societies from deduction of tax on payment of interest to members. The matter has been carried to judicial forums and in some cases a view has been taken that the provisions of section 194A(3)(vii)(b) of the Act makes no distinction between members and non-members of co-operative banks for the purposes of deduction of tax, hence, the co-operative banks are required to deduct tax on payment of interest on time deposit and cannot avoid the same by taking the plea of the general exemption provided under section 194A(3)(v) of the Act. This is because the specific provision of tax deduction provided under section 194A(3)(i)(b) and 194A(3)(vii)(b) of the Act for co-operative banks override the general exemption provided to all co-operative societies for non-deduction of tax from interest payment to members under section 194A(3)(v) of the Act.

As there is no difference in the functioning of the co-operative banks and other commercial banks, the Finance Act, 2006 and Finance Act, 2007 amended the provisions of the Act to provide for co-operative banks a taxation regime which is similar to that for the other commercial banks. Therefore, there is no rationale for treating the co-operative banks differently from other commercial banks in the matter of deduction of tax and allowing them to avail the exemption meant for smaller credit co-operative societies formed for the benefit of small number of members. However, as mentioned earlier, a doubt has been created regarding the applicability of the specific provisions mandating deduction of tax from the payment of interest on time deposits by the co-operative banks to its members by claiming that general exemption provided is also applicable for payment of interest to member depositors. In view of this, it is proposed to amend the provisions of the section 194A of the Act to expressly provide from the prospective date of 1<sup>st</sup> June, 2015 that the exemption provided from deduction of tax from payment of interest to members by a co-operative society under section 194A(3)(v) of the Act shall not apply to the payment of interest on time deposits by the co-operative banks to its members.

However, the existing exemption provided under section 194A(3)(vii)(a) of the Act to primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank from deduction of tax in respect of interest paid on deposit shall continue to apply. Therefore, these co-operative credit societies/banks referred to in said clause (vii)(a) would not be required to deduct tax on interest payment to depositors even after the proposed amendment. Further, the existing exemption provided under section 194A(3)(v) of the Act from deduction of tax from interest paid by a co-operative society to another co-operative society shall continue to apply to the co-operative bank and, therefore, a co-operative bank shall not be required to deduct tax from the payment of interest on time deposit to a depositor, being a co-operative society.

The existing provision of TDS on payment of interest by banking company or co-operative bank applies only to the interest payment on time deposits made on or after the 1<sup>st</sup> day of July, 1995. The definition of "time deposits" provided in the section 194A of the Act excludes recurring deposit from its scope. Therefore, payment of interest on recurring deposits by banking company

or co-operative bank is currently not subject to TDS. The recurring deposit is also made for a fixed tenure and, therefore, the same is akin to time deposit. It is, therefore, proposed to amend the definition of 'time deposits' so as to include recurring deposits within its scope for the purposes of deduction of tax under section 194A of the Act. However, the existing threshold limit of Rs 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

Currently, provisions of proviso to section 194A(3)(i) of the Act provide that the interest income for the purpose of deduction of tax by the banking company or the co-operative bank or the public company shall be computed with reference to a branch of these entities. As currently, most of these entities are computerised and follow core banking solutions for crediting interest, there is no rationale for continuing branch wise calculation of interest by the entities who have adopted core banking solutions. It is, therefore, proposed to amend the provisions of section 194A of the Act to provide that the computation of interest income for the purposes of deduction of tax under section 194A of the Act should be made with reference to the income credited or paid by the banking company or the co-operative bank or the public company which has adopted core banking solutions.

Under section 194A(3)(ix) of the Act, tax is not required to be deducted from the interest credited or paid on the compensation amount awarded by the Motor Accident Claim Tribunal if the amount of such interest credited or paid during a financial year does not exceed Rs.50,000/-. Finance (No.2) Act, 2009 amended the provisions of section 56 of the Act as well as substituted section 145A of the Act to, *inter alia*, provide that interest income received on compensation or enhanced compensation shall be deemed to be the income of the year in which the same has been received. However, the existing provisions of section 194A of the Act provides for deduction of tax from interest paid or credited on compensation, whichever is earlier. Section 145A (b) of the Act provides an exception to method of accounting contained in section 145 of the Act and mandates for taxation of interest on compensation on receipt basis only. Therefore, deduction of tax on such interest on mercantile/accrual basis results into undue hardship and mismatch. It is, therefore, proposed to amend the provisions of section 194A of the Income-tax Act, 1961 to provide that deduction of tax under section 194A of the Act from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs.50,000/-.

These amendments will take effect from 1<sup>st</sup> June, 2015.

[Clause 42]

### **Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)**

Under Chapter XVII-B of the Act, a person is required to deduct tax on certain specified payment at the specified rate if the payment exceeds the specified threshold. The person deducting tax ('the deductor') is required to file a quarterly Tax Deduction at Source (TDS) statement containing the details of deduction of tax made during the quarter by the prescribed due date. Similarly, under Chapter XVII-BB of the Act, a person is required to collect tax on certain specified receipts at the specified rates. The person collecting tax ('the collector') also is required to file a quarterly Tax Collection at Source (TCS) statement containing the details of collection of tax made during the quarter by the prescribed due date.

In order to provide effective deterrence against delay in furnishing of TDS/TCS statement, the Finance Act, 2012 inserted section 234E in the Act to provide for levy of fee for late furnishing of TDS/TCS statement. The levy of fee under section 234E of the Act has proved to be an effective tool in improving the compliance in respect of timely submission of TDS/TCS statement by the deductor or collector.

Finance (No.2) Act, 2009 inserted section 200A in the Act which provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 243E was inserted after the insertion of section 200A in the Act, the existing provisions of section 200A of the Act does not provide for determination of fee payable under section 234E of the Act at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act.

Currently, the provisions of sub-section (3) of section 200 of the Act enable the deductor to furnish TDS correction statement and consequently, section 200A of the Act allows processing of the TDS correction statement. However, currently, there does not exist any provision for allowing a collector to file correction statement in respect of TCS statement which has been furnished. It is, therefore, proposed to amend the provisions of section 206C of the Act so as to allow the collector to furnish TCS correction statement.

Currently, there does not exist any provision in the Act to enable processing of the TCS statement filed by the collector as available for processing of TDS statement. As the mechanism of TCS statement is similar to TDS statement, it is proposed to insert a provision in the Act for processing of TCS statements on the line of existing provisions for processing of TDS statement contained in section 200A of the Act. The proposed provision shall also incorporate the mechanism for computation of fee payable under section 234E of the Act.

Under the existing provisions of the Act, after processing of TDS statement, an intimation is generated specifying the amount payable or refundable. This intimation generated after processing of TDS statement is (i) subject to rectification under section 154 of the Act; (ii) appealable under section 246A of the Act; and (iii) deemed as notice of demand under section 156 of the Act. As the intimation generated after the proposed processing of TCS statement shall be at par with the intimation generated after processing of TDS statement, it is, further, proposed to provide that intimation generated after processing of TCS statement shall also be—

- (i) subject to rectification under section 154 of the Act;
- (ii) appealable under section 246A of the Act; and
- (iii) deemed as notice of demand under section 156 of the Act.

Further, as the intimation generated after proposed processing of TCS statement shall be deemed as a notice of demand under section 156 of the Act, the failure to pay the tax specified in the intimation shall attract levy of interest as per the provisions of section 220(2) of the Act. However, section 206C (7) of the Act also contains provisions for levy of interest for non-payment of tax specified in the intimation to be issued. To remove the possibility of charging interest on the same amount for the same period of default both under section 206C (7) and section 220(2) of the Act, it is proposed to provide that where interest is charged for any period under section 206C (7) of the Act on the tax amount specified in the intimation issued under proposed provision, then, no interest shall be charged under section 220(2) of the Act on the same amount for the same period.

Under the existing scheme of payment of TDS and TCS, Government deductors/collectors are allowed to make payment of tax deducted/collected by them without production of challan i.e. through book entry. For payment of tax deducted/collected through book entry, the Drawing and Disbursing Officer (DDO) intimates the TDS/TCS amount to the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer (PAO/TO/CDDO) who credits the TDS/TCS amount to the credit of Central Government through book entry. For generating credit for TDS/TCS paid through book entry by the Government deductors, a system of capturing information from PAO/TO/CDDO has been introduced by amending rule 30 and rule 37CA of the Income-tax Rules, 1962 with effect from 1.4.2010. The said rules provide that the PAO/TO/CDDO shall file the detail of payment of TDS/TCS made through book entry in the prescribed Form 24G. This system of reporting of payment of TDS/TCS made through book entry has improved the mechanism of reporting of TDS/TCS by the Government deductor to some extent. However, in the absence of any specific provisions in the Act for enforcing the same, it has been noticed that in a large number of cases, PAO/TO/CDDOs do not file Form 24G in prescribed time. Delay in furnishing of the Form 24G results into delay in furnishing of the TDS/TCS statement by the DDO. In order to improve the reporting of payment of TDS/TCS made through book entry and to make existing mechanism enforceable, it is proposed to amend the provisions of sections 200 and 206C of the Act to provide that where the tax deducted [including paid under section 192(1A)] / collected has been paid without the production of a challan, the PAO/TO/CDDO or any other person by whatever name called who is responsible for crediting such sum to the credit of the Central Government, shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority or the person authorised by such authority by verifying the same in the prescribed manner and setting forth prescribed particulars. To ensure compliance of this proposed obligation of filing statement, it is proposed to amend the provisions of section 272A of the Act so as to provide for a penalty of Rs.100/- for each day of default during which the default continues subject to the limit of the amount deductible or collectible in respect of which the statement is to be furnished.

Under section 192 of the Act, the person responsible for paying (DDO) income chargeable under the head “salaries” under the Act is authorised to allow certain deductions, exemptions or allowances or set-off of certain loss as per the provisions of the Act for the purposes of estimating income of the assessee or computing the amount of the tax deductible under the said section. The evidence/proof/particulars for some of the deductions/exemptions/allowances/set-off of loss claimed by the employee such as rent receipt for claiming exemption of HRA, evidence of interest payments for claiming loss from self occupied house property etc. is generally not available with the DDO. In these circumstances, the DDO has to depend upon the evidence/particulars furnished, if any, by the employees in support of their claim of deductions, exemptions, etc. As the existing provisions of the Act do not contain any guidance regarding nature of evidence/documents to be obtained by the DDO, there is no uniformity in the approach of the DDO in this matter. In order to bring clarity in this matter, it is proposed to amend the provisions of section 192 of the Act to provide that the person responsible for paying, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1) of the Act, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner.

The existing provisions of sub-section (6) of section 195 of the Act provide that the person referred to in section 195(1) of the Act shall furnish prescribed information. Section 195(1) of the Act provides that any person responsible for paying any interest (other than interest referred to in sections 194LB or 194LC or 194LD of the Act) or any sum chargeable to tax (not being salary income) to a non-resident, not being a company, or to a foreign company, shall deduct tax at the rates in force. The mechanism of obtaining of information in respect of remittances fulfils twin objectives of ensuring deduction of tax at appropriate rate from taxable remittances as well as identifying the remittances on which the tax was deductible but the payer has failed to deduct the tax. Therefore, obtaining of information only in respect of remittances which the remitter declared as taxable defeats one of the

main principles of obtaining information for foreign remittances i.e. to identify the taxable remittances on which tax was deductible but was not deducted. In view of this, it is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, whether chargeable to tax or not, to a non-resident, not being a company, or to a foreign company, shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed. Further, currently there is no provision for levying of penalty for non-submission/inaccurate submission of the prescribed information in respect of remittance to non-resident. For ensuring submission of accurate information in respect of remittance to non-resident, it is further proposed to insert a new provision in the Act to provide that in case of non-furnishing of information or furnishing of incorrect information under sub-section (6) of section 195(6) of the Act, a penalty of one lakh rupees shall be levied. It is also proposed to amend the provisions of section 273B of the Act to provide that no penalty shall be imposed under this new provision if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act.

These amendments will take effect from 1<sup>st</sup> June, 2015.

[Clauses 37, 38, 40, 48, 50, 51, 53, 54, 55, 62, 73, 74 & 75]

### **Simplification of Tax Deduction at Source (TDS) mechanism for Employees Provident Fund Scheme (EPFS)**

Under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (EPF & MP Act, 1952), certain specified employers are required to comply with the Employees Provident Fund Scheme, 1952 (EPFS). However, these employers are also permitted to establish and manage their own private provident fund (PF) scheme subject to fulfillment of certain conditions. The provident funds established under a scheme framed under EPF & MP Act, 1952 or Provident Fund exempted under section 17 of the said Act and recognised under the Income-tax Act are termed as Recognised Provident fund (RPF) under the Act. The provisions relating to RPF are contained in Part A of the Fourth Schedule (Schedule IV-A) of the Act. Under the existing provisions of rule 8 of Schedule IV-A of the Act, the withdrawal of accumulated balance by an employee from the RPF is exempt from taxation. However, in order to discourage pre-mature withdrawal and to promote long term savings, it has been provided that such withdrawal shall be taxable if the employee makes withdrawal before continuous service of five years (other than the cases of termination due to ill health, closure of business, etc.) and does not opt for transfer of accumulated balance to new employer. Rule 9 of the said Schedule further provides computation mechanism for determining tax liability of the employee in respect of such pre-mature withdrawal. For ensuring collection of tax in respect of these withdrawals, rule 10 of Schedule IV-A provides that the trustees of the RPF, at the time of payment, shall deduct tax as computed in rule 9 of Schedule IV-A.

Rule 9 of Schedule IV-A of the Act provides that the tax on withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund. The trustees of private PF schemes, being generally part of the employer group, have access to or can easily obtain the information regarding taxability of the employee making pre-mature withdrawal for the purposes of computation of the amount of tax liability under rule 9 of the Schedule-IV-A of the Act. However, at times, it is not possible for the trustees of EPFS to get the information regarding taxability of the employee such as year-wise amount of taxable income and tax payable for the purposes of computation of the amount of tax liability under rule 9 of the Schedule-IV-A of the Act.

It is, therefore, proposed to insert a new provision in Act for deduction of tax at the rate of 10% on pre-mature taxable withdrawal from EPFS. However, to reduce the compliance burden of the employees having taxable income below the taxable limit, it is also proposed to provide a threshold of payment of Rs.30,000/- for applicability of this proposed provision. In spite of providing this threshold for applicability of deduction of tax, there may be cases where the tax payable on the total income of the employees may be nil even after including the amount of pre-mature withdrawal. For reducing the compliance burden of these employees, it is further proposed that the facility of filing self-declaration for non-deduction of tax under section 197A of the Act shall be extended to the employees receiving pre-mature withdrawal i.e. an employee can give a declaration in Form No. 15G to the effect that his total income including taxable pre-mature withdrawal from EPFS does not exceed the maximum amount not chargeable to tax and on furnishing of such declaration, no tax will be deducted by the trustee of EPFS while making the payment to such employee. Similar facility of filing self-declaration in Form No. 15H for non-deduction of tax under section 197A of the Act shall also be extended to the senior citizen employees receiving pre-mature withdrawal.

However, some employees making pre-mature withdrawal may be paying tax at higher slab rates (20% or 30%). Therefore, the shortfall in the actual tax liability *vis-à-vis* TDS is required to be paid by these employees either by requesting their new employer to deduct balance tax or through payment of advance tax / self-assessment tax. For ensuring the payment of balance tax by these employees, furnishing of valid Permanent Account Number (PAN) by them to the EPFS is a prerequisite. The existing provisions of section 206AA of the Act provide for deduction of tax @ 20% in case of non-furnishing of PAN where the rate of deduction of tax at source is specified. As mentioned earlier, there may be employees who are liable to pay tax at the highest slab rate. In order to ensure the collection of balance tax by these employees, it is also proposed that non-furnishing of PAN to the EPFS for receiving these payments would attract deduction of tax at the maximum marginal rate.

These amendments will take effect from 1<sup>st</sup> June, 2015.

[Clauses 41 & 49]

### **Amendment to the conditions for determining residency status in respect of Companies**

The existing provisions of section 6 of the Act provides for the conditions under which a person can be said to be resident in India for a previous year. In respect of a person being a company the conditions are contained in clause (3) of section 6 of the Act. Under the said clause, a company is said to be resident in India in any previous year, if-

- (i) it is an Indian company; or
- (ii) during that year, the control and management of its affairs is situated wholly in India.

Due to the requirement that whole of control and management should be situated in India and that too for whole of the year, the condition has been rendered to be practically inapplicable. A company can easily avoid becoming a resident by simply holding a board meeting outside India. This facilitates creation of shell companies which are incorporated outside but controlled from India. 'Place of effective management' (POEM) is an internationally recognized concept for determination of residence of a company incorporated in a foreign jurisdiction. Most of the tax treaties entered into by India recognise the concept of 'place of effective management' for determination of residence of a company as a tie-breaker rule for avoidance of double taxation. Many countries prefer the POEM test to be appropriate test for determination of residence of a company. The principle of POEM is recognized and accepted by Organisation of Economic Cooperation and Development (OECD) also. The OECD commentary on model convention provides definition of place of effective management to mean the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole, are, in substance, made.

The modification in the condition of residence in respect of company by including the concept of effective management would align the provisions of the Act with the Double Taxation Avoidance Agreements (DTAAs) entered into by India with other countries and would also be in line with international standards. It would also be a measure to deal with cases of creation of shell companies outside India but being controlled and managed from India.

In view of the above, it is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-

- (i) it is an Indian company; or
- (ii) its place of effective management, at any time in that year, is in India .

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

Since POEM is an internationally well accepted concept, there are well recognised guiding principles for determination of POEM although it is a fact dependent exercise. However, it is proposed that in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clause 4]*

### **Prescribed conditions relating to maintenance of accounts, audit etc to be fulfilled by the approved in-house R&D facility**

Under section 35(2AB) of the Act, weighted deduction of 200% is allowed to a company engaged in the business of biotechnology or manufacturing of goods (except items specified in Schedule-XI) for the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research carried out in an approved in-house research and development facility. For availing this weighted deduction, the company is required to enter into an agreement with the Secretary, Department of Scientific and Industrial Research (DSIR) and also required to obtain his approval. The Secretary, DSIR is required to send the report regarding approval to DGIT (Exemption) in prescribed Form who generally does not have jurisdiction over the assessee company. Further, the company is required to maintain separate books of account for approved R&D facility and is also required to get the account audited. However, the copy of audit report is required to be submitted to the DSIR only. The Comptroller and Auditor General of India in its report on performance audit of pharmaceuticals sector recommended for rationalisation of the provision relating to monitoring of this weighted deduction. In order to have a better and meaningful monitoring mechanism for weighted deduction allowed under section 35 (2AB) of the Act, it is proposed to amend the provisions of section 35(2AB) of the Act to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed reports. It is also proposed to insert reference of the Principal Chief Commissioner or Chief Commissioner in section 35(2AA) and section 35(2AB) of the Act so that the report referred to therein may be sent to the Principal Chief Commissioner or Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.

These amendments will take effect from 1<sup>st</sup> April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clause 12]*

### **Certain accountants not to give reports/certificates**

The Act contains several provisions (e.g. section 44AB, section 80-IA, section 92E, section 115JB, etc.) which mandate the taxpayers to furnish audit reports and certificates issued by an 'accountant' for ensuring correct reporting/computation of taxable income by the tax payers. Explanation below section 288(2) of the Act defines an 'accountant' as a chartered accountant within the meaning of Chartered Accountants Act, 1949 (including a person eligible to be appointed as auditor under section 226(2) of the Companies Act, 1956, of the companies registered under any State).

The Comptroller and Auditor General of India (C&AG) published its report on "Appreciation of Third Party (Chartered Accountant) Certification in Assessment Proceedings" (No.32 of 2014). In para 3.9 of the Report, it has been stated that the Chartered Accountant Act, 1949 debars an auditor to express his opinion on the financial statement of any business or any enterprise in which he, his relative, his firm or partner in the firm, has substantial interest. However, during the course of audit, it has been noticed that an auditor has furnished his report in Form 56F in respect of a closely held company in which the auditor's brother was the managing director.

To ensure the independence of auditor, sub-section (3) of section 141 of the Companies Act, 2013 contains a list of certain persons who are not eligible for appointment as auditor. The audit/certification function under the Income-tax Act is mainly provided for protecting the interests of revenue. An auditor who is not independent cannot meaningfully discharge his function of protecting the interests of revenue. Therefore, it is proposed to amend section 288 of the Act to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions of sub-section (3) of section 141 of the Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of that company. On similar lines, ineligibility for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of non-company is also proposed to be provided. However, it is proposed to provide that the ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for attending income-tax proceeding referred to in sub-section (1) of section 288 of the Act as authorised representative on behalf of that assessee. It is further proposed to provide that the person convicted by a court of an offence involving fraud shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction. (It is also proposed to revise the definition of 'accountant' in Explanation below section 288(2) of the Act on the lines of definition of 'chartered accountant' in the Companies Act, 2013).

These amendments will take effect from 1<sup>st</sup> June, 2015.

[Clause 77]

### **Amount of tax sought to be evaded for the purposes of penalty for concealment of income under clause (iii) of sub-section (1) of section 271**

Under the existing provision contained in clause (c) of sub-section (1) of section 271 of the Act penalty for concealment of income or furnishing inaccurate particulars of income is levied on the "amount of tax sought to be evaded", which has been defined, *inter-alia*, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income.

Problems have arisen in the computation of amount of tax sought to be evaded where the concealment of income or furnishing inaccurate particulars of income occurs in the computation of income under provisions of section 115JB or 115JC of the Act and also under the provisions other than the provisions of section 115JB or 115JC of the Act (hereafter referred as general provisions). Further, courts have held that penalty under section clause (c) of sub-section (1) of section 271 cannot be levied in cases where the concealment of income occurs under the income computed under general provisions and the tax is paid under the provisions of section 115JB or 115JC of the Act.

Tax paid under the provisions of section 115JB or 115JC over and above the tax liability arising under general provisions is available as credit for set off against future tax liability. Understatement of income and the tax liability thereon under general provisions results in larger amount of such credit becoming available to the assessee for set off in future years. Therefore, where concealment of income, as computed under the general provisions, has taken place, penalty under clause (c) of sub-section (1) of section 271 should be leviable even if the tax liability of the assessee for the year has been determined under provisions of section 115JB or 115JC of the Act.

Accordingly, it is proposed to amend section 271 of the Act so as to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

[Clause 68]

**Cost of acquisition of a capital asset in the hands of resulting company to be the cost  
for which the demerged company acquired the capital asset**

Under clause (vib) of section 47 of the Income-tax Act any capital asset transferred by the demerged company to the resulting company in the scheme of demerger is not regarded as transfer if the resulting company is an Indian company. In such cases the cost of such asset in the hands of resulting company should be cost of such asset in the hands of demerged company as increased by the cost of improvement, if any, incurred by the demerged company. Further, the period of holding of such asset in the hands of resulting company should include the period for which the asset was held by the demerged company. Under the existing provisions of the Income-tax Act, there is no express provision to this effect. Accordingly, it is proposed to amend sub-clause (e) of clause (iii) of sub-section (1) of section 49 of the Income-tax Act to include transfer under clause (vib) of section 47 and to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

This amendment will take effect from 1<sup>st</sup> April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

*[Clause 14]*

## CUSTOMS

- Note: (a) "Basic Customs Duty" means the customs duty levied under the Customs Act, 1962.
- (b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
- (c) "SAD" means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.
- (d) "Export duty" means duty of Customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.
- (e) Clause nos. in square brackets [ ] indicate the relevant clause of the Finance Bill, 2014.

Amendments carried out through the Finance Bill, 2015 come into effect on the date of its enactment unless otherwise specified.

### AMENDMENTS IN THE CUSTOMS ACT, 1962:

- 1) Section 28 is being amended so as to:
  - (i) Insert a proviso in sub-section (2) thereof to provide that in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed if the amount of duty along with interest leviable under section 28AA or the amount of interest, as the case may be, as specified in the notice, is paid in full within 30 days from the date of receipt of the notice and the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded;
  - (ii) Provide that in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable shall be 15% instead of the present 25%;
  - (iii) Insert Explanation 3 to provide that where a notice under clause (a) of sub-section (1) or sub-section (4) of section 28, as the case may be, has been served but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, then, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within 30 days from the date on which such assent is received. *[Clause 80]*
- 2) Section 112 provides for penalty for improper importation of goods, etc. Section 112 is being amended so as to substitute sub-clause (ii) of clause (b) to provide that any person who acquires possession of or is in any way concerned with or in any other manner deals with any dutiable goods, other than prohibited goods, which he knows or has reasons to believe are liable to confiscation under section 111, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded of ₹5000, whichever is greater. It is also being provided that in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful mis-statement or suppression of facts, if the duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be 25% of the penalty so determined. *[Clause 81]*
- 3) Section 114 provides for penalty for attempt to export goods improperly, etc. Section 114 is being amended so as to substitute clause (ii) to provide that any person who, in relation to any dutiable goods, other than prohibited goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded of ₹5000, whichever is greater. It is also being provided that in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful mis-statement or suppression of facts, if the duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be 25% of the penalty so determined. *[Clause 82]*
- 4) The proviso to clause (b) of section 127A relating to the provisions of Settlement Commission is being amended to delete the reference to "in appeal or revision, as the case may be" so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement. *[Clause 83]*
- 5) Sub-section (1A) to Section 127B provides that in case of applications made prior to 1st day of June 2007, and where no order under section 127C(1) has been made before said date, the applicant shall pay the amount so ordered by the Settlement Commission within thirty days from 1st day of June 2007 failing which his application shall be liable to be rejected.



The actual operation of the said section provided for the payments to be made within thirty days from 1st day of June 2007. Hence, the said section has become redundant and is being omitted. *[Clause 84]*

- 6) Sub-section (6) of section 127C provides that in respect of the applications filed before 31st day of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 127C latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant. Therefore, the said sub-section is being amended so as to omit the phrase "in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of application made on or after the 1st day of June, 2007". *[Clause 85]*
- 7) Section 127E provides that Settlement Commission can reopen the completed proceedings in certain conditions. As per the first proviso to the said section no proceedings can be reopened after five years from the date of application, and as per second proviso to the said section Settlement Commission cannot reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007, thus making this section redundant. Therefore, this section is being omitted. *[Clause 86]*
- 8) Explanation to sub-section (1) of section 127H provides that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessary been disposed of by 29th day of February 2008, the said explanation has become redundant. Hence, the said Explanation is being omitted. *[Clause 87]*
- 9) Section 127L provides the situations in which the person in whose case the order has been passed by the Settlement Commission cannot again approach the Settlement Commission. When the said section was amended in 2007, the said section made distinction in respect of the orders passed prior the commencement of section 102 of the Finance Act, 2007 and after that. In respect of the cases decided after the said commencement, the applicant was barred from making subsequent applications, whereas in the cases decided prior to that he could have made the application if his case was not covered by any of the clauses mentioned in sub-section (1). However, vide the amendments made by the Finance Act, 2010, even in cases decided after commencement of section 102 of the Finance Act, 2007 the applicant was allowed to approach Settlement Commission if not hit by any of the clauses to sub-section (1). Thus, clause (i) and (ii) of sub-section (1) to section 127L are being amended so as to delete the phrase "passed under sub-section (7) of the section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of the section 32F" as the same have become redundant. *[Clause 88]*

#### **AMENDMENT IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975:**

- 1) The tariff rate of basic customs duty on bituminous coal is being reduced from 55% to 10%.
- 2) The tariff rate of basic customs duty on goods falling under all the tariff items of Chapters 72 and 73 that is iron and steel and articles of iron or steel, is being increased from 10% to 15%. However, there is no change in the existing effective rates of basic customs duty on these goods.
- 3) The tariff rate of basic customs duty on goods falling under all the tariff items of heading 8702 that is motor vehicles for the transport of ten or more persons, including the driver and 8704 that is motor vehicles for the transport of goods, is being increased from 10 to 40%. The effective Basic Customs duty on such Vehicles is being increased from 10% to 20%. However, customs duty on such vehicles in Completely Knocked Down (CKD) condition and electrically operated vehicles of heading 8702 including those in CKD condition will continue to be at 10%. *[Clause 89]*

The above changes will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

#### **A. Proposals involving changes in rates of duty:**

##### **I. CHEMICALS AND PETROCHEMICALS**

- 1) Basic Customs Duty on ulexite ore is being reduced from 2.5% to Nil.
- 2) Basic Customs duty on isoprene and liquefied butane is being reduced from 5% to 2.5%.
- 3) Basic Customs Duty on ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM) is being reduced from 2.5% to 2%.
- 4) Basic Customs Duty on butyl acrylate is being reduced from 7.5% to 5%.
- 5) Basic Customs Duty on anthraquinone is being reduced from 7.5% to 2.5%.
- 6) Basic Customs Duty on antimony metal and antimony waste and scrap is being reduced from 5% to 2.5%.
- 7) SAD on naphtha, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM) for manufacture of excisable goods is being reduced from 4% to 2%.

##### **II. FERTILISERS**

- 1) Basic Customs Duty on sulphuric acid for the manufacture of fertilizers is being reduced from 7.5% to 5%.

**III. INFRASTRUCTURE**

- 1) The Scheduled rates of Additional Duty of Customs levied on imported Motor Spirit [Petrol] and High Speed Diesel Oil [commonly known as Road Cess] are being increased from ₹2 per litre to ₹8 per litre. The effective rates of Additional Duty of Customs levied on imported Motor Spirit [Petrol] and High Speed Diesel Oil [commonly known as Road Cess] are being increased from ₹2 per litre to ₹6 per litre only.

**IV. ORES and METALS:**

- 1) Export duty on upgraded ilmenite is being reduced from 5% to 2.5%.
- 2) Basic Customs Duty on metallurgical coke is being increased from 2.5% to 5%.
- 3) SAD on melting scrap of iron & steel including stainless steel scrap for melting, copper scrap, brass scrap and aluminium scrap is being reduced from 4% to 2%.
- 4) The tariff rate of basic customs duty on goods falling under all the tariff items of Chapters 72 and 73 that is iron and steel and articles of iron or steel, is being increased from 10% to 15%. However, there is no change in the existing effective rates of basic customs duty on these goods.

**V. ELECTRONICS/HARDWARE:**

1. All goods except populated printed circuit boards, falling under any Chapter of Customs Tariff, for use in the manufacture of ITA Bound Items, are being fully exempted from SAD, subject to actual user condition;
2. Excise duty structure for mobile handsets including cellular phones is being changed from 1% without CENVAT credit or 6% with CENVAT credit to 1% without CENVAT credit or 12.5% with CENVAT credit. NCCD of 1% on mobile handsets including cellular phone, remains unchanged.
3. Excise duty structure of 2% without CENVAT credit or 12.5% with credit is being prescribed for tablet computers. Parts, components and accessories (falling under any Chapter) for use in the manufacture of tablet computers and their sub-parts for use in the manufacture of parts, components and accessories are being fully exempted from BCD, CVD and SAD, subject to actual user condition.
4. Basic Customs Duty on 'metal parts' for use in the manufacture of electrical insulators is being reduced from 10% to 7.5%, subject to actual user condition.
5. Basic Customs Duty on Ethylene-Propylene-non-conjugated-Diene Rubber (EPDM), Water blocking tape and Mica glass tape, for use in the manufacture of insulated wires and cables, is being reduced from 10% to 7.5%, subject to actual user condition.
6. Basic Customs Duty on magnetron of upto 1 KW for use in the manufacture of domestic microwave ovens is being reduced from 5% to Nil, subject to actual user condition.
7. Basic Customs Duty on zeolite, ceria zirconia compounds and cerium compounds for use in the manufacture of washcoats, which are used in manufacture of catalytic converters, is being reduced from 7.5% to 5%, subject to actual user condition.
8. Basic Customs Duty on specified components for use in the manufacture of specified CNC lathe machines and machining centres is being reduced from 7.5% to 2.5%, subject to actual user condition.
9. Basic Customs Duty on C-Block for Compressor, Over Load Protector (OLP) & Positive thermal co-efficient and Crank Shaft for compressor for use in the manufacture of Refrigerator compressors is being reduced from 7.5% to 5%.
10. Basic Customs Duty on specified inputs for use in the manufacture of flexible medical video endoscope is being reduced from 5% to 2.5%.
11. Basic Customs Duty on HDPE for use in the manufacture of telecommunication grade optical fibre cables is being reduced from 7.5% to Nil, subject to actual user condition.
12. Basic Customs Duty on Black Light Unit Module for use in the manufacture of LCD/LED TV panels is being reduced from 10% to Nil, subject to actual user condition.
13. Basic Customs Duty on Organic LED (OLED) TV panels is being reduced from 10% to Nil.
14. CVD and SAD are being fully exempted on specified raw materials [battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in the manufacture of pacemakers, subject to actual user condition.
15. SAD on inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps is being fully exempted, subject to actual user condition.
16. Basic Customs Duty on Digital Still Image Video Camera capable of recording video with minimum resolution of 800x600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence, using the maximum storage (including the expanded) capacity and parts and components for use in the manufacture of such cameras is being reduced to Nil.

**VI. RENEWABLE ENERGY:**

- 1) Basic Customs Duty is being fully exempted on Evacuated Tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system, subject to actual user condition.
- 2) Basic Customs Duty on Active Energy Controller (AEC) for use in the manufacture of Renewable Power System (RPS) Inverters is being reduced to 5%, subject to certification by MNRE.

**VII. AUTOMOBILES:**

- 1) The tariff rate of Basic Customs Duty on Commercial Vehicles is being increased from 10% to 40%. The effective Basic customs duty on such Vehicles is being increased from 10% to 20%. However, customs duty on such vehicles in Completely Knocked Down (CKD) condition and electrically operated vehicles of heading 8702 including those in CKD condition will continue to be at 10%.
- 2) Concessional customs duties of Nil Basic Customs Duty, 6% excise/CVD and Nil SAD on specified goods for use in the manufacture of Electrically operated vehicles and Hybrid motor vehicles, presently available upto 31.03.2015, are being extended upto 31.03.2016.

**VIII. HEALTH:**

- 1) Basic Customs Duty and CVD is being fully exempted on artificial heart (left ventricular assist device).

**IX. MISCELLANEOUS:**

- 1) Parts and components of cash dispenser and automatic bank note dispensers [heading 8473 40] are exempt from Basic Customs Duty. However, since the classification of parts was not mentioned in the relevant notification, there were doubts about the scope of the exemption for parts of cash dispenser and automatic bank note dispensers. As the 'parts and components of cash dispensers and automatic bank note dispensers' were specifically included in the description of goods even though their classification was not, it is clarified that the benefit of exemption from Basic Customs Duty was available to parts and components of cash dispenser and automatic bank note dispensers. Prospectively, the S. No. 408 of the Notification No. 12/2012- Customs dated 17-3-2012 is being amended to include the classification [8473 40] of parts and components of cash dispensers and automatic bank note dispensers.
- 2) S. No. 507 of Notification No. 12/2012-Customs dated 17-3-2012 prescribes Nil BCD and NIL CVD for goods imported for setting up a Mega Power Project specified in List No. 32A of the said Notification. In case of imports for a project for which the certificate regarding Mega Power Project status is provisional, the exemption is, inter alia, subject to condition that importer furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipt for a period of 66 months. This condition is also applicable to imports under S. No. 508 of Notification No. 12/2012-Customs dated 17-3-2012 .
- 3) Bulk drugs used in the manufacture of the specified drugs (listed in the table annexed to the exemption notification) are either exempt from BCD or attract concessional rate of 5% BCD, under Sl. No. 148(B) and 147(B) respectively of notification No 12/2012-Customs, if the procedure as laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 is followed by the importers. Further, these bulk drugs used in the manufacture of the specified drugs are also exempt from excise duty, under S. No. 108 (B) of the notification 12/2012- CE, provided the procedure laid down in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, is followed. In this context, clarification has been sought whether a separate certificate issued under the above mentioned Central Excise Rules is required when a similar certificate under the above mentioned Customs Rules issued from the same jurisdictional Central Excise officer is already produced. It is being clarified that there is no need to separately comply with *Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 for the purposes of availing of the CVD exemption* under notification No.12/2012-CE, if the *procedure as laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rule, 1996* is already followed by the importer for availing exemption / concession from BCD on the same bulk drug.
- 4) Notification No.12/2012-Customs [S.No.148(C)] fully exempts Basic Customs Duty and CVD leviable on life saving drugs and medicines imported by an individual for personal use subject to the Condition No.10, which stipulates that importer produces a certificate (in prescribed form) issued by the Director General or Deputy Director General or Assistant Director General, Health Services, New Delhi, Director of Health Services of the State Government or the District Medical Officer/Civil Surgeon of the district, in each individual case, that the goods are life saving drugs or medicines. The prescribed Form is being amended so as to provide that such certificate shall be valid for a period of one year in case of patients who have to import such drugs and medicines on a regular basis.
- 5) CVD and SAD exemption on specified goods imported for use by Security Printing and Minting Corporation of India Limited (SPMCIL) are being withdrawn.

## EXCISE

### AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

- 1) Sub section (3) of Section 3A, which empowers the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods, is being amended so as to insert an Explanation to provide that factor relevant to production includes factors relevant to production, so as to enable the Central Government to specify more than one factor relevant to the production of such goods. *[Clause 90]*
- 2) Section 11A is being amended so as to:
  - (i) Remove from the statute the category of cases where extended period of time applies but the transactions are recorded in the specified record;
  - (ii) Amend the provision relating to relevant date to provide definition of relevant date in respect of cases where a return is not filed on the due date and where only interest is required to be recovered.
  - (iii) Provide that the provisions of section 11A shall not apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed and that in such cases recovery of duty shall be made in such manner as may be prescribed in the rules. *[Clause 91]*
- 3) Section 11AC is being substituted so as to rationalize the penalty as follows:
  - (iv) in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner,-
    - a) in addition to the duty as determined under sub-section (10) of section 11A, a penalty not exceeding 10% of the duty so determined or ₹5000 whichever is higher shall be payable;
    - b) if duty and interest payable thereon under section 11AA is paid either before issue of show cause notice or within 30 days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of said duty and interest shall be deemed to be concluded;
    - c) if duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the penalty so imposed shall be payable, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and
    - d) if the duty amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if duty, interest and reduced penalty is paid within 30 days of such appellate order.
  - (v) in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner,-
    - a) in addition to the duty as determined under sub-section (10) of section 11A, a penalty equal to the duty so determined shall be payable. In respect of cases where the details relating to such transactions are recorded in the specified record for the period beginning with 8<sup>th</sup> April, 2011 and upto the date of assent to the Finance Bill, 2015, the penalty payable shall be 50% of the duty so determined.
    - b) if duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice, the amount of penalty payable shall be 15% of the duty demanded, provided that such reduced penalty is also paid 30 days of communication of show cause notice and all proceedings in respect of said duty and interest shall be deemed to be concluded;
    - c) if duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the duty so determined, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and
    - d) if the duty amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if duty, interest and reduced penalty is paid within 30 days of such appellate order. *[Clause 92]*
- 4) The proviso to sub-section (c) of section 31 relating to the provisions of Settlement Commission is being amended to delete the reference to “in appeal or revision, as the case may be” so as to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement. *[Clause 93]*

- 5) The proviso to sub-section (3) of section 32 provides that where a Member of the Central Board of Excise & Customs is appointed as the Chairman, Vice Chairman or Member of the Settlement Commission, he shall cease to be a member of the Board. As per the amended Customs and Central Excise Settlement Commission (Recruitment and Conditions of Service of Chairman, Vice Chairman and Members) Rules, 2000, Members of the Board are not eligible to be Member of the Settlement Commission. Hence, the proviso is redundant and is being omitted. *[Clause 94]*
- 6) Section 32B is being amended so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman in the absence of the Chairman of the Settlement Commission. *[Clause 95]*
- 7) Sub-section (1A) to section 32E provides that in case of applications made prior to 1st day of June 2007, and where no order under section 32F (1) has been made before said date or applicant has not paid the amount so ordered by the Settlement Commission shall within thirty days from 1st day of June 2007 pay the accepted duty liability failing which his application shall be liable to be rejected. Since the actual operation of the said section provides for the payments to be made within thirty days from 1st day of June 2007, the said sub-section has become redundant and is being omitted. *[Clause 96]*
- 8) Sub-section (6) of section 32F provides that in respect of the applications filed before 31st day of May, 2007, Settlement Commission shall pass the final order of settlement under sub-section (5) of section 32F latest by 29th February 2008 and in cases filed after 31st day of May, 2007, within nine months. Since all the applications filed before 31st day of May, 2007 shall have been necessarily disposed of by 29th day of 2008, the reference to the said dates have become redundant. Therefore, the said sub-section has been amended so as to omit the phrase "in respect of an application filed on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of application made on or after the 1st day of June, 2007". *[Clause 97]*
- 9) Section 32H provides that Settlement Commission can reopen the completed proceedings in certain conditions. As per the first proviso to the said section no proceedings can be reopened after five years from the date of application, and as per second proviso to the said section Settlement Commission cannot reopen any proceedings in respect of an application made after 1st day of June 2007. Thus, Settlement Commission has no powers to reopen any completed proceedings after expiry of five years from 1st day of June 2007, thus making this section redundant. Therefore, this section is being omitted. *[Clause 98]*
- 10) Explanation to sub-section (1) of section 32K provides that in respect of the applications filed on or before 31st day of May 2007, Settlement Commission shall decide the applications as if the amendments made in the said section were not in force. Since all the applications filed by 31st day of May, 2007 have necessarily been disposed of by 29th day of February 2008, the said Explanation has become redundant and hence, is being omitted. *[Clause 99]*
- 11) Section 32O provides the situations in which the person in whose case the order has been passed by the Settlement Commission cannot again approach the Settlement Commission. When the said section was amended in 2007, the said section made distinction in respect of the orders passed prior the commencement of section 122 of the Finance Act, 2007 and after that. In respect of the cases decided after the said commencement, the applicant was barred from making subsequent applications, whereas in the cases decided prior to that he could have made the application if his case was not covered by any of the clauses mentioned in sub-section (1). However vide the amendments made by the Finance Act, 2010, even in cases decided after commencement of section 122 of the Finance Act, 2007 the applicant was allowed to approach Settlement Commission if not hit by any of the clauses to sub-section (1). Thus, clauses (i) and (ii) of sub-section (1) of section 32O are being amended so as to omit the phrase "passed under sub-section (7) of the section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of the section 32F" as the same have become redundant. *[Clause 100]*
- 12) Sub-sections (4) and (5) of section 37 are being amended so as to increase the penalty from ₹2000 to ₹5000. *[Clause 101]*
- 13) S.No.205A of notification No.12/2012-CE dated 17-3-2012 exempts railway or tramway track construction material of iron and steel from payment of excise duty on the value of rails, subject to condition that such rails have suffered excise duty and no credit of duty paid on them is taken under the CENVAT Credit Rules, 2004. This exemption is being made applicable retrospectively for the period from 17.03.2012 to 02.02.2014. *[Clause 102]*
- 14) The Third Schedule to the Central Excise Act, 1944 is being amended in the manner as specified in clause 105. *[Clause 103]*

The change at Para 1) and 14) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

#### **Proposals involving changes in rates of duty:**

#### **AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985:**

- 1) Education Cess and Secondary & Higher Education Cess leviable on excisable goods are being fully exempted. Simultaneously, the standard ad valorem rate of duty of excise (i.e. CENVAT) is being increased from 12% to 12.5%.
- 2) Duty of excise on "waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured" falling under Chapter sub-heading 2202 10 is being increased from 12% to 18%.

- 3) Duty of excise on cigarettes is being increased by 25% for cigarettes of length not exceeding 65 mm and by 15% for cigarettes of other lengths. Increase in duty rates is also proposed on cigars, cheroots and cigarillos.
- 4) Excise duty on cut tobacco is being increased from ₹60 per kg to ₹70 per kg.
- 5) Tariff rate of excise duty on goods falling under Chapter sub-heading 2523 29 is being increased from ₹900 per tonne to ₹1000 per tonne.
- 6) Tariff rate of excise duty on high speed diesel (HSD) falling under tariff item 2710 19 30 is being increased from 14% + ₹5 per litre to 14% + ₹15 per litre. However, there is no change in the aggregate of various duties of excise on high speed diesel (HSD).
- 7) Tariff rate of excise duty on sacks and bags (including cones) of plastics falling under tariff items 3923 21 00, 3923 29 10 and 3923 29 90 is being increased from 12% to 18%.

[Clause 104]

The changes at 1) to 7) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

## I. PETROLEUM

1. The Schedule Rates of the Additional Duty of Excise (commonly known as Road Cess) levied on Petrol and High Speed Diesel Oil is being increased from ₹2 per litre to ₹8 per litre. The effective rates of the Additional Duty of Excise (commonly known as Road Cess) levied on Petrol and High Speed Diesel Oil is being increased from ₹2 per litre to ₹6 per litre only. [Clause 163 and 164]
2. Education Cess and Secondary and Higher Education Cess, presently applicable to petroleum products, including petrol and High Speed Diesel, are being exempted.
3. Rates of duty of excise (CENVAT) on Petrol and High Speed Diesel Oil (both branded and unbranded) are also being revised.
4. Tables below summarizes the changes in various duties applicable to petrol and diesel:

Duty rates applicable prior upto 28.02.2015					Duty rates applicable with effect from 01.03.2015				
CENVAT Rs. / Litre	SAED Rs. / Litre	AED Rs. / Litre	Education Cesses (as % of aggregate of duties of excise)	Total Rs. / Litre	CENVAT	SAED	AED	Edu- cation Cesses	Total
<b>Unbranded petrol</b>									
8.95	6	2	3%	17.46	5.46	6	6	NIL	17.46
<b>Branded petrol</b>									
10.10	6	2	3%	18.64	6.64	6	6	NIL	18.64
<b>Unbranded Diesel</b>									
7.96	NIL	2	3%	10.26	4.26	NIL	6	NIL	10.26
<b>Branded Diesel</b>									
14% +Rs. 5 /litre or Rs. 10.25 /litre, whichever is lower	NIL	2	3%	12.62	6.62	NIL	6	NIL	12.62

Thus, the total incidence of various duties of excise on petrol and diesel remains unchanged.

## II. FOOD PROCESSING SECTOR:

- 1) All goods falling under Chapter sub-heading 2101 20, including iced tea, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 30%.
- 2) Goods, such as lemonade and other beverages, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 35%.
- 3) Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is being levied on condensed milk put up in unit containers. Condensed milk is also being notified under section 4A of the Central Excise Act for the purpose of valuation with reference to the Retail Sale Price with an abatement of 30%.
- 4) Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is being levied on peanut butter.

**III. AUTOMOBILES:**

- 1) Excise duty on chassis for ambulances is being reduced from 24% to 12.5% subject to actual user condition.
- 2) Concessional excise duty of 6% on specified goods for use in the manufacture of electrically operated vehicles and hybrid vehicles, presently available upto 31.03.2015, is being extended upto 31.03.2016.

**IV. HEALTH:**

- 1) Excise duty on cigarettes is being increased by 25% for cigarettes of length not exceeding 65 mm and by 15% for cigarettes of other lengths. Excise duty on cigars, cheroots & cigarillos and cigarettes & cigarillos of tobacco substitutes is also being increased.
- 2) Maximum speed of packing machine for packing of notified goods of various retail sale prices is being specified as a factor relevant to production for determining excise duty payable under the Compounded Levy Scheme presently applicable to pan masala, gutkha and chewing tobacco. Accordingly, deemed production and duty payable per machine per month are being notified with reference to the speed range in which the maximum speed of a packing machine falls.

**V. ELECTRONICS/HARDWARE:**

- 1) Excise duty on wafers for manufacture of integrated circuit (IC) modules for smart cards is being reduced from 12% to 6%, subject to actual user condition.
- 2) Excise duty on inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps, is being reduced from 12% to 6%, subject to actual user condition.
- 3) Excise duty structure for mobiles phones is being changed from 1% without CENVAT credit or 6% with credit to 1% without credit or 12.5% with credit. NCCD of 1% on mobile phones remains unchanged.
- 4) Excise duty structure of 2% without CENVAT credit or 12.5% with credit is being extended to tablet computers. Parts, components and accessories (falling under any Chapter) for use in manufacture of tablet computers and their sub-parts for use in manufacture of parts, components and accessories are being fully exempted from excise duty, subject to actual user condition.
- 5) Excise duty on specified raw materials [battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in manufacture of pacemakers is being fully exempted, subject to actual user condition.
- 6) Suitable amendment is being carried out to expressly provide that LED lights or fixtures including LED lamps are liable to assessment of excise duty with reference to retail sale price. Similar changes are being made in the Third Schedule to the Central Excise Act, 1944.

**VI. RENEWABLE ENERGY**

- 1) Excise duty on pig iron SG grade and Ferro-silicon-magnesium for manufacture of Cast components of wind operated electricity generators is being fully exempted, subject to certification by MNRE in this regard.
- 2) Excise duty structure of NIL without CENVAT credit or 12.5% with credit is being prescribed for solar water heater and system.
- 3) Excise duty on round copper wire and tin alloys for manufacture of Solar PV ribbon for manufacture of solar PV cells is being fully exempted subject to certification by Department of Electronics and Information Technology (DeitY).

**VII. CONSUMER GOODS**

- 1) Excise duty on leather footwear (footwear with uppers made of leather of heading 4107 or 4112 to 4114), of Retail Sale Price of more than ₹ 1000 per pair is being reduced from 12% to 6%.
- 7) The entry "waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured" in the Seventh Schedule to the Finance Act, 2005 related to levy of additional duty of excise @ 5% is being omitted. Till the enactment of the Finance Bill, 2015, the said additional duty of excise of 5% leviable on such goods is being exempted. Simultaneously, the Basic Excise Duty rate on these goods is being increased from 12% to 18%.

**VIII. SWACHH BHARAT AND ENERGY SECTOR**

- 1) The Schedule Rate of Clean Energy Cess, levied on coal, lignite and peat, is being increased from ₹ 100 per tonne to ₹ 300 per tonne. The effective rate of Clean Energy Cess is being increased from ₹ 100 per tonne to ₹ 200 per tonne. The increase in rate of Clean Energy Cess will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. [Clause 188]
- 2) Excise duty on sacks and bags of polymers of ethylene, other than for industrial use, is being increased to 15%.

## IX. EASE OF DOING BUSINESS AND MOVEMENT TOWARDS GST

- 1) Education Cess and Secondary & Higher Education Cess leviable on excisable goods are being subsumed in Basic Excise duty. Consequently, Education Cess and Secondary & Higher Education Cess leviable on excisable goods are being fully exempted. The standard ad valorem rate of Basic Excise Duty is being increased from 12% to 12.5% and specific rates of Basic Excise Duty on petrol, diesel, cement, cigarettes & other tobacco products (other than biris) are being suitably changed. **However, the total incidence of various duties of excise on petrol and diesel remains unchanged.** Other Basic Excise Duty rates (ad valorem as well as specific) are not being changed. Education Cess and Secondary & Higher Education Cess levied on imported goods as a duty of customs, however, will continue.

## X. MISCELLANEOUS:

- 1) Full exemption from excise duty is being extended to captively consumed intermediate compound coming into existence during the manufacture of Agarbattis. Agarbattis attract NIL excise duty.
- 2) S. No. 337 of Notification No. 12/2012-CE dated 17-3-2012 provided Nil excise duty on goods for setting up Ultra Mega Power Project specified in List No. 10 of the said Notification. In case of goods for a Project for which certificate regarding Ultra Mega Power Project status is provisional, the exemption is subject interalia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 42 months.
- 3) S. No. 338 of Notification No. 12/2012-CE dated 17-3-2012 provided Nil excise duty on goods for setting up Mega Power Project specified in List No. 11 of the said Notification. In case of goods for a Project for which certificate regarding Mega Power Project status is provisional, the exemption is subject interalia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 66 months.
- 4) Goods manufactured domestically and supplied against International Competitive Bidding are eligible for full excise duty exemption provided that such goods when imported attract Nil Basic Customs Duty and Nil CVD [S.No.336 of notification No.12/2012-CE dated 17.03.2012 read with Condition No.41]. The condition is being amended so as to provide that if imported goods are eligible for Nil Basic Customs Duty and Nil CVD subject to certain conditions, then the said conditions shall also apply mutatis mutandis to such goods when manufactured domestically and supplied against International Competitive Bidding for the purposes of availing of the said excise duty exemption.

## MISCELLANEOUS

- 1) The Second Schedule to the Finance (No.2) Act, 1998 which deals with levy of Additional Duty of Excise and Additional Duty of Customs (commonly known as Road Cess) on Motor Spirit commonly known as Petrol is being amended so as to increase the Scheduled rate from ₹2 per litre to ₹8 per litre. The effective rate of Additional Duty of Excise and Additional Duty of Customs (commonly known as Road Cess) on Motor Spirit commonly known as Petrol is being increased from ₹2 per litre to ₹6 per litre. *[Clause 163]*
- 2) The Second Schedule to the Finance Act, 1999 which deals with levy of Additional Duty of Excise and Additional Duty of Customs (commonly known as Road Cess) on High Speed Diesel oil is being amended so as to increase the Scheduled rate from ₹2 per litre to ₹8 per litre. The effective rate of Additional Duty of Excise and Additional Duty of Customs (commonly known as Road Cess) on High Speed Diesel oil is being increased from ₹2 per litre to ₹6 per litre. *[Clause 164]*
- 3) The Seventh Schedule to the Finance Act, 2005 is being amended so as to omit the entry relating to levy of Additional Duty of Excise of 5% ad valorem on waters, including mineral waters and aerated waters containing added sugar. *[Clause 184]*
- 4) The Tenth Schedule to the Finance Act, 2010 dealing with Clean Energy Cess is being amended so as to increase the Scheduled rate of Clean Energy Cess from ₹100 per tonne to ₹ 300 per tonne. The effective rate of Clean Energy Cess is being increased from ₹100 per tonne to ₹ 200 per tonne. *[Clause 188]*

The changes at Para 1), 2) and 4) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.



# SERVICE TAX

## 1. Change in Service Tax rate:

- The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax.

## 2. Swachh Bharat Cess:

- An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.

## 3. Broadening of tax base:

### (A) Review of the Negative List [Amendment in the Finance Act, 1994]

- Service Tax to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places. The Negative List entry that covers access to amusement facility is being omitted [section 66D (j)]. Consequently, the definition of "amusement facility" [section 65B(9)] is also being omitted.

These proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than ₹ 500 for right to admission to such an event. For this purpose, the Negative List Entry that covers admission to entertainment events is being omitted [section 66D (j)]. Consequently, the definition of "entertainment event" [section 66B (24)] is being omitted.

However, the existing exemption to service by way of admission to entertainment events, namely, "exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued, irrespective of the amount charged for such service, through the route of exemption. For this purpose a new entry is being inserted in Notification No. 25/2012-ST, dated 20.6.2012.

The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing /job work for production of potable liquor for a consideration. In this context, the definition of the term "process amounting to manufacture or production of goods" [section 65B (40)] is being amended with a consequential amendment in S. No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.

The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

- Presently, services provided by the Government or a local authority, excluding certain services specified under clause (a) of section 66D, are in the Negative List. Service tax applies on the "support service" provided by the Government or local authority to a business entity. An enabling provision is being made, by amending [section 66D (a)(iv)], to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of "support service" [section 65B(49)] is being omitted.

These amendments shall come into effect from a date to be notified by the Central Government in this regard after the enactment of the Finance Bill, 2015.

Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service Tax .

## (B) Review of general exemptions extended under Notification No. 25/2012-ST, dated 20.6.2012:

- Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority ( vide S. No. 12 of the said notification ) shall be limited only to,-
  - (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
  - (b) canal, dam or other irrigation work; and
  - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn. The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance.
- Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.
- Exemptions are being withdrawn on the following services:
  - (a) services provided by a mutual fund agent to a mutual fund or assets management company,
  - (b) distributor to a mutual fund or AMC,
  - (c) selling or marketing agent of lottery ticket to a distributor.

Service tax on these services shall be levied on reverse charge basis.

- Exemption is being withdrawn on the following service,-
  - (a) Departmentally run public telephone;
  - (b) Guaranteed public telephone operating only local calls; and
  - (c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

All the above changes in notification No. 25/12-ST, dated 20.6.2012 shall come into effect from the 1<sup>st</sup> day of April, 2015.

**4. New Exemptions:**

- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
- Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
- Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of it's members is being exempted.
- Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve is being exempted.
- Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

[All the **above New Exemptions** shall come into effect from the 1<sup>st</sup> day of April, 2015]

**5. New entries being incorporated in notification No. 25/12-ST, to continue exemption to some of the services that are presently covered by the Negative List entries which are being omitted:**

- Service by way of right to admission to,-
  - (i) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - (ii) recognized sporting events.
  - (iii) concerts, pageants, award functions, musical or sporting event not covered by the above exemption, where the consideration for such admission is upto ₹ 500 per person.

These changes shall be brought into effect from the date the amendments being made in the Negative List, concerning the service by way of admission to entertainment events, come into effect.

#### 6. Other changes being incorporated in the Finance Act, 1994

- Services, excluding few specified services, provided by the government have been included in the Negative List. Further, specified services received by the government are also exempt. Hitherto, the term “government” has not been defined in the Act or the notification. This has given rise to interpretational issues. To address such issues, a definition of the term “government” is being incorporated in the Act.
- The intention in law has been to levy Service Tax on the services provided by:
  - (i) chit fund foremen by way of conducting a chit.
  - (ii) distributors or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.

However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.

An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy service tax on activities undertaken by chit fund foremen in relation to chit, and distributors or selling agents of lottery in relation to lotteries.

- Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such service. An illustration is being incorporated in this section to exemplify the scope of this provision.
- Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include:
  - (a) all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision.
  - (b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets;
- Section 73 is being amended in the following manner:
  - (i) a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73,; and
  - (ii) sub-section (4A), that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.
- Section 76 is being amended to rationalize penalty, in cases **not involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,-
  - (i) penalty not to exceed ten per cent of service tax amount involved in such cases;
  - (ii) no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1);
  - (iii) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty ( 25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.
- Section 78 is being amended to rationalize penalty, **in cases involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,-
  - (i) penalty shall be hundred per cent of service tax amount involved in such cases;
  - (ii) penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
  - (iii) a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - (iv) if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

- A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-
  - (i) amended provisions of section 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
  - (ii) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the service tax amount.
- Section 80, that provided for waiver of penalty in specified situations, is being omitted.
- Section 86 is being amended to prescribe that matters involving rebate of service tax shall be dealt with in terms of Section 35EE of the Central Excise Act.

#### **7. Rationalization of Abatements:**

- At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
- At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.
- Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1<sup>st</sup> day of April, 2015.

#### **8. Service Tax Rules:**

- In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.

This change comes into effect immediately i.e. w.e.f. 1.3.2015.

- Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.
- Provision for issuing digitally signed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.
- Rule 6 (6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to amendment in section 73 for enabling such recovery.
- In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules. These amendments shall come into effect as and when the new service tax rate comes into effect.

#### **9. Reverse charge mechanism:**

- Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.

This change will come into effect from 1.4.2015.

- Services provided by mutual fund agents, mutual fund distributors and agents of lottery distributor are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be, by the mutual fund receiving such services. In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.

This change will come into effect from 1.4.2015.

**10. Cenvat Credit Rules, 2004:**

- Rule 4(7) is being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

This change will come into effect from 1.4.2015

**11. Miscellaneous:**

- Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of "intermediary" in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

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**CORRIGENDA**

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