Income-tax

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2003-2004. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2003-2004 from income subject to such deduction 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 2003-2004.

Rates of income-tax for the assessment year 2003-2004

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2003-2004. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2002, 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 2002-2003.

Rates for deduction of tax at source during the financial year 2003-2004 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 2003-2004 from incomes other than "Salaries". These rates are broadly the same as those specified in Part II of the First Schedule to the Finance Act, 2002, for the purposes of deduction of income-tax at source during the financial year 2002-2003. The amount of tax so deducted shall be increased by surcharge—

(*i*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten 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 eight hundred and fifty thousand rupees;

(*ii*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax; and

(*iii*) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

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 2003-2004

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 2003-2004.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. No change is proposed in the rate structure.

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 2003-2004.

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 2003-2004.

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 assessment year 2003-2004.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In the case of companies, the rates of tax will continue to be the same as that specified for the assessment year 2003-2004, *i.e.,* thirty-five per cent. in the case of domestic companies and forty per cent. in the case of foreign companies.

In the case of every person being an individual, Hindu undivided family, association of persons or body of individuals whose income exceeds eight hundred and fifty thousand rupees and where income-tax is to be deducted at source or "advance tax" is payable in accordance with the provisions of this Part, such amount of income-tax after allowing rebate under Chapter VIII-A, is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such tax.

In the case of every artificial juridical person, where income-tax is to be computed in accordance with the provisions of this Part, such amount of income-tax is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such tax.

In the case of every co-operative society, firm, local authority or company where income-tax is to be computed in accordance with the provisions of this Part, such amount of income-tax is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such tax.

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

Under the existing provision contained in sub-clause (xii) of clause (24) of the said section, sums referred to in clause (vii) of section 28 are included in the definition of income.

The proposed amendment seeks to amend the said sub-clause (xii) so as to give reference of clause (va) of section 28. The proposed amendment is consequential in nature.

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

It is further proposed to insert a new sub-clause (h) in clause (i) in *Explanation 1* of clause (42A) of the said section so as to provide that in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included while calculating the period for holding of trading or clearing rights the period, for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation.

It is also proposed to insert a new sub-clause (ha) in clause (i) in *Explanation 1* of clause (42A) of the said section so as to provide that in the case of a capital asset being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included while calculating the period for holding of equity shares in the successor company, the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 4 seeks to amend section 6 of the Income-tax Act relating to residence in India.

Under the existing provision contained in clause (6) of the said section, a person is said to be "not ordinarily resident" in India in any previous year if such person is an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not, during the seven previous years preceding that year, been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more or a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years preceding that year, or has not, during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more.

It is proposed to substitute the said clause (6) so as to provide that a person would be "not ordinarily resident" in India in any previous year if such person is an individual who has been non-resident in India in nine out of the ten previous years preceding that year, or has, during the seven previous years preceding that year, been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less or a Hindu undivided family whose manager has been non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less. The proposed amendment is clarificatory in nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 5 seeks to amend section 9 of the Income-tax Act, relating to income deemed to accrue or arise in India.

Under the existing provisions contained in sub-section (*1*) of section 9, 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. This term has also been referred to in section 163 in relation to an agent. The term "business connection" has, however, not been defined in the Income-tax Act.

It is proposed to insert *Explanation 2* in clause (i) of sub-section (1) of the said section so as to remove any doubts regarding "business connection" and to provide that the expression "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(*i*) has and habitually exercises in India an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or

(*ii*) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(*iii*) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.

The expression "business connection", however, shall not be held to be established in cases where the non-resident carries on business through a broker, general commission agent or any other agent of an independent status, if such a person is acting in the ordinary course of his business.

It is also proposed to insert *Explanation 3* so as to provide that a broker, general commission agent or any other agent (hereafter referred to in this section as commission agent) shall be deemed to have an independent status where such commission agent does not work mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control as that non-resident.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 6 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Under the existing provision contained in clause (*6C*) of the said section, any income arising to a foreign company, notified by the Central Government in the Official Gazette, by way of fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India, is not included in computing its total income.

It is proposed to amend the said clause (*6C*) so as to bring income arising by way of royalty also within the scope of the aforesaid section.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*10C*), any amount received by an employee of a public sector company or any other company or an authority established under a Central, State or Provincial Act or a local authority or a co-operative society or a University or an Indian Institute of Technology or any State Government or the Central Government or an institution, having its importance throughout India or any State or States, as may be specified by the Central Government, by notification in the Official Gazette, or a notified institute of management, at the time of voluntary retirement or termination of his service in accordance with any scheme or schemes of voluntary retirement, or in the case of a public sector company, a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees, is not included in computing the total income of such employee.

It is proposed to amend the said clause (*10C*) so as to provide that any amount, not exceeding five lakh rupees, received or receivable by such employee on his voluntary retirement or termination of his service shall not be included in computing the total income of such employee.

This amendment will take effect from 1st April, 2004, and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*10D*), any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy other than any sum received under sub-section (*3*) of section 80DDA or any sum received under a Keyman insurance policy, shall be exempt.

It is proposed to substitute the said clause, so as, *inter alia*, to provide that any sum received, under an insurance policy in respect of which the premium paid during any year exceeds twenty per cent. of the actual capital sum assured, shall not be exempt. However, such sum received under the proposed sub-clause (*iii*) on the death of a person shall be exempt. It is also proposed to clarify that for the purpose of calculating the actual capital sum assured under this clause, effect shall be given to the *Explanation* to sub-section (*2A*) of section 88 of the Income-tax Act. It is also proposed to provide that any sum received under sub-section (3) of section 80DD shall not be exempt.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to amend item (*g*) of sub-clause (*iv)* of clause (*15*) so as to provide that the interest payable by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company eligible for deduction under clause (*viii*) of sub-section

(*1*) of section 36, on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government only before the 1st day of June, 2003, shall not be included in the total income.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*23BBD*), any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-SECRETARIAT" under the Societies Registration Act, 1860 for a period of three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004, is not to be included in computing its total income.

It is proposed to amend the said clause (*23BBD*) so as to extend the exemption for a further period of four assessment years beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2008.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and three subsequent years.

It is proposed to amend clause (*23D*) so as to give reference of Chapter XII-E in that clause. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (23EB), the income of the Credit Guarantee Fund Trust for Small Scale Industries is exempt from tax for a period of five years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007.

It is proposed to amend the said clause so as to substitute the expression "Credit Guarantee Fund Trust for Small Scale Industries" by "Credit Guarantee Fund Trust for Small Industries". The proposed amendment is of clarificatory nature.

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

It is proposed to exclude dividends referred to in section 115-O from the purview of clause (23FA). The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (23G), any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from investments made by way of shares or long-term finance in any infrastructure undertaking or a housing project is not included in computing its total income. In *Explanation 1* to the said clause, "infrastructure capital company" or "infrastructure capital fund" has been defined to be such company or fund which makes investment in an enterprise wholly engaged in the business of (i) developing, or (ii) maintaining and operating, or (iii) developing, maintaining and operating any infrastructure facility.

It is proposed to exclude dividends referred to in section 115-O from the purview of clause (23G). The proposed amendment is of consequential nature.

It is also proposed to amend the said clause (23G) so as to bring projects for construction of hotels of three star category or more or projects for construction of hospitals with one hundred beds or more in the list of eligible businesses under that clause.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to amend clause (a) of *Explanation 1* to the said clause (23G) so as to provide that an "infrastructure capital company" shall mean such company which has made investments by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business referred to in this clause.

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

It is also proposed to amend clause (b) of *Explanation 1* to the said clause (23G) so as to provide that an "infrastructure capital fund" shall mean such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business referred to in this clause.

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

It is also proposed to amend *Explanation 1* to the said clause (23G) so as to define the expressions "hotel project" and "hospital project" used in that clause.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to insert a new clause (26BBB) in the said section so as to exempt, any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen, being citizens of India. This clause also defines the expression "ex-serviceman" used in that clause.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to insert a new clause (33) in the said section so as to provide that any income arising from the transfer of a capital asset, being a unit of Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 and where the transfer of such assets takes place on or after the 1st day of April, 2002, shall be exempt from tax.

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

It is also proposed to insert clause (34) in the said section so as to provide that any income by way of dividends referred to in section 115-O shall not be included in computing the total income of a previous year of any person.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to insert a new clause (35) in the said section to provide that any income by way of income received in respect of units from the Administrator of the specified undertaking or the specified company or a Mutual Fund specified under clause (23D) shall be exempt. It has also been provided that the clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

It is also proposed to define the expressions "Administrator" and "specified company" used in the said clause.

These amendments will take effect from 1st April, 2004, and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to insert a new clause (36) in the said section so as to provide that any income arising from transfer of a long-term capital asset, being equity share in a company listed in any

recognised stock exchange in India and acquired on or after the 1st day of March, 2003 but before the 1st day of March, 2004, shall be exempt from tax.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 7 seeks to amend section 10A of the Income-tax Act relating to special provision in respect of newly established undertakings in free trade zone, etc.

Under the existing provision contained in sub-section (1) of the said section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years is allowed from the total income of the assessee. However, no deduction is allowable to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years. Sub-section (1A) of the said section provides that an undertaking set up in a special economic zone on or after the 1st day of April, 2003 is eligible for a deduction of hundred per cent. of export profits for five years and fifty per cent. for further two assessment years. Under sub-section (9), no deduction under sub-section (1) is allowed to the assessee where the ownership or the beneficial interest in the undertaking is transferred by any means. However, this condition is not applicable where as a result of the reorganisation of the business, a firm or sole proprietary concern is succeeded by a company.

It is proposed to insert the reference of sub-section (1A) in sub-section (4) of the said section. The proposed amendment is consequential in nature.

It is also proposed to amend sub-section (5) so as to insert the reference of "this section" instead of "sub-section (1)". The proposed amendment is consequential in nature.

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

It is also proposed to omit sub-sections (9) and (9A) and *Explanation 1* occurring below sub-section (9A). It is also proposed to insert a new sub-section (7A) to provide that where a company is transferred to another company under a scheme of amalgamation or demerger, the deduction shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under this section to the amalgamating company or the demerged company for the previous year in which the amalgamation or demerger takes place.

It is also proposed to insert *Explanation 4* at the end so as to provide that for the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 8 seeks to amend section 10B of the Income-tax Act relating to special provisions in respect of newly established hundred per cent. export-oriented undertakings.

Under the existing provision contained in sub-section (1) of the said section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years is allowed from the total income of the assessee. However, no deduction is allowable to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years. Under sub-section (9), no deduction under sub-section (1) is allowed to the assessee where the ownership or the beneficial interest in the undertaking is transferred by any means. However, this condition is not applicable where as a result of the reorganisation of the business, a firm or sole proprietary concern is succeeded by a company.

It is also proposed to omit sub-sections (9) and (9A) and *Explanation 1* occurring below sub-section (9A). It is also proposed to insert a new sub-section (7A) so as to provide that where a company is transferred to another company under a scheme of amalgamation or demerger, the deduction shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under this section to the amalgamating company or the demerged company for the previous year in which the amalgamation or demerger takes place.

It is also proposed to insert *Explanation 4* at the end so as to provide that for the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 9 seeks to amend section 10C of the Income-tax Act relating to special provision in respect of certain industrial undertakings in the North-Eastern Region.

It is proposed to insert a proviso in section 10C so as to provide that no deduction under this section shall be allowed to any such undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 10 seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

Under the existing provision contained in the proviso to sub-section (3A) of the said section, the Assessing Officer shall not allow application of income by way of payment or credit made for the purposes referred to in clause (d) of sub-section (3) of the said section.

It is proposed to insert a second proviso in the said sub-section (3A) so as to provide that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.

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

Clause 11 seeks to amend section 16 of the Income-tax Act relating to deductions from salaries.

Under the existing provision contained in sub-clause (A) of clause (i) of the said section, in the case of an assessee having income from salary up to one lakh fifty thousand rupees before allowing a deduction under this clause, a sum equal to thirty-three and one-third per cent. of the salary or thirty thousand rupees, whichever is less, is allowed as a deduction from his salary. Sub-clause (B) of clause (i) provides that in the case of an assessee having income from salary which is more than one lakh fifty thousand rupees but less than three lakh rupees before allowing a deduction under this clause, a deduction of a sum of twenty-five thousand rupees shall be allowed. Sub-clause (C) of clause (i) provides that in the case of an assessee having income from salary which is more than three lakh rupees but less than five lakh rupees before allowing a deduction under this clause, a deduction of a sum of twenty thousand rupees shall be allowed.

It is proposed to substitute the said clause (i) so as to provide that an assessee whose income from salary, before allowing a deduction under this clause, does not exceed five lakh rupees, shall be allowed a deduction of a sum equal to forty per cent. of the salary or thirty thousand rupees, whichever is less. An assessee whose income from salary, before allowing a deduction under this

clause, exceeds five lakh rupees, shall be allowed a deduction of a sum of twenty thousand rupees.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 12 seeks to amend section 30 of the Income-tax Act relating to rent, rates, taxes, repairs and insurance for buildings.

Under the existing provision contained in sub-clauses (i) and (ii) of clause (a) of the said section, deduction for cost of repairs to the premises occupied by the assessee and the amount paid on account of current repairs to the premises occupied by the assessee, otherwise than as a tenant, is allowed.

It is proposed to insert an *Explanation* after clause (c) of the aforesaid section so as to clarify that the amount paid on account of the cost of repairs and the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 13 seeks to amend section 31 of the Income-tax Act relating to repairs and insurance of machinery, plant and furniture.

Under the existing provision contained in clause (i) of the said section, the amount paid on account of current repairs of machinery, plant or furniture is allowed as deduction under that section.

It is proposed to insert an *Explanation* after clause (ii) of the aforesaid section so as to clarify that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 14 seeks to amend section 33AB of the Income-tax Act relating to Tea Development Account.

Under the existing provision contained in sub-section (1), if an assessee carrying on the business of growing and manufacturing tea in India has, during the previous year, deposited with the National Bank for Agriculture and Rural Development any amount in a special account maintained by such assessee with that Bank in accordance with the scheme approved in this behalf by the Tea Board or if an assessee opens an account, to be known as Tea Deposit Account, in accordance with a scheme framed by the Tea Board with the previous approval of the Central Government, such assessee is allowed a deduction of the amount so deposited during the previous year or forty per cent. of the profits from the business of growing or manufacturing tea in India, whichever is less.

It is proposed to allow deduction under the said section to an assessee carrying on business of growing and manufacturing coffee also.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 15 seeks to amend section 36 of the Income-tax Act relating to certain other deductions allowed under that Act.

Under the existing provision contained in clause (iii) of sub-section (1) of the said section, deduction of interest is allowed in respect of capital borrowed for the purposes of business or profession in the computation of income under the head "Profits and gains of business or profession".

It is proposed to insert a proviso in the said clause so as to provide that no such deduction shall be allowed in respect of any amount of interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not) and such amount of interest is for the period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in sub-clause (a) of clause (viia) of sub-section (1), a scheduled bank (not being a bank incorporated outside India) or a non-scheduled bank is entitled to a deduction of an amount not exceeding seven and one-half per cent. of its gross total income before making any deduction under the said clause and an amount not exceeding ten per cent. of the aggregate average advances made by the rural branches of such bank, in respect of provision for bad and doubtful debts. Under the first proviso to sub-clause (a), such banks have an option to claim deduction in respect of any provision for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it. Under the second proviso to sub-clause (a), the amount of deduction is limited to ten per cent. of the amount of the doubtful assets or loss assets shown in the books of account of such bank on the last day of the previous year.

The proposed amendment seeks to insert a proviso to sub-clause (a) so as to provide that a scheduled bank or a non-scheduled bank referred to in that sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government. It is also proposed to insert another proviso to provide that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (x) of sub-section (1) of the said section, in computing the income under the head "Profits and gains of business or profession" a deduction is allowed in respect of any sum paid by a public financial institution by way of contribution towards any fund specified under clause (23E) of section 10.

It is proposed to amend the said clause (x) so as to provide that the deduction shall be allowable in respect of any sum paid by a public financial institution by way of contribution towards any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately. The amendment is of clarificatory nature.

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

It is also proposed to insert a new clause (xii) in sub-section (1) of the said section so as to provide that any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was constituted or established shall be allowed as a deduction in computing the income referred to in section 28 of the Income-tax Act.

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

Clause 16 seeks to amend section 40 of the Income-tax Act relating to the disallowability of an amount as deductible in computing the income chargeable under the head "Profits and gains of business or profession".

Under the existing provision contained in sub-clause (i) of clause (a) of the said section, any interest (not being interest on a

loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable outside India is not allowed as a deduction if tax thereon has not been paid or deducted at source. However, if tax is paid or deducted in respect of such amount in a subsequent year, the amount is allowed as a deduction in the subsequent year in which the tax is paid or deducted.

It is proposed to substitute the said sub-clause (i) to provide that where in respect of any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable outside India or in India to a non-resident, not being a company, or to a foreign company, on which tax has not been deducted or, after deduction, has not been paid under Chapter XVII-B shall not be allowed as a deduction in computing the income under the head "Profits and gains of business or profession". It is also provided that where in respect of any such sum tax has been deducted in accordance with Chapter XVII-B and paid before the expiry of the time prescribed under sub-section (1) of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which the liability to pay such sum was incurred. Further, where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been deducted and paid.

Under the existing provision contained in sub-clause (iii) of clause (a) of the said section, no deduction shall be allowed in respect of any payment which is chargeable under the head "Salaries" if it is payable outside India and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B.

It is also proposed to substitute the said sub-clause to provide that no deduction shall be allowed in respect of any payment which is chargeable under the head "Salaries", if it is payable outside India or in India to a non-resident, on which tax has not been deducted or, after deduction, has not been paid under Chapter XVII-B.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

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

The existing provision contained in clause (3) of the said section defines the expression "plant". It is proposed to amend the said clause so as to exclude "buildings or furniture and fittings" for the purposes of the said clause.

It is also proposed to amend *Explanation 2B* in clause (6) of the said section so as to omit the words "as appearing in the books of account".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 18 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be only on actual payment.

Under the existing provisions contained in clauses (b) and (e) of the said section, deduction for any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees or any sum payable by the assessee as interest on any term loan from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan, as the case may be, is allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid.

The first proviso to the said section provides that the deduction shall be allowed if the sum is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred and the evidence of such payment is furnished by the assessee along with such return.

The second proviso to the said section provides that no deduction shall, in respect of any sum referred to in clause (b), be allowed unless such sum has actually been paid in cash or by issue of a cheque or draft or by any other mode on or before the due date as defined in the *Explanation* below clause (va) of sub-section (1) of section 36, and where such payment has been made otherwise than in cash, the sum has been realised within fifteen days from the due date.

It is proposed to amend clause (e) of section 43B so as to provide that any sum payable by the assessee as interest on any loan or advances from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan or advances shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid.

It is also proposed to amend the first proviso to the said section so as to omit the references of clause (a), clause (c), clause (d), clause (e) and clause (f) which is consequential in nature.

It is also proposed to omit the second proviso to the said section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 19 seeks to amend section 44AA of the Income-tax Act relating to maintenance of accounts by certain persons carrying on business or profession.

It is proposed to amend section 44AA and insert the reference of sections 44BB and 44BBB therein. After the proposed amendment if the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44BB or section 44BBB, as the case may be, and the assessee claims his income to be lower than the profits or gains so deemed to be the profits and gains of his business during such previous year, such assessee shall be required to keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 20 seeks to amend section 44AB of the Income-tax Act relating to audit of accounts of certain persons carrying on business or profession.

It is proposed to make the provisions of the said section applicable to persons who derive income of the nature referred to in section 44BB or section 44BBB.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

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

Under the existing provision contained in sub-section (1) of the said section, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" is deemed to be the aggregate

of the profits and gains from all the goods carriages owned by him in the previous year.

It is proposed to amend the said sub-section so as to provide that the provisions of that section shall apply in the case of an assessee, who owns not more than ten goods carriages at any time during the previous year. The proposed amendment is of clarificatory nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 22 seeks to amend section 44BB of the Income-tax Act relating to special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils.

Under the existing provision contained in sub-section (1) of the said section, income of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils is computed at ten per cent. of the aggregate of the amounts paid or payable to the assessee or to any person on his behalf, whether in or out of India on account of the provisions of such services and facilities.

The proposed amendment seeks to provide that an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 23 seeks to amend section 44BBB of the Income-tax Act relating to special provision for computing profits and gains of foreign companies engaged in the business of construction, etc., in certain turnkey power projects.

Under the existing provision contained in the said section, the income of of a foreign company, engaged in the business of civil construction or erection or testing or commissioning of plant or machinery in connection with a turnkey power project, approved by the Central Government and financed under any international aid programme, is computed at ten per cent. of the amount paid or payable to such assessee or to any person on his behalf, whether in or out of India on account of civil construction, erection, testing or commissioning of the aforesaid plant or machinery.

It is proposed to number the existing section as sub-section (1) of the said section and to provide that the provisions of that sub-section shall apply in relation to only those projects which are approved by the Central Government. It omits the requirement of financing of such projects under any international aid programme.

It is also proposed to insert a new sub-section (2) in the aforesaid section so as to provide that an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 24 seeks to amend section 44D of the Income-tax Act relating to special provisions for computing income by way of royalties, etc., in the case of foreign companies.

Under the existing provision contained in clause (b) of the said section, no deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 44C in computing the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern after the 31st day of March, 1976.

It is proposed to amend the said clause to provide that no deduction in respect of any expenditure or allowance shall be allowed under the said clause (b) of section 44D where an agreement is entered into by the foreign company with Government or with the Indian concern after 31st March, 2003.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 25 seeks to insert a new section 44DA in the Income-tax Act relating to special provision for computing income by way of royalties, etc., in case of non-residents.

The proposed new section 44DA provides that the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of the Income-tax Act. However, it is provided that no deduction shall be allowed, in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

The proposed new section also requires that every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit duly signed and verified by such accountant.

It also defines the expressions "fees for technical services", "royalty" and "permanent establishment" used in the said section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 26 seeks to amend section 45 of the Income-tax Act relating to capital gains.

Under the existing provision contained in sub-section (5) of the said section, capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain is computed in the manner specified in that sub-section after taking into account the compensation or consideration or enhanced compensation or consideration, as the case may be.

The proposed amendment seeks to insert a new clause (c) in sub-section (5) to provide that where the amount of the compensation or consideration is subsequently reduced by any court, Tribunal or other authority, the capital gain of that year, in which the compensation or consideration received was taxed, shall be recomputed accordingly.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 27 seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

It is proposed to amend clause (xiii) of the said section so as to substitute the expression "demutualisation or corporatisation" for the expression "corporatisation". The proposed amendment is of consequential nature.

It is also proposed to insert a new clause (xiiia) in the said section so as to provide that any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 shall not be regarded as transfer of capital asset for the purposes of capital gain.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 28 seeks to amend section 55 of the Income-tax Act relating to cost of acquisition of a capital asset.

It is proposed to amend clause (ab) of the said section so as to substitute the expression "demutualisation or corporatisation" for the expression "corporatisation". The proposed amendment is of consequential nature.

It is also proposed to insert a proviso to the said clause (ab) so as to provide that the cost of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 29 seeks to amend section 57 of the Income-tax Act relating to deductions in respect of income chargeable under the head "Income from other sources".

It is proposed to exclude dividends referred to in section 115-O from the purview of clause (i) of the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 30 seeks to amend section 72A of the Income-tax Act relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

Under the existing provision contained in sub-section (1) of the said section, when a company owning an industrial undertaking or a ship amalgamates with another company, the amalgamated company will be allowed to carry forward and set off accumulated losses and unabsorbed depreciation of the amalgamating company. Sub-section (2) of the said section specifies certain conditions required to be fulfilled for availing of the benefit under sub-section (1).

It is proposed to substitute sub-sections (1) and (2) of the said section.

The proposed new sub-section (1) provides that where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 with a specified bank, then, notwithstanding anything contained in any other provision of the Income-tax Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of the Income-tax Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

The proposed new sub-section (2) provides that the accumulated loss, notwithstanding anything contained in sub-section (1), shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the conditions specified in that sub-section are fulfilled by the amalgamating company and amalgamated company, *i.e.,* the amalgamating company (a) has been engaged in the business for at least three years during which the accumulated loss has occurred or the unabsorbed depreciation has accumulated; (b) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation and the amalgamated company (i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation; (ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation; (iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose. The conditions to be fulfilled by the amalgamated company are on the lines of existing provisions contained in sub-section (2).

It is also proposed to define the expression "specified bank" used in new sub-section (1).

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 31 seeks to substitute section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of handicapped dependant.

Under the existing provision contained in sub-section (1) of the said section 80DD, an assessee, who is a resident in India, being an individual or a Hindu undivided family, is allowed a deduction of rupees forty thousand if he has, during the previous year, incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Unit Trust of India, subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of handicapped dependant, in respect of that previous year.

It is proposed to substitute the said section to provide for deduction in respect of maintenance including medical treatment of a dependant, being a person with disability.

The proposed sub-section (1) seeks to provide that where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year, incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability, or paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator referred to in clause (a) 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, the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of fifty thousand rupees from his gross total income in respect of the previous year. However, in cases where such dependant is a person with severe disability, the deduction shall be seventy-five thousand rupees instead of fifty thousand rupees.

The proposed sub-section (2) seeks to provide that the deduction under clause (b) of the proposed new sub-section (1) shall be allowed only if the conditions specified in that sub-section are fulfilled. Such conditions are (a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; and (b) the assessee nominates either the dependant, being a person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

The proposed sub-section (3) seeks to provide that if the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall, accordingly, be chargeable to tax as the income of that previous year.

The proposed sub-section (4) seeks to provide that the assessee, claiming deduction under this section, shall furnish a copy of the certificate issued by the medical authority in the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed. However, where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

The proposed new section also defines the expressions "Administrator", "dependant", "disability", "Life Insurance Corporation", "medical authority", "person with disability", "person with severe disability" and "specified company".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 32 seeks to substitute a new section for section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

Under the existing provision contained in the said section, a deduction is allowed to an assessee being an individual or a Hindu undivided family for expenditure incurred for the medical treatment of the individual himself or his dependant relative or any member of a Hindu undivided family in respect of disease or ailment which may be specified by the rules. The deduction is limited to forty thousand rupees. The senior citizens are allowed a deduction of sixty thousand rupees. The assessee shall have to submit a certificate in the prescribed form and from such authority as may be prescribed.

It is proposed to substitute the said section by a new section so as to provide that where an assessee who is resident in India has, during the previous year, actually incurred any expenditure for the medical treatment of such disease or ailment, as may be specified by the rules made in this behalf by the Board, for himself or a dependant, in case the assessee is an individual or for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family, he shall be allowed a deduction of the expenditure actually incurred or a sum of forty thousand rupees, whichever is less, in respect of the previous year in which such expenditure was incurred. Where the expenditure incurred is in respect of the assessee or his dependant or any member of a Hindu undivided family who is a senior citizen, he shall be allowed the said deduction up to sixty thousand rupees. However, no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital. It further provides that the deduction under the said section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to in clause (a) or clause (b) of the new proposed section.

It is also proposed to define the expressions "dependant", "Government hospital", "insurer" and "senior citizen" used in the new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 33 seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Under the existing provision contained in sub-section (2), an assessee may claim deductions specified under sub-section (1) for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or enterprise develops or develops and operates or maintains and operates a special economic zone referred to in clause (iii) of sub-section (4) of the said section.

Sub-clause (i) seeks to substitute the expression "or develops or develops and operates or maintains and operates a special economic zone", by "or develops a special economic zone".

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

Sub-clause (ii)(a) seeks to amend clause (ii) of sub-section (4) of the said section with a view to extending the time-limit before which the eligible undertaking has to start providing telecommunication services, etc., from 31st March, 2003 to 31st March, 2004.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Sub-clause (ii)(b) seeks to amend clause (iii) of sub-section (4) of the said section so as to provide that where an undertaking develops a special economic zone on or after 1st April, 2001 and transfers the operation and maintenance to another undertaking (transferee undertaking), the deduction to the transferee undertaking shall be available for the remaining period in the ten consecutive assessment years, as if the operation and maintenance were not so transferred to the transferee undertaking.

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

Clause 34 seeks to amend section 80-IB of the Income-tax Act relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

It is proposed to insert a proviso in sub-section (4) of the said section so as to provide that no deduction under that sub-section shall be allowed for the assessment year beginning on the 1st day of April, 2004 or any subsequent year to any undertaking

or enterprise referred to in sub-section (2) of section 80-IC proposed to be inserted by clause 35 of the Bill.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in sub-section (8A) of the said section, any company carrying on scientific research and development is allowed deduction under that sub-section if such company has, *inter alia*, been approved before 1st April, 2003.

It is proposed to extend the said time limit up to 31st March, 2004 for obtaining the approval.

Under the existing provision contained in sub-section (10), hundred per cent. deduction of the profits of an undertaking developing and building housing projects is allowed if the housing project is approved by a local authority before 31st March, 2001 and completed before 31st March, 2003.

It is proposed to extend the time limit for obtaining approval from the local authority upto 31st March, 2005 and remove the time limit for completing the project.

Under the existing provision contained in sub-section (11), an industrial undertaking deriving profits from the business of setting up and operating a cold chain facility for agricultural produce is allowed deduction under that sub-section if such undertaking begins to operate such facility before 31st March, 2003. It is proposed to extend the said time limit up to 31st March, 2004.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 35 seeks to insert a new section 80-IC in the Income-tax Act relating to special provisions in respect of certain undertakings or enterprises in certain special category States.

The proposed sub-section (1) provides that where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in the proposed sub-section (2), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains, specified in the proposed sub-section (3).

The proposed sub-section (2) specifies the undertakings or enterprises which shall be eligible for the deduction under the proposed new section. The undertakings or the enterprises which carry on the business specified in that section in the States of Sikkim, Uttaranchal, Himachal Pradesh and the North-Eastern States shall be eligible for deduction in accordance with the provisions contained in the said section.

The proposed sub-section (3) specifies the amount of deduction which shall be eligible to the undertakings or enterprises.

The proposed sub-section (4) specifies the conditions to be fulfilled by the undertakings or enterprises for the purpose of deduction under the proposed new section.

The proposed sub-section (5) provides that in computing the total income of the assessee, notwithstanding anything contained in any other provision of the Income-tax Act, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10B of that Act, in relation to the profits and gains of the undertaking or enterprise.

The proposed sub-section (6) provides that no deduction shall be allowed to any undertaking or enterprise under this section, notwithstanding anything contained in the Income-tax Act, where the total period of deduction inclusive of the period of deduction under this section, or under the second proviso to sub-section (4) of section 80-IB or under section 10C of that Act, as the case may be, exceeds ten assessment years.

The proposed sub-section (7) provides that the provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA of the Income-tax Act shall, so far as may be, apply to the eligible undertaking or enterprise under this section.

The proposed sub-section (8) defines the expressions "initial assessment year", "Integrated Infrastructure Development Centre", "Industrial Growth Centre", "Industrial Park", "Industrial area", "Industrial Estate", "North-Eastern States", "Software Technology Park", "substantial expansion" and "Theme Park" used in the proposed new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 36 seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

It is proposed to omit clauses (iv), (v) and (va) of sub-section (1) of the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to amend clauses (1) and (2) of sub-section (1) of the said section so as to increase the deduction allowed to an assessee in computing his total income from nine thousand rupees to twelve thousand rupees.

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

Clause 37 seeks to omit section 80M of the Income-tax Act relating to deduction in respect of certain inter-corporate dividends.

The existing provisions contained in the said section allow a deduction for domestic companies which receive dividends from other domestic companies and again distribute them as dividend. The amount of deduction on dividends received by a domestic company from another domestic company is to the extent of dividends distributed by the recipient company.

It is proposed to omit the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 38 seeks to insert a new section 80QQB in the Income-tax Act relating to deduction in respect of royalty income, etc., of authors of certain books other than text books.

The proposed sub-section (1) seeks to provide that where, in the case of an individual resident in India, being an author, the gross total income includes any income derived by him in the exercise of his profession on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalties or copyright fees (whether receivable in lump sum or otherwise) in respect of such book, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in the proposed sub-section (2).

The proposed sub-section (2) seeks to provide that the deduction under this section shall be equal to the whole of such income referred to in the proposed sub-section (1), or an amount of rupees three lakhs, whichever is less. However, where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of fifteen per cent. of the value of such books sold during the previous year shall be ignored. It further seeks to provide that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which

such income is earned or within such further period as the competent authority may allow in this behalf.

The proposed sub-section (3) seeks to provide that no deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee as referred to in the proposed sub-section (1), along with the return of income, setting forth such particulars as may be prescribed.

The proposed sub-section (4) seeks to provide that no deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

The proposed sub-section (5) seeks to provide that where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of the Income-tax Act in any assessment year.

It is also proposed to define the expressions "author", "books", "competent authority" and "lump sum" used in the proposed section.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 39 seeks to insert a new section 80RRB in the Income-tax Act relating to deduction in respect of royalty on patents.

The proposed sub-section (1) seeks to provide that where in the case of an assessee being an individual, who is resident in India and in receipt of any income by way of royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970, there shall be allowed a deduction, from such income, of an amount equal to the whole of such income or three lakh rupees, whichever is less. However, where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act. It is further provided that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section, as is brought into India by, or on behalf of the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

The proposed sub-section (2) provides that no deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

The proposed sub-section (3) provides that no deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

The proposed sub-section (4) provides that where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no further deduction in respect of such income shall be allowed, under any other provision of the Income-tax Act, in any assessment year.

The proposed new section also defines the expressions "Controller", "patent", "patentee", "patent of addition", "patented article", "patented process", "royalty" and "true and first inventor" used in that section.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 40 seeks to substitute section 80U of the Income-tax Act relating to deduction in the case of permanent physical disability (including blindness).

Under the existing provision contained in the said section, an individual, being a resident, is allowed a deduction of forty thousand rupees if he, at the end of the previous year, is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made in this behalf by the Board, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such individual's capacity for normal work or engaging in a gainful employment or occupation.

It is proposed to substitute the said section by a new section to provide for deduction in the case of a person with disability.

The proposed sub-section (1) provides that 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 fifty thousand rupees. However, where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

The proposed sub-section (2) seeks to provide that every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed. However, where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

The proposed new section also defines the expressions "disability", "medical authority", "person with disability" and "person with severe disability" used in the proposed new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 41 seeks to amend section 88 of the Income-tax Act relating to tax rebate on life insurance premia, contribution to provident fund, etc.

Sub-clause (a) (i) seeks to insert a new sub-clause (xivb) in sub-section (2), so as to provide for a tax rebate for any sum paid as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter, to any university, college, school or other educational institution situated within India for the purpose of full-time education of any two children of an assessee.

Sub-clause (a) (ii) seeks to substitute the *Explanation* under clause (xvi) of the said sub-section (2) so as to, *inter alia*, define the expression "eligible issue of capital", to mean an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA of the Income-tax Act.

Sub-clause (b) proposes to insert a new sub-section (2A) so as to provide that the provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent. of the actual capital sum assured.

It is also proposed to clarify by the *Explanation* in the proposed sub-section (2A) that in calculating any such actual capital sum, no account shall be taken of the value of any premiums agreed to be returned, or of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Sub-clause (c) seeks to insert a new clause (d) in sub-section (4) so as to provide that for the purposes of clause (xivb) of the said sub-section (2), in the case of an individual, the deduction shall be with respect to any two children of such individual.

Sub-clause (d) seeks to insert a proviso after the second proviso in sub-section (5) so as to provide that where the aggregate of any sum specified in clause (xivb) of sub-section (2) exceeds an amount of twelve thousand rupees in respect of each child, a deduction under sub-section (1) in respect of such sum shall be allowed with reference to so much of the aggregate as does not exceed an amount of twelve thousand rupees in respect of each such child.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 42 seeks to amend section 88B of the Income-tax Act relating to rebate of income-tax in case of individuals of sixty-five years or above.

Under the existing provision, individuals in the age group of sixty-five years or more are entitled to a deduction from the amount of income-tax on their total income in any assessment year with which they are chargeable to tax for that assessment year of an amount equal to hundred per cent. of such income-tax or an amount of fifteen thousand rupees, whichever is less.

It is proposed to enhance the said limit of rebate from fifteen thousand rupees to twenty thousand rupees.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 43 seeks to amend section 90 of the Income-tax Act relating to agreement with foreign countries.

The existing provisions of the said section, *inter alia*, provide that the Central Government may enter into an agreement with the Government of any country outside India for granting of relief in respect of income on which have been paid both income-tax under the Income-tax Act and income-tax in that country, or for the avoidance of double taxation of income under that Act and under the corresponding law in force in that country, etc.

It is proposed to substitute clause (a) of sub-section (1) of the said section to provide that the Central Government may enter into an agreement with the Government of any country outside India for the granting of relief, *inter alia*, in respect of income-tax chargeable under the Income-tax Act or under the corresponding law in force in that country to promote mutual economic relations, trade and investment.

It is also proposed to insert a new sub-section (3) to provide that where the Central Government has entered into an agreement with the Government of any country outside India under sub-section (1), the term used but not defined in the Income-tax Act or in the agreement shall, unless the context otherwise requires and not being inconsistent with the provisions of that Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 44 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.

It is proposed to exclude dividends referred to in section 115-O from the purview of section 115A. The proposed amendment is of consequential nature.

The existing provisions of clause (b) of sub-section (1) of the said section provide for rates at which income-tax shall be payable where the total income of a foreign company includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after 31st March, 1976, 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.

It is proposed to amend clause (b) of sub-section (1) of the aforesaid section to make it applicable to a non-resident (not being a company) or to a foreign company and income by way of royalty or fees for technical services other than income referred to in sub-section (1) of section 44DA.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 45 seeks to amend section 115AC of the Income-tax Act relating to tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

It is proposed to exclude dividends referred to in section 115-O from the purview of section 115AC. The proposed amendment is consequential to the substitution of sub-section (1) of the said section 115-O.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 46 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.

The proposed amendment seeks to exclude dividends referred to in section 115-O from the purview of section 115ACA. The proposed amendment is consequential to the insertion of the said section 115-O.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 47 seeks to amend section 115AD of the Income-tax Act relating to tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

It is proposed to exclude dividends referred to in section 115-O from the purview of the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 48 seeks to amend section 115C of the Income-tax Act relating to definitions in case of special provisions relating to certain incomes of non-residents.

It is proposed to exclude dividends referred to in section 115-O from the purview of the said section 115C. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 49 seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

Under the existing provision contained in sub-section (1) of the said section, a domestic company is liable to pay tax on distributed profits. The tax so paid by the company is treated as the final payment of tax in respect of the amount declared, distributed or paid by way of dividend on or after 1st June, 1997 but on or before 31st March, 2002.

It is proposed to substitute the said sub-section so as to make the provisions of this section applicable in respect of the profits (whether current or accumulated profits) distributed by domestic companies on or after 1st April, 2003. Such profits shall be charged at the rate of twelve and one-half per cent.

This amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to amounts declared, distributed or paid by way of dividends on or after 1st April, 2003.

Clause 50 seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit holders.

The proposed amendment seeks to substitute sub-section (2) of the said section to provide that notwithstanding anything contained in any other provisions of the Income-tax Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of twelve and one-half per cent. It is also proposed to provide that no additional tax shall be levied in respect of any income distributed, by the Administrator of the specified undertaking to the unit holders, or to the unit holders of open-ended equity oriented funds in respect of any distribution made from such funds for a period of one year commencing from 1st April, 2003.

It is also proposed to define the expressions "Administrator" and "specified company" used in the said sub-section.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the income distributed on or after 1st April, 2003.

Clause 51 seeks to amend section 115S of the Income-tax Act relating to interest payable for non-payment of tax.

It is proposed to amend the said section so as to apply the provisions of that section to the specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 instead of Unit Trust of India.

This amendment will take effect from 1st April, 2003.

Clause 52 seeks to amend section 115T of the Income-tax Act providing that Unit Trust of India or Mutual Fund to be an assessee in default.

It is proposed to amend the said section so as to apply the provisions of that section to the specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 instead of Unit Trust of India.

This amendment will take effect from 1st April, 2003.

Clause 53 seeks to amend section 132 of the Income-tax Act relating to search and seizure.

The existing provision of clause (iii) of sub-section (1) of section 132 provide for seizure of any books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of search.

It is proposed to insert a proviso to the said clause so as to provide that bullion, jewellery or other valuable article or thing being stock-in-trade of the business found as a result of search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business.

The existing provision contained in the second proviso to sub-section (1) of section 132 provides that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the same could be placed under deemed seizure, whereby the Authorised Officer may serve an order on the owner or the person in immediate possession that he shall not remove, or part with it except with the previous permission of the Authorised Officer.

It is also proposed to insert a proviso after the second proviso to sub-section (1) of the aforesaid section so as to provide that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after the 31st May, 2003. It is proposed to give reference of new section 153A in sub-section (8) of the said section 132. The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 54 seeks to amend section 132B of the Income-tax Act relating to application of seized or requisitioned assets.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 132B. The proposed amendment is of consequential nature.

The existing provision contained in the first proviso to clause (i) of sub-section (1) of the said section provides for release of any asset seized during search under section 132 or requisitioned under section 132A, if the nature and source of acquisition of such asset is explained to the satisfaction of the Assessing Officer, after recovery therefrom of any existing tax liability, and after taking approval of the Chief Commissioner or Commissioner.

It is proposed to amend the said proviso so as to provide that the asset referred to in the first proviso shall be released, *inter alia*, if the concerned person makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized.

These amendments will take effect from 1st June, 2003.

Clause 55 seeks to amend section 133A of the Income-tax Act relating to power of survey.

Under the existing provision contained in clause (b) of the proviso to sub-section (3) of section 133A, an income-tax authority acting under this section may retain in his custody any books of account or other documents inspected by him after recording his reasons for doing so for a period of fifteen days without obtaining the approval of the Chief Commissioner or Director General or Commissioner or Director, as the case may be.

It is proposed to substitute the said sub-clause (b) so as to provide that an income-tax authority acting under this section may retain in his custody any such books of account or other documents only for a period of ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.

It is further proposed to insert a proviso after sub-section (6) of the said section and before the *Explanation* so as to provide that no action under sub-section (1) of the said section shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

Under the existing provision contained in the *Explanation* below sub-section (6) of the said section, the term "income-tax authority" has been defined so as to include a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, and for the purpose of certain specified clauses, and if authorised by such authorities, to include an Inspector of Income-tax.

It is also proposed to amend the definition of the expression "income-tax authority" in clause (a) of the *Explanation* to the section to include "Tax Recovery Officer".

These amendments will take effect from 1st June, 2003.

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

Under the existing provision contained in sub-section (1) of the said section, every company whether it has income or loss and every person other than a company, if the total income in respect of which he is assessable under the Income-tax Act during the previous year exceeded the maximum amount not chargeable to income-tax, is required to furnish a return of such income on or before the due date in the prescribed form and manner.

It is proposed to insert a new sub-section (1B), after sub-section (1A) of the said section, so as to provide that any person, who is required to furnish a return of income under sub-section (1), may, at his option, on or before the due date furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media), and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (1) of section 139, and the provisions of the Income-tax Act shall apply accordingly.

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

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

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 140A. The proposed amendment is of consequential nature.

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

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

Under the existing provision contained in clause (i) of sub-section (2) of section 143, where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer shall, where he has reason to believe that any claim of loss, exemption, deduction, allowance or relief made in the return is inadmissible, serve on the assessee a notice specifying particulars of such claim of loss, exemption, deduction, allowance or relief and require him, on a date to be specified therein to produce, or cause to be produced, any evidence or particulars specified therein or on which the assessee may rely, in support of such claim. Thereafter, the Assessing Officer under clause (i) of sub-section (3), after hearing such evidence and after taking into account such particulars as the assessee may produce, by order in writing, allows or rejects the claim or claims specified in such notice and makes an assessment determining the total income or loss accordingly and determines the sum payable by the assessee on the basis of such assessment.

It is proposed to insert a proviso in clause (i) of sub-section (2) of the said section so as to provide that no notice under clause (i) of the said sub-section shall be served on the assessee on or after 1st June, 2003.

It is also proposed to amend the proviso below clause (ii) of the aforesaid sub-section (2), so as to substitute for the words "no notice under this sub-section", the words "no notice under clause (ii)". The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 59 seeks to insert new sections 153A, 153B and 153C in the Income-tax Act relating to assessment in case of search or requisition made after 31st May, 2003, specifying time-limit for completion of assessment or reassessment of income and assessment of income of any other person in certain cases.

The proposed new section 153A provides that in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall, notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, issue notices to such person requiring him to furnish within such period as may be specified in the notice the return of income in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. The Assessing Officer shall assess or reassess the total income of six assessment years immediately preceding the previous year during which such search is conducted or requisition is made and such assessment or reassessment shall be made in respect of each assessment year falling within six assessment years. This clause also provides that the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section, pending on the date of the initiation of the search under section 132 or requisition under section 132A, as the case may be, shall abate. This clause also provides that save as otherwise provided in section 153A, section 153B and section 153C, all other provisions of the Income-tax Act shall apply to the assessment or reassessment made under this section and in the assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

The proposed sub-section (1) of the new section 153B provides for the time-limit for completion of assessment in case of a person where a search is initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A. It provides that the Assessing Officer shall make an order of assessment or reassessment in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. The Assessing Officer shall make an order of assessment or reassessment in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. This clause also provides that in computing the period of limitation for the purposes of this section, the period during which the assessment proceeding is stayed by an order or injunction of any court; or the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section, or the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee of being re-heard under the proviso to section 129, or in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing on the date on which such application is made and ending with the date on which the order under sub-section (1) of section 245D is received by the Commissioner under sub-section (2) of that section, shall be excluded. This clause also provides that where immediately after the exclusion of the aforesaid period, the period of limitation

available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the period of limitation shall be deemed to be extended accordingly.

The proposed sub-section (2) seeks to provide that the authorisation referred to in clause (a) and clause (b) shall be deemed to have been executed in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued and in the case of requisition made under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

The proposed new section 153C provides for assessment or reassessment of income of any other person. 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 or belongs to a person other than the person referred to in section 153A, then the books of account, or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

These amendments will take effect from 1st June, 2003.

Clause 60 seeks to amend section 155 of the Income-tax Act relating to other amendments.

It is proposed to insert a new sub-section (16) in the said section so as to provide that where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed by taking the compensation or consideration first received as referred to in clause (a), or enhanced or further enhanced compensation or consideration received as referred to in clause (b), as the case may be, of sub-section (5) of section 45, to be the full value of consideration and subsequently such compensation or consideration is reduced in any appeal or revision or reference by any court, Tribunal or other authority, then, the Assessing Officer shall amend the order of assessment to revise the computation of said capital gain of that year by taking the compensation or consideration so reduced by the court, Tribunal or other authority to be the full value of consideration.

It is also proposed to insert a new sub-section (17) in the said section so as to provide that where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970, the patent was revoked, or the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer shall recompute the income in the manner provided in that sub-section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 61 seeks to insert a new section 158BI in the Income-tax Act to provide for inapplicability of the provisions of Chapter XIV-B providing for special procedure for assessment of search cases.

It is proposed to insert three new sections 153A, 153B and 153C (*vide* clause 59) in the Income-tax Act to provide for assessment in case of search or making requisition.

It is proposed to provide that the provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after 31st May, 2003.

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

Clause 62 seeks to amend section 163 of the Income-tax Act, relating to as to who may be regarded as agent.

Under the existing provision "agent", in relation to a non-resident includes any person in India who has any business connection with the non-resident.

It is proposed to insert an *Explanation* in sub-section (1) of the said section to provide that for the purposes of this sub-section, the expression "business connection" shall have the same meaning as assigned to it in *Explanation 2* to clause (i) of sub-section (1) of section 9 of the Income-tax Act. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 63 seeks to amend section 184 of the Income-tax Act relating to assessment as a firm.

Under the existing provision contained in sub-section (5) of the said section, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provisions of the Income-tax Act shall apply accordingly.

It is proposed to substitute the said sub-section (5) so as to provide that notwithstanding anything contained in any other provision of the Income-tax Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession". However, such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28 of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 64 seeks to amend section 185 of the Income-tax Act relating to assessment of a firm when section 184 has not been complied with.

Under the existing provision of the said section where, a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same manner as an association of persons, and all the provisions of the Income-tax Act shall apply accordingly.

It is proposed to substitute the said section so as to provide that notwithstanding anything contained in any other provision of the Income-tax Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession". However, such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28 of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 65 seeks to amend section 191 of the Income-tax Act relating to direct payment of income-tax.

Under the existing provision contained in section 191, in the case of income in respect of which provision is not made under the provisions of Chapter XVII of the Income-tax Act for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of the said Chapter, income-tax shall be payable by the assessee direct.

It is proposed to clarify that if any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default as referred to in sub-section (1) of section 201 in respect of such tax.

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

Clause 66 seeks to amend section 193 of the Income-tax Act relating to tax deduction at source from payments by way of interest on securities.

Under the existing provision contained in the said section, the person responsible for paying any income by way of interest on securities is required to deduct tax at source at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or a draft or any other mode at the rates in force.

It is proposed to provide that the person responsible for deducting tax shall be required to do so in the case of payment by way of interest on securities made to residents only.

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

Clause 67 seeks to amend section 194 of the Income-tax Act relating to deduction of tax at source from dividends.

Under the existing provisions contained in the said section, no tax is required to be deducted at source by a company in the case of a shareholder, being an individual, if the dividend is paid by the company by an account payee cheque and the amount of the dividend or, as the case may be, the aggregate of the amounts of the dividend distributed or paid or likely to be distributed or paid during the financial year does not exceed one thousand rupees.

The proposed amendment seeks to amend the first proviso in the said section so as to provide that no deduction of tax at source shall be made under this section where the amount of dividend or the aggregate of the amounts of the dividend does not exceed two thousand five hundred rupees.

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

It is also proposed to insert a new proviso after the second proviso to the said section so as to provide that no such deduction shall be made in respect of any dividends referred to in section 115-O. The proposed amendment is of consequential nature.

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

Clause 68 seeks to amend section 194C of the Income-tax Act relating to deduction of tax at source from payments to contractors and sub-contractors.

Under the existing provision contained in sub-section (4) of the said section, where the Assessing Officer is satisfied that the total income of the contractor or the sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate as may be appropriate. Sub-section (5) of the said section provides that where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

The proposed amendment seeks to omit sub-sections (4) and (5) of the aforesaid section.

The proposed amendment is of consequential nature.

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

Clause 69 seeks to amend section 194G of the Income-tax Act relating to deduction of tax at source from commission, etc., on the sale of lottery tickets.

Under the existing provision contained in sub-section (2) of the said section, where the Assessing Officer is satisfied that the total income of any person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by such person in this behalf, give to him such certificate as may be appropriate. Sub-section (3) of the said section provides that where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such certificate or deduct no tax, as the case may be.

The proposed amendment seeks to omit sub-sections (2) and (3) of the aforesaid section.

The proposed amendment is of consequential nature.

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

Clause 70 seeks to amend section 194-I of the Income-tax Act relating to tax deduction at source from payment by way of rent.

Under the existing provisions contained in the said section, any person who is responsible for paying to any person any income by way of rent is required to deduct tax at source at the specified rates.

It is proposed to provide that the person responsible for deducting tax shall be required to do so in the case of payment by way of rent made to residents only.

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

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

Under the existing provision contained in the second proviso to sub-section (1) of the said section, an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB of the Income-tax Act during the financial year immediately preceding the financial year in which such sum by way of fees for professional or technical services is credited or paid shall be liable to deduct income-tax under this sub-section.

It is proposed to insert a new proviso after the second proviso to the said sub-section so as to provide that no individual or Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes.

Under the existing provision contained in sub-section (2) of the said section, where the Assessing Officer is satisfied that the total income of any person in receipt of the sum by way of fees for professional services or fees for technical services justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate. Sub-section (3) of the said section provides that where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such certificate or deduct no tax, as the case may be.

The proposed amendment seeks to omit sub-sections (2) and (3) of the said section.

The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 72 seeks to amend section 194K of the Income-tax Act relating to deduction of tax at source from income in respect of units.

Under the existing provision contained in the said section, no tax is required to be deducted at source by the person responsible for making the payment of any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India to the account of, or to, the payee where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year does not exceed one thousand rupees.

It is proposed to amend the first proviso in the said section so as to provide that no deduction of tax at source shall be made under this section where the amount of the income or the aggregate of the amounts of such income does not exceed two thousand five hundred rupees.

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

It is also proposed to insert a new proviso after the second proviso in the said section so as to provide that no deduction shall be made under this section from any such income credited or paid on or after 1st April, 2003.

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

Clause 73 seeks to amend section 195 of the Income-tax Act relating to deduction of tax at source from payments of other sums as mentioned in the said section. The provision contained in the said section provides that any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest on securities) or any other sum chargeable under the provisions of the Income-tax Act (not being income chargeable under the head "Salaries") is required to deduct tax at source at the rates in force.

It is proposed to expand the scope of the said section so as to include payments made by way of interest on securities.

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

It is also proposed to insert a new proviso after the proviso in sub-section (1) of the said section so as to provide that no tax shall be deducted from any dividends declared, distributed or paid by a domestic company on or after 1st April, 2003. The proposed amendment is of consequential nature.

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

Clause 74 seeks to amend section 196A of the Income-tax Act relating to deduction of tax at source from income in respect of units of non-residents.

The proposed amendment seeks to insert a proviso in sub-section (1) of the said section so as to provide that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003. The proposed amendment is of consequential nature.

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

Clause 75 seeks to amend section 196C of the Income-tax Act relating to deduction of tax at source from income from foreign currency bonds or shares of an Indian company.

It is proposed to insert a proviso in the said section so as to provide that no tax shall be deducted from any dividends declared, distributed or paid by a domestic company on or after 1st April, 2003. The proposed amendment is of consequential nature.

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

Clause 76 seeks to amend section 196D of the Income-tax Act relating to deduction of tax at source from income of Foreign Institutional Investors from securities.

It is proposed to insert a proviso in sub-section (1) of the said section so as to provide that no tax shall be deducted from any dividends declared, distributed or paid by a domestic company on or after 1st April, 2003. The proposed amendment is of consequential nature.

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

Clause 77 seeks to amend section 197 of the Income-tax Act relating to certificate for deduction of income-tax at lower rate.

Under the existing provision contained in the said section, where, in the case of any income of any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194A, 194D, 194H, 194-I, 194K, 194L and 195, the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

The proposed amendment seeks to include payments of any sum to contractors and sub-contractors referred to in section 194C, any income by way of commission, etc., on the sale of lottery tickets referred to in section 194G and payment of any sum by way of fees for professional or technical services referred to in section 194J, within the scope of the said section.

It is also proposed to omit the reference of section 194L relating to payment of compensation on acquisition of capital asset in section 197. The proposed amendment is of consequential nature.

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

Clause 78 seeks to amend section 197A of the Income-tax Act which provides that no deduction of tax at source is to be made in certain cases.

Under the existing provision contained in section 197A, no tax is deducted at source if an individual, who is resident in India, furnishes a declaration 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*. Sub-section (1B) of the aforesaid section provides that the provisions of section 197A shall not apply where the amount of any income referred to in sub-section (1) or sub-section (1A) of that section or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.

It is proposed to insert a new sub-section (1C) in the said section to provide that no deduction of tax shall be made under section 193 or section 194 or section 194A or section 194EE or section 194K in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, 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*.".

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

Clause 79 seeks to amend section 206 of the Income-tax Act relating to persons deducting tax to furnish prescribed returns.

Under the existing provision contained in sub-section (1) of the said section, the prescribed person in the case of every office of Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, every private employer and every other person responsible for deducting tax is required to prepare and deliver or cause to be delivered to the prescribed income-tax authority, such returns in such form and verified in such manner and setting forth such particulars as may be prescribed within the prescribed time after the end of each financial year. Sub-section (2) of the said section provides that the returns of tax deducted at source may be filed on computer readable media such as floppies, diskettes, magnetic cartridge tapes, etc., as may be specified by the Board and that the information in such returns shall be admitted in evidence in any proceeding under the Income-tax Act. Sub-section (3) of the said section provides that the return will be checked and authenticated by the Assessing Officer and that he shall take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.

The proposed amendment seeks to substitute sub-sections (2) and (3) of the said section. The proposed sub-section (2) seeks to provide that the person responsible for deducting tax under the provisions of Chapter XVII-B of the Income-tax Act, other than the principal officer in the case of every company may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer media and in the manner as may be specified in that scheme. The proposed proviso to the said sub-section provides that the principal officer in the case of every company responsible for deducting tax shall deliver or cause to be delivered within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

The proposed sub-section (3) seeks to provide that a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

The proposed sub-section (4) seeks to provide that where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (2) is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of the Income-tax Act, such return shall be treated as an invalid return and the provisions of that Act shall apply as if such person had failed to deliver the return.

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

Clause 80 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.

Sub-clause (a) seeks to substitute the Table in sub-section (1) of the said section, *inter alia*, to provide for collection of tax at source at the rate of ten per cent. in the case of Indian made foreign liquor and scrap.

Under the existing provision contained in the *Explanation* below sub-section (11), the "buyer" does not, *inter alia*, include a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act.

Sub-clause (b) seeks to amend the said *Explanation* so as to make the provisions of the section applicable in the case of a buyer where the goods are not obtained by him by way of auction and where the sale price of such goods to be sold by the buyer is fixed by or under any State Act.

These amendments will take effect from 1st June, 2003.

Clause 81 seeks to amend section 230 of the Income-tax Act relating to tax-clearance certificate.

It is proposed to substitute sub-section (1) of the said section by two new sub-sections (1) and (1A).

The proposed new sub-section (1) provides that no person, subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, who is not domiciled in India and who has come to India in connection with business, profession or employment; and who has income derived from any source in India, shall leave the territory of India by land, sea or air unless he furnishes to the authority as may be prescribed an undertaking in the prescribed form from his employer or through whom such person is in receipt of the income, to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer or the person through whom any income is received and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no-objection certificate, for leaving India. However, the provisions contained in sub-section (1) shall not apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

The proposed new sub-section (1A) provides that every person, subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, who is domiciled in India at the time of his departure from India, shall furnish, to the income-tax authority or such other authority as may be prescribed his permanent account number allotted to him under section 139A, the purpose of his visit and the estimated period of his stay outside India. In case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under the Income-tax Act, a certificate in the prescribed form shall be furnished to the income-tax authority or such other authority, as may be prescribed.

However, no person, who is domiciled in India at the time of his departure and in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for him to obtain a certificate under this section, shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 or the Expenditure-tax Act, 1987, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person.

However, no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Chief Commissioner of Income-tax.

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

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

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 234A. The proposed amendment is of consequential nature.

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

Clause 83 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 section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 234B. The proposed amendment is of consequential nature.

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

Clause 84 seeks to insert a new section 234D in the Income-tax Act relating to interest on excess refund.

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

Sub-section (2) of the proposed section provides that where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then the interest chargeable under sub-section (1), shall be reduced accordingly.

It is also proposed to insert an *Explanation* under new sub-section (2) so as to provide that an assessment made for the first time under section 147 or section 153A, shall be regarded as a regular assessment for the purposes of the aforesaid section.

These amendments will take effect from 1st June, 2003.

Clause 85 seeks to amend section 245N of the Income-tax Act relating to advance rulings.

Under the existing provision contained in sub-clause (ii) of clause (a) of the said section, the expression "advance ruling", *inter alia*, means determination of any question of law or of fact specified in the application by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with a non-resident.

It is proposed to amend the said sub-clause so as to clarify that the determination of any question of law or of fact by the Authority shall be in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident and not in relation to the tax liability of the resident.

This amendment will take effect retrospectively from 1st June, 2000 and will, accordingly, apply in relation to all the advance rulings pronounced on or after such date.

It is further proposed to insert a proviso after sub-clause (iii) of clause (a) so as to provide that where an advance ruling has been pronounced before the date on which the Finance Bill, 2003, receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (ii) of the said clause (a) as it stood immediately before such date, such ruling shall be binding on persons specified in section 245S.

This amendment will take effect on and from the date on which the Finance Bill, 2003 receives the assent of the President.

Clause 86 seeks to amend section 246A of the Income-tax Act relating to appealable orders before Commissioner (Appeals).

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to insert a new clause (ba) in sub-section (1) of the said section 246A to provide that any assessee aggrieved by an order of assessment or reassessment under section 153A may appeal to the Commissioner (Appeals). The proposed amendment is of consequential nature.

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

Clause 87 seeks to amend section 269T of the Income-tax Act relating to mode of repayment of certain loans or deposits.

Under the existing provision contained in the said section, no branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit, in cases where the amount of the loan or deposit or the aggregate of the loans or deposits held by such person is twenty thousand rupees or more.

It is proposed to amend the aforesaid section by inserting a second proviso so as to provide that the provisions of this section shall not apply in case of repayment of any loan or deposit taken or accepted from (i) Government; (ii) any banking company, post office savings bank or co-operative bank; (iii) any corporation established by a Central, State or Provincial Act; (iv) any Government company as defined in section 617 of the Companies Act, 1956; (v) 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.

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

Clause 88 seeks to amend section 271E of the Income-tax Act relating to penalty for failure to comply with the provisions of section 269T.

Under the existing provision contained in sub-section (1) of the said section, if a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to a penalty specified in that sub-section.

It is proposed to amend sub-section (1) of the said section so as to bring "loan" also within the scope of that section. The proposed amendment is of consequential nature.

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

Clause 89 seeks to amend section 275 of the Income-tax Act relating to bar of limitation for imposing penalties.

Under the existing provision contained in clause (a) of sub-section (1) of the said section, no order imposing a penalty shall be passed in a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals), or to the Appellate Tribunal after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or within six months from the end of the month in which the order of the Commissioner (Appeals), or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later.

It is proposed to insert a proviso in the said clause so as to provide that in a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A of the Income-tax Act, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Chief Commissioner or Commissioner, whichever is later.

Under the provision contained in clause (b) of sub-section (1) of the said section, no order imposing a penalty shall be passed in cases where the relevant assessment or other order is the subject matter of revision under section 263, after the expiry of six months from the end of the month in which the order of revision under the said section 263 is passed.

It is proposed to amend the said clause (b) to provide that in cases where the order is under revision under section 264, the order imposing penalty shall be passed within six months from the end of the month in which the revision order is passed.

These amendments will take effect from 1st June, 2003.

Clause 90 seeks to amend section 276CC of the Income-tax Act relating to failure to furnish returns of income.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of the proposed new section 153A in the said section 276CC. The proposed amendment is of consequential nature.

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

Clause 91 seeks to insert a new section 285BA in the Income-tax Act relating to furnishing of annual information return.

The proposed new section seeks to provide that any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 92 proposes to insert the Thirteenth Schedule and the Fourteenth Schedule in the Income-tax Act. The said Schedules specify the list of activity or article or thing or operation and the States for the purposes of availing of deductions under the new proposed section 80-IC.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.