BUSINESS REORGANISATION

Extensive amendments were carried out in the Finance Act, 1999 relating to demerger, amalgamation and slump sale. Some of these provisions are proposed to be rationalised for clarity and to remove implementational difficulties.

Written down value to be the basis of adjustment in regard to transfer in a demerger:

Under the existing provisions contained in Explanations 2A and 2B in clause (6) to section 43, when the block of assets is transferred by the demerged company to the resulting company, the written down value of the block of assets of the demerged company for the immediately preceding year is reduced by the book value of the assets so transferred. In Explanation 2B, it is provided that in the corresponding situation, the written down value of block of assets in the case of resulting company shall be the value of assets as appearing in the books of the demerged company immediately before the demerger. However, if such book value of assets exceeds their written down value, the excess shall be reduced. The above provision has been found to be discriminatory to the demerged company which is denied depreciation on a part of actual cost.

It is proposed to provide that the written down value of the assets, being transferred, shall be the uniform basis of adjustment in the hands of the demerged company as well as the resulting company. [*Clause 17*]

Condition provided for demerger of foreign company holding shares of Indian company made uniform with the similar condition relating to demerger of Indian company

Under the existing provisions contained in sub-clause (a) in clause (vic) of section 47, in the case of demerger of a foreign company holding shares in the Indian company, there shall be no liability of capital gains, if at least seventy-five per cent. of shareholders of the demerged foreign company continue to remain as share holders of the resulting foreign company. The aforesaid conditionality of “at least seventy five per cent. of shareholders" is different from similar condition provided in sub-clause (v) of clause (19AA) of section 2 relating to the definition of demerger, which is stipulated as “three-fourths in value of shares”.

It is, therefore, proposed to amend sub-clause (a), in clause (vic) of section 47 to provide the identical expression of three-fourths in the value of shares. [*Clause 19*]

Clarification regarding value of assets in amalgamation

The existing provisions relating to amalgamation in clause (i) of sub-section (2) of section 72A state that the amalgamated company shall hold continuously for a minimum period of 5 years, at least three-fourths in value of assets of the amalgamating company being acquired in a scheme of amalgamation. Issues have been raised regarding the exact connotation of ‘value’ and ‘assets’ especially whether the assets would include the current assets, which change from day to day.

It is, therefore, proposed to provide that the assets referred in this clause shall mean ‘fixed assets’ and the value, ‘book value’. [*Clause 26*]

Modification in the definition of “net worth” in case of slump sale

Under the existing provisions contained in sub-section (2) of section 50B of the Income-tax Act, the cost of acquisition and the cost of improvement in relation to capital gains of the undertaking or division transferred by way of slump sale shall be “net worth” of the undertaking or division for the purpose of calculating capital gains. ‘Net worth’ has been defined as per Sick Industrial Companies (Special Provisions) Act, 1985 in the Explanation to the section. In Form No. 3CEA notified subsequently, it has been provided that the ‘net worth’ of an undertaking or division shall be derived from the net worth of the transferor company in a proportionate manner on the basis of the fixed assets. It has been pointed out that the above method of calculating the net worth will not be appropriate in all cases. Further, it has no application to non-corporate entities effecting slump sale.

It is, therefore, proposed to substitute the definition of ‘net worth’. It will now be defined as the aggregate of the cost of depreciable assets as reduced from the block of assets of the transferor company in accordance with section 43(6)(c)(i)(C) and the value of other assets transferred as appearing in the books of account , ignoring any revaluation. From this, value of liabilities will be reduced. [*Clause 21*]

Units arising out of splitting up or the reconstruction of any authority or a body or a local authority or a public sector company to be covered under demerger subject to separate conditions to be notified

It is already provided in Explanation 4 of section 2(19AA) of the Income-tax Act that the splitting up or reconstruction of any authority or body constituted under a Central, State or Provincial Act or a local authority or a public sector company into separate bodies or authorities shall be deemed to be demerger on fulfilling the conditions specified in sub-clauses (i) to (vii), to the extent applicable. It has been pointed out that in case of splitting up of these authorities, bodies or companies, the conditions specified in the section to be fulfilled may not be relevant.

It is, therefore, proposed that such splitting up or reconstruction shall be subject to conditions as may be specified by the Central Government.

All these proposed amendments relating to business reorganisation shall take effect retrospectively from 1st day of April, 2000, and will, accordingly, apply in relation to assessment year 2000-2001. [*Clause 3*]

RATIONALISATION OF EXEMPTIONS, CONCESSIONS AND OTHER PROVISIONS

Phasing out of tax concessions in respect of foreign exchange earnings - Sections 10A, 10B, 80HHB, 80HHBA, 80HHC, 80HHD, 80HHE, 80HHF, 80-O, 80R, 80RR and 80RRA.

A large number of fiscal concessions are not compatible with a regime of low tax-rates. To align the tax system broadly with tax systems prevailing in most other countries, it is proposed to rationalize provisions relating to deductions in respect of foreign exchange earnings.

Under section 10A of the Income-tax Act, newly established undertakings in free trade zones are entitled to a tax holiday for a ten year period. Similarly, section 10B of the Income-tax Act provides for a ten year tax holiday in respect of newly established hundred per cent. export oriented undertakings.

Chapter-VIA of the Income-tax Act, provides fiscal concessions for earnings in foreign exchange under different provisions. Under section 80HHB, 80HHBA and 80-O of the Income-tax Act, an assessee, being an Indian company or a person (other than a company) who is a resident in India and has derived income from the business of a foreign project or a housing project awarded to it on the basis of a global tender, or for exploitation of patent, copyright etc., is entitled to a deduction of an amount equal to fifty per cent. of the income.

Similarly, under the existing provisions of section 80HHC, 80HHE and 80HHF of the Income-tax Act, an assessee, being an Indian company or a person (other than a company) who is a resident in India, engaged in the business of exports of goods or merchandise, computer software and export of films etc., is allowed a deduction of the profits derived by it from such export .

Under section 80HHD of the Income-tax Act, an assessee, being an Indian company or a person (other than a company) who is a resident in India, engaged in the business of a hotel or of a tour operator or a travel agent is allowed a deduction, in computing its total income, of a sum equal to -

(i) fifty per cent. of the profits derived from services provided to foreign tourists; and

(ii) so much of the profits as are credited to a reserve fund to be utilized in the manner specified in sub-section (4).

Under section 80R of the Income-tax Act, a professor, teacher or research worker rendering service outside India, is entitled to a deduction from the remuneration received from a foreign university, institution, etc., while computing his income chargeable to tax. This deduction is allowable for an amount equal to seventy five per cent. of such remuneration.

Under section 80RR, a similar deduction is available to an artist, playwright, musician, actor etc., deriving income from a foreign source, in exercise of his profession.

A similar deduction is also available under section 80RRA, to persons in receipt of remuneration from a foreign employer for rendering services outside India.

It is proposed to phase out all the above benefits over a five year period. This would imply that under the provisions of section 80HHC, 80HHE and 80HHF, the assessee would be entitled to a deduction of eighty per cent. in assessment year 2001-2002, sixty per cent. in assessment year 2002-2003, forty per cent. in assessment year 2003-2004, and twenty per cent. in assessment year 2004-2005.

Under section 80HHB, 80HHBA and 80-O, the assessee would be entitled to a deduction of forty per cent. in assessment year 2001-2002, thirty per cent. in assessment year 2002-2003, twenty per cent. in assessment year 2003-2004 and ten per cent. in assessment year 2004-2005.

In those cases where individual assessees are entitled to a deduction of seventy-five per cent. , the deduction would be sixty per cent. in assessment year 2001-2002, forty-five per cent. in assessment year 2002-2003, thirty per cent. in assessment year 2003-2004 and fifteen per cent. in assessment year 2004-2005.

No deduction shall be available under any of these provisions from the assessment year 2005-2006 and subsequent years.

It is also proposed to limit the exemption under section 10A or 10B of the Income-tax Act, to units set up in Free Trade Zones or as Export Oriented Units on or before 31.3.2000. Only the units set up before 1.4.2000 would be entitled to avail the benefit of exemption for the unexpired period. However, units in Free Trade Zones or Export Oriented Units set up on or after 1.4.2000 may avail of benefits available under the modified provisions of section 80HHC or section 80HHE, as the case may be.

The proposed amendment will take effect from 1st April, 2001 and will, accordingly, apply in relation to assessment year 2001-2002 and subsequent years. [*Clauses 6,7,29,30,31,32,33,34,38,39,40,41*]

Minimum Alternate Tax on Companies

As the number of zero tax companies and companies paying marginal tax had grown, Minimum Alternate Tax was levied from assessment year 1997-98. The efficacy of the existing provision has declined in view of the exclusions of various sectors from the operation of MAT and the credit system. It has also led to legal complications. It is, therefore, proposed to put a sunset clause in the existing provision, so that, it is not applicable after assessment year 2000-2001.

In its place, it is proposed to insert a new provision which is simpler in application.

The new provisions provide that all companies having book profits under the Companies Act, prepared in accordance with Part-II and Part- III of Schedule-VI to the Companies Act , shall be liable to pay a minimum alternate tax at a lower rate of 7.5%, as against the existing effective rate of 10.5% of the book profits. These provisions will be applicable to all corporate entities without any exception. However, export profits under section 80HHC, 80HHE and 80HHF are kept out of the purview of this provision during the period of phasing out of deductions available under those provisions. In view of the changes made in the provisions of sections 10A and 10B, those export oriented units and the units in free trade zones, which are set up before 1.4.2000, would be out of the purview of new provisions of MAT.

No credit of MAT paid under the new provision will be available. However, the credit for the brought forward MAT paid under the existing provisions will be allowed against the regular tax payable but not against the tax payable under the new provision.

The proposed amendment will take effect from 1st April, 2001 and will, accordingly, apply in relation to assessment year 2001-2002 and subsequent years. [*Clauses 47,48,49*]

Tax on distributed profits of domestic companies

Under the existing provisions of section 115-O, in addition to the income-tax chargeable in respect of the total income of a domestic company, any amount declared, distributed or paid by way of dividends is charged to additional income-tax at the rate of ten per cent.

It is proposed to amend Section 115-O of the Income-tax Act to increase the tax on distributed profits of domestic companies from ten per cent. to twenty per cent.

The existing provisions of Section 115P of the Income-tax Act, 1961 provide for the levy of simple interest at the rate of 2% per month or part thereof, if the additional income-tax on dividends is not paid within the time allowed under sub-section(3) of section 115-O.

In the Finance Bill 1999, rate of interest to be charged under the Income tax Act for various defaults has been reduced from 2% to 1.5% . Sections 234A and 234B respectively have been amended by the Finance Bill, 1999 w.e.f. 1.6.1999 to reduce the interest charged under these sections from two per cent per month to one and a half per cent. per month.

In view of the above, it is proposed to bring down the rate of interest to be charged under section 115P from two per cent per month to one and a half per cent. per month with effect from 1.6.2000, so that there is uniformity in the rate of penal interest being charged under the Income-tax Act under different provisions.

These amendments will take effect from the 1st day of June, 2000. [*Clauses 50 and 51*]

Tax on income distributed by the Unit Trust of India and Mutual Funds

Under the existing provisions, any amount of income distributed by the Unit Trust of India or by Mutual Funds to their unit holders is chargeable to tax and the Unit Trust of India or Mutual Funds are liable to pay tax on such distributed income at the rate of ten per cent. The provisions of section 115R, which require that the tax at the rate of 10% only is to be paid by the Unit Trust of India and the Mutual Funds on their distributed income from funds other than open ended equity oriented funds, have created a distortion in favour of debt instruments of Unit Trust of India and the Mutual Funds vis-a-vis the bank and company deposits. To lessen the effect of this distortion, the rate of tax is proposed to be increased from 10% to 20%.

It is also proposed to amend section 115R to provide that the person responsible for making payment of the income distributed by the Unit Trust of India or the Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, shall be liable to file a statement in the prescribed form and manner giving details of income distributed to unit holders, tax paid thereon and other relevant details.

Under the existing provisions, Section 115S of the Income tax Act, 1961 provides for the levy of simple interest at the rate of 2% per month or part thereof, if the tax on distributed income is not paid within the time allowed under sub-section(3) of section 115R.

It is proposed to bring down the rate of interest to be charged under section 115S from two per cent. per month to one and a half per cent per month with effect from 1.6.2000, so that there is uniformity in the rate of penal interest being charged under the Income-tax Act under different provisions. [*Clauses 52 and 53*]

Sunset clauses to sections 54EA and 54EB and introduction of a new section 54EC to ensure focused investment of exempted capital gains for rural development and development of highways

Under the existing provisions, sections 54EA and 54EB of the Income-tax Act offer a basket of investment options to absorb taxable capital gains arising from transfer of long-term capital assets. The notified instruments providing the roll-over to capital gains include shares, bonds, units, deposits in banks and various other instruments. The two sections were introduced in 1996 to give incentive to the infrastructure. However, the objective has been diluted in the presence of a large number of varied and diverse instruments. Further, incentives to infrastructure are also available under other sections of the Income-tax Act such as sections 80-IA, 80-IB and 10(23G). In a regime of low tax rate on long-term capital gains, there is very little justification for having such an omnibus basket of exemptions. Therefore, it is proposed to insert sunset clauses to sections 54EA and 54EB limiting their application to transfers of long-term capital asset upto 31.3.2000.

In place of sections 54EA and 54EB, being terminated, a new section namely, 54EC, is proposed to be inserted. The new section will allow exemption from tax to long-term capital gains, if invested in select bonds, targeted exclusively on agricultural and rural finance and highway infrastructure. The instruments in question shall be bonds redeemable after five years issued on or after 1.4.2000 by the National Bank for Agriculture and Rural Development (NABARD) and the National Highways Authority of India (NHAI). The exemption from tax on long-term capital gains shall be to the extent of investment in these bonds.

These bonds will have a lock-in period of five years. Any transfer or conversion of bonds into money during the lock-in period will make the amount so converted as deemed capital gains taxable in the year of transfer or conversion. Such deemed capital gains will also arise, if any loan or advance is taken on the security of these bonds. Further, any amount invested in these bonds will not be eligible for deduction under section 88 of the Income-tax Act.

The proposed amendment will take effect from 1st day of April, 2001 and will, accordingly, apply to the assessment year 2001-2002 and subsequent years. [*Clauses 22, 23 and 24*]

Rationalisation of the definition of Cost Inflation Index

Cost Inflation Index has been defined in clause (v) of Explanation to section 48 of the Income-tax Act to be the Index which the Central Government may notify having regard to seventy-five per cent. of average rise in Consumer Price Index for urban non-manual employees for that year. Since the Index has to be notified in the beginning of the year in relation to transfer of assets to be effected during that year so as to calculate the installment of advance tax payable, it has to be in relation to 1st day of April of that year on the basis of average rise in Index in the preceding previous year. The notifications have been issued all along on this basis. To clarify the issue beyond any doubt, it is proposed to substitute the clause (v) retrospectively to provide that the Cost Inflation Index for any previous year will be such Index as notified by the Central Government having regard to seventy-five per cent of average rise in the Consumer Price Index for urban non-manual employees for the immediately preceding previous year.

The proposed amendment will take effect retrospectively from 1st day of April, 1993. [*Clause 20*]

Income deemed to accrue or arise in India

Under the existing provisions, Section 9 lists the income which is deemed to accrue or arise in India. However, any royalty income in the hands of the non-resident manufacturer received from a resident person or the Government for the transfer of rights in respect of computer software supplied alongwith a computer or computer-based equipment under an approved scheme is excluded from the deeming provisions of Section 9.

The definition of "computer software" is given in Explanation 3 of clause (vi) of sub-section (1) which provides that the expression "computer software" shall have the meaning assigned to it in clause (b) of the explanation to section 80HHE. This however, refers to computer software which is transmitted from India to a place outside India.

It is proposed to substitute the said Explanation so as to provide that the expression "computer software" means any computer programme recorded on any disk, tape, perforated media or other information storage device and includes any such programme or any customised electronic data. The proposed amendment is consequential in nature.

The proposed amendment will take effect from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-2002 and subsequent years. [*Clause 4*]

Orders passed under section 201 of the Income-tax Act made appealable before the Commissioner (Appeals)

Sub-section (1) of section 201 of the Income-tax Act deems the Principal Officer to be the assessee in default in the event of his failure to either deduct the tax or make payment of tax after deduction as required in the Act. In the list of orders against which appeal lies before the Commissioner (Appeals) under section 246A, there is no reference to order under section 201 of the Income-tax Act. In some cases, Appellate Commissioners have declined to entertain appeal against order under section 201. It is proposed to amend section 246A so as to insert a reference to order under section 201 and provide that any appeal filed against an order under section 201 on or after 1st October, 1998 but before 1st June, 2000, shall be deemed to have been filed under this section. It is further proposed to insert sub-section (2A) in section 249 to provide that where an order has been made under section 201 after 1st October, 1998 but before the 1st June, 2000 and the assessee in default has not presented any appeal within the time specified in the sub-section, he may do so before 1st day of July, 2000.

The proposed amendments will take effect from 1st day of June, 2000. [*Clauses 62 and 63*]

Sunset clauses to sub-sections (1) and (2) of section 246 of the Income-tax Act

Section 246 of the Income-tax Act, in sub-sections (1) and (2), lists out the orders passed by the Assessing Officer against which appeal may be filed before the Deputy Commissioner (Appeals) and the Commissioner (Appeals) respectively. Section 246A providing appeals before the Commissioner (Appeals) was introduced by the Finance (No.2) Act, 1998 with effect from 1st October, 1998 in respect of the appeals against orders made before or after the appointed day. The appointed day was notified as 1.10.1998. The introduction of a new section was necessitated by the decision to do away with one appellate level at the level of Deputy Commissioner (Appeals).

When section 246A came into effect from 01.10.1998, no sunset clauses were provided to sub-section (1) and sub-section (2) of section 246 to take care of the pending matters, if any. It is proposed to terminate these sub-sections now by making them inapplicable to appeals filed on or after 1.6.2000. It is also being clarified that any appeal made under sub-section (1) of section 246 of the Income-tax Act, on or after 1.10.98 and before 1.6.2000, shall be deemed to be the appeal filed under sub-section 246A.

The proposed amendments shall take effect from 1st day of June, 2000. *[Clause 61]*

Advisory time limit for the Appellate Tribunal to decide appeals extended to the Departmental appeals

Sub-section (2A) of section 254 provides that the Appellate Tribunal, where it is possible, may hear and decide appeals within a period of four years from the end of the financial year in which the appeal is filed under sub-section (1) of section 253. It refers to appeals filed by the assessee.

It is proposed to extend the advisory time limit to the appeals filed by the Commissioner under sub-section (2) of section 253.

The proposed amendments will take effect from 1st day of June, 2000. *[Clause 64]*

Insertion of reference to section 246A in several sections in the Income-tax Act

Appeal lies before the Commissioner (Appeals) under section 246A of the Income-tax Act. Consequential reference to this section is required at several sections in the Income-tax Act.

It is proposed to insert reference to section 246A in sub-section (3) of section 158BFA, sub-section (6) of section 220, section 267 and sub-section (1) of section 275 of the Income-tax Act.

The proposed amendments will take effect from 1st day of June, 2000. [*Clauses 56, 58, 65 and 66]*

Provisions relating to Authority for Advance Rulings rationalised for resident applicants

The provisions relating to Authority for Advance Rulings were extended to notified categories of resident applicants through amendments carried out by the Finance (No.2) Act, 1998. The definition of advance ruling was broadened to include decision on question of law or fact arising out of the order of assessment. The Central Government has already notified two classes of persons which are public sector companies and persons seeking advance ruling in relation to transaction undertaken or proposed to be undertaken by a resident with a non-resident.

These provisions need to be further streamlined. There is operational difficulty in determining the issue arising out of a transaction proposed to be undertaken by a resident with a non-resident within the existing definitions of applicant and advance ruling. The meaning of advance ruling, defined for the resident applicants, need to be streamlined and broadened to include pre-assessment determination as well as post-assessment decision of issues relating to the computation of total income.

Therefore, it is proposed to amend the meaning of advance ruling and applicant in following terms. Advance ruling shall mean, -

(i) a determination of any question of law or fact arising out of a transaction undertaken or proposed to be undertaken by a non-resident, or

(ii) a determination of any question of law or fact arising out of a transaction undertaken or proposed to be undertaken by a resident with a non-resident, or

(iii) a determination or decision of any question of law or fact relating to the computation of total income pending before any income-tax authority or the Appellate Tribunal.

Similarly, an applicant will include a non-resident, a resident in relation to a transaction with a non-resident and a resident falling in class or category of persons notified by the Central Government.

Under the existing provisions contained in the proviso to sub-section (2) of section 245R, it is, *interalia*, provided that the authority shall not allow an application if the question raised in the application is pending before the income-tax authority, the Appellate Tribunal or any court. However, such exclusion does not apply to resident applicants.

It is proposed to substitute the proviso to provide that the Authority shall not allow the application when the question raised is already pending in the applicant's case before any income-tax authority, Appellate Tribunal or any court in regard to a non-resident applicant and resident applicant in relation to a transaction with a non-resident. However, this bar would be operative for the notified category of resident applicants only when the issue is pending in a court. The existing conditions in clause (b) relating to bar of determination of fair market value of any property will continue. The existing condition in clause (c) relating to an issue designed prima facie for avoidance of income-tax shall not be applicable to the notified category of resident applicants.

The proposed amendments shall take effect from the 1st day of June, 2000. [*Clauses 59 and 60*]

Taxation of arrears of rent in the year of receipt

The scheme of taxing the income from house property under the Income-tax Act involves the concept of 'annual value'. Annual value has been deemed to be the sum for which the property might reasonably be expected to let from year to year or annual rent received or receivable in excess of annual value. Therefore, arrears of rent received subsequently do not fall within the ambit of annual value or annual rent. There is difficulty in taxing such income as income from other sources as they retain the character of income from house property. It is also difficult to include arrears of rent in the relevant years as they were not receivable during those years.

Therefore, it is proposed to insert a new section 25B in the Income-tax Act to provide that if any arrears of rent, other than what has already been taxed under section 23, are received in a subsequent year, the same will be taxed in the year of receipt whether the property is owned by the assessee in the year of receipt or not. A deduction of sum equal to one-fourth of such amount of rent shall be allowed towards repairs and collection of rent.

The proposed amendment will take effect from 01.4.2001 and will, accordingly, apply in relation to assessment year 2001-2002 and subsequent years. [*Clause 12*]

Amendment of Part III of First Schedule to the Finance Act, 1999

Part III of the First Schedule to the Act specifies the rates at which income-tax is to be deducted at source from "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 1999-2000.

It is proposed to amend Part III of the First Schedule to the Finance Act, 1999 so as to provide that surcharge shall be charged on the income referred to in section 115ACA, instead of section 115AC. This amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st April, 1999 [*Clause118*]

Consequential amendments

The Finance Act, 1999 has dispensed with the requirement of approval by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36. As a consequence to this, the Bill proposes to make consequential amendments in sections 10, 11, 35D, 36, 43B, 80L, 88 and 194A of the Income-tax Act.

The proposed amendments will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to the assessment year 2000-2001 and subsequent y ears. [*Clauses 5,8,15,16,18,37,43 and 57*]

Amendments to Kar Vivad Samadhan Scheme, 1998

The provisions of Kar Vivad Samadhan Scheme, 1998, are contained in Chapter IV of the Finance (No.2) Act, 1998. Under section 90 (2) of the Finance (No.2) Act, 1998, the declarant was required to pay the sum determined by the designated authority within 30 days of the passing of the order. The above time-limit has created difficulties in a number of cases, where the taxpayers have interpreted time-limit of 30 days as commencing from the date of receipt of the certificate. Consequently, the payments have been delayed by a few days in these cases. There have been also cases where these certificates of the designated authority have been served late on the declarants denying them adequate time to make the payment. In some cases of delayed payments, the courts have interpreted the time-limit of 30 days as starting from the date of receipt of the order.

To remove hardship and to give statutory recognition to the judicial opinion, it is proposed to retrospectively amend sub-section (2) of section 90 of the Finance (No.2) Act, 1998 to clarify that the limitation of payment within 30 days will commence from the date of receipt of the order of the designated authority determining the sum payable.

Section 88 provides for determination of amount payable for the settlement of tax arrear under various enactments. Clause (e) of this section deals with the determination of amount payable for the settlement of tax arrear under the Interest-tax Act, 1974. Sub-

clause (i) of clause (e) provides that, where the tax arrear consists of chargeable interest, the sum payable shall be determined at two per cent. of the disputed chargeable interest. In sub-clause (ii) of clause (e), it is provided that where the tax arrear includes interest and penalty along with disputed interest, the amount payable will be determined at two per cent of the tax arrear. There is patent anomaly between the two sub-clauses capable of unintended interpretation even though the provisions have been clearly explained as intended in the memorandum explaining the provisions in the Finance (No.2) Act, 1998. Therefore, it is proposed to amend the relevant provisions retrospectively to remove the anomaly.

The proposed amendments will take effect retrospectively from 1st day of September, 1998. [*Clause 117*]

WEALTH TAX

Sunset clauses to sub-sections (1) and (1A) of section 23 of the Wealth-tax Act

Sub-section (1) and sub-section (1A) of section 23 of the Wealth-tax Act list out the orders passed by the Assessing Officer against which appeal may be filed before the Deputy Commissioner (Appeals) and the Commissioner (Appeals). With the abolition of appellate level of Deputy Commissioner (Appeals) and introduction of a new section i.e., section 23A providing appeals before the Commissioner (Appeals) by the Finance (No.2) Act, 1998, with effect from 1st October, 1998, it is proposed to make these sections inapplicable to appeals filed on or after 1.6.2000. It is also being clarified that any appeal made under sub-section (1) of section 23 of the Wealth-tax Act on or after 1.10.98 and before 1.6.2000 shall be deemed to be the appeal filed under section 23A.

The proposed amendments will take effect from 1st day of June, 2000. [*Clause 68*]

Advisory time limit for the Appellate Tribunal to decide appeals extended to the Department appeals

Sub-section (5A) of section 24 of the Wealth-tax Act is proposed to be amended to provide Advisory time limit to the appeals filed by the Commissioner.

The proposed amendment will take effect from 1st day of June, 2000. [*Clause 69*]

Insertion of reference to section 23A in some sections in the Wealth-tax Act

In view of the introduction of section 23A of the Wealth-tax Act by the Finance (No.2) Act, 1998, it is proposed to insert reference to this section in sub-sections (2) and (6) of section 31, sub-section (4B) of section 34A and in clause (c) of sub-section (1) of section 35 of the Wealth-tax Act.

The proposed amendments will take effect from 1st June, 2000. [*Clauses 70,71 & 72*]

INTEREST TAX

Withdrawal of Interest-tax

The Interest-tax Act, 1974 is in operation continuously with regard to interest payable on or after the 1st day of October, 1991. Under the Interest-tax Act, chargeable interest arising to credit institutions meaning the banking companies, public financial institutions, state financial corporations and any other financial company, etc. are subject to interest tax at the rate of 2%.

There is persistent demand from the banks and the financial institutions to abolish interest-tax in order to make the credit cheaper to the borrowers. The Reserve Bank of India has also recommended the termination of interest tax. It is, therefore, proposed to amend section 4 of the Interest-tax Act to provide that the Interest-tax Act shall not be applicable in relation to interest arising to credit institutions on or after the 1st day of April, 2000.

The proposed amendment would take effect from the 1st day of April, 2001 and will, accordingly, apply in relation to assessment year 2001-2002 and subsequent years. [*Clause 73*]