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 2004-2005. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2004-2005 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 2004-2005.

Rates of income-tax for the assessment year 2004-2005

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2004-2005. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2003, 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 2003-2004.

Rates for deduction of tax at source during the financial year 2004-2005 *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 2004-2005 from incomes other than "Salaries". These rates are the same as those specified in Part II of the First Schedule to the Finance Act, 2003, for the purposes of deduction of income-tax at source during the financial year 2003-2004. 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 2004-2005

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 2004-2005.

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 2004-2005.

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 2004-2005.

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 2004-2005.

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 2004-2005, *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, a 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.

It is also proposed that the amount of income-tax as specified in sub-clauses (4) to (10) of clause 2 of the Finance (No. 2) Bill, 2004 and as increased by a surcharge for purposes of the Union calculated in the manner provided therein, shall be further increased by an additional surcharge for purposes of the Union, to be called the "Education Cess on Income-tax" so as to fulfil the commitment of Government to provide and finance universalised quality basic education, calculated at the rate of two per cent. of such income-tax and surcharge. The Education Cess on Income-tax shall be payable during the previous year beginning on 1st April, 2004.

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

It is proposed to insert a new sub-clause (xiii) in clause (24) of the said section 2 so as to provide that any sum received on or after 1st September, 2004, from any person by an individual or a Hindu undivided family, whether in cash or by issue of a cheque or draft or by any other mode or by way of credit, otherwise than by way of consideration for goods or services, shall be included within the definition of "income" as defined in that clause.

However, it is proposed to exclude certain sums from the scope of the new sub-clause (xiii). The sums which shall not be included in the income shall be (a) the sum received by, or credited in the account of any individual from a relative out of natural love and affection, or any individual or a Hindu undivided family under a will or by way of inheritance, or any employee or the dependant of the deceased employee from an employer, by way of bonus, gratuity or pension or any such other sum solely in recognition of the services rendered by the employee, or (b) any sum received in contemplation of death of an individual or karta or member of a Hindu undivided family, or (c) any income referred to in section 10 of the Income-tax Act or any other income which is exempt or not included in the total income under the said Act, or (d) any sum received on account of transactions not regarded as transfer referred to in section 47 of the said Act.

It is also proposed to define the expression "relative" for the purposes of the proposed new sub-clause (xiii).

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 4 of the Bill seeks to amend section 7 of the Income-tax Act relating to income deemed to be received.

Under the existing provisions contained in the said section, the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent the contribution and interest thereon in any previous year exceeds the specified limit, is deemed to be the income received in such previous year. Similarly, the transferred balance in a recognised provident fund, to the extent, the contribution and interest thereon exceed the specified limit in each of the previous years prior to the year of approval of the fund, is deemed to be the income of the employee of the previous year in which the recognition of the provident fund takes place.

It is proposed to insert a new clause (iii) in the said section so as to provide that the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD proposed to be inserted *vide* clause 15 of the Bill shall be deemed to be the income received in the previous year.

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

Clause 5 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Under the existing provisions contained in sub-clause (ii) of clause (4) of section 10, in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India shall not be included in computing his total income.

Sub-clause (a) seeks to insert a second proviso in sub-clause (ii) of the said clause (4) so as to provide that in the case of an individual, such income by way of interest paid or credited to his Non-Resident (External) Account in any bank in India on or after 1st September, 2004 shall be included in the total income of the individual.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Under the existing provisions contained in clause (6BB), income-tax exemption is provided in respect of tax paid by an Indian company engaged in the business of operation of aircraft on income derived by the Government of a foreign State or a foreign enterprise as consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under an agreement entered after 31st March, 1997 but before 1st April, 1999 and approved by the Central Government in this behalf and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government.

Sub-clause (b) proposes to allow the said exemption on all such agreements entered on and after 1st September, 2004.

This amendment will take effect from 1st September, 2004.

Item (A) of sub-clause (c) seeks to insert a new sub-clause (iiic) in clause (15) of section 10 so as to provide that the interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework agreement for financial co-operation entered into by the Central Government with that Bank on the 25th November, 1993, shall not be included in the total income of that Bank.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Under the existing provisions contained in item (fa) of sub-clause (iv) of clause (15) of section 10, the interest payable by a scheduled bank to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6) of section 6 on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India shall not be included in computing his total income.

Item (B) of sub-clause (c) seeks to provide that such interest payable on or after 1st September, 2004, shall be included in computing the total income of such person.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Under the existing provisions contained in clause (15A), exemption is provided on any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease from the Government of a foreign State or a foreign enterprise under an agreement, not being an agreement entered into between 1st April, 1997 and 31st March, 1999, and approved by the Central Government in this behalf.

Sub-clause (d) proposes to withdraw the said exemption in respect of all such agreements entered into on or after 1st September, 2004.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Sub-clause (e) seeks to insert a new clause (19) so as to exempt family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be specified, by rules, made by the Central Board of Direct Taxes.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Under the existing provisions contained in clause (c) of *Explanation I* to clause (23FB), the expression "venture capital undertaking" has been defined to mean a domestic company whose shares are not listed in the recognised stock exchange in India and which is engaged in the business for providing services, production or manufacture of an article or thing but does not include such activities or sectors which are specified, with the approval of the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf.

Sub-clause (f) proposes to re-define the expression "venture capital undertaking" to mean a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 and which is notified as such in the Official Gazette by the Board for the purposes of this clause.

It is further proposed to omit *Explanation 2*. This amendment is consequential in nature.

These amendments will take effect from 1st October, 2004.

Under the existing provisions of clause (23G), any income by way of dividends, other than dividends referred to in section 115-O, interest, or long-term capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from investments made in any undertaking engaged in the business referred to in sub-section (4) of section 80-IA or a housing project referred to in sub-section (10) of section 80-IB or a hotel or a hospital project, is excluded from the total income.

Sub-clause (g) proposes to insert a proviso to the said clause (23G) so as to provide that income, by way of dividend, other than dividends referred to in section 115-O, interest or long term capital gains of an infrastructure capital company shall be taken into account in computing the book profit under section 115JB and for payment of income-tax under that section.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Sub-clause (h) seeks to insert three new clauses (37), (38) and (39) in the said section.

The proposed clause (37) provides that in the case of an assessee being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land situate in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2 shall be exempt where such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his, such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India and such income has arisen from the compensation or the consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

It is further proposed to define the expression "compensation or consideration" used in the said new clause (37).

The proposed new clause (38) seeks to provide that any income arising from the transfer of a long term capital asset, being securities, and the transaction of sale of such securities is entered into on a recognised stock exchange in India on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force, shall be exempt from tax.

The proposed clause also defines the expressions "securities" and "recognised stock exchange". These expressions shall have the same meaning as assigned to them in the Securities Contracts (Regulation) Act, 1956.

The proposed new clause (39) provides that any income referred to in clause (xiii) of clause (24) of section 2, to the extent the aggregate of such income received or credited during the previous year does not exceed a sum of twenty-five thousand rupees; and a further sum not exceeding one hundred thousand rupees received by an individual on the occasion of his marriage shall not be included in the total income.

These amendments will take effect from 1st April, 2005 and will, accordingly, apply in relation to assessment year 2005-2006 and subsequent years.

Clause 6 of the Bill seeks to amend section 12AA of the Income-tax Act, relating to procedure for registration of trusts or institutions.

The said section provides for the procedure for registration of a trust or an institution by the Commissioner of Income-tax.

It is proposed to insert a new sub-section (3) in the said section so as to provide that if the Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, he shall, after giving a reasonable opportunity of being heard to the concerned trust or institution, pass an order in writing cancelling the registration granted under clause (b) of sub-section (1).

This amendment will take effect from 1st October, 2004.

Clause 7 of the Bill seeks to amend section 17 of the Income-tax Act, providing for definition of "salary", "perquisite" and "profit in lieu of salary".

Clause (1) of the said section provides an inclusive definition of "salary".

It is proposed to insert a new sub-clause (viii) in clause (1) of the said section 17 so as to provide that the contribution made by the Central Government in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD shall be included in the definition of "salary".

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

Clause 8 of the Bill seeks to amend section 32 of the Income-tax Act relating to depreciation.

Under the existing provisions contained in clause (iia) of sub-section (1) of the said section, an additional sum equal to fifteen per cent. is allowed as deduction under clause (ii) of the said section in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2002, by an assessee engaged in the business of manufacture or production of any article or thing. Clause (B) of the first proviso to the said clause provides that in case of an industrial undertaking existing before the 1st day of April, 2002, such deduction shall be allowed during any previous year in which it achieves the substantial expansion by way of increase in installed capacity by not less than twenty-five per cent.

The proposed amendment seeks to reduce the limit for increase in installed capacity from the existing twenty-five per cent. to ten per cent.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 9 of the Bill seeks to amend section 33AC of the Income-tax Act relating to reserves for shipping business.

Under the existing provisions contained in sub-section (1) of the said section, a Government company or a public company formed and registered in India with the main object of carrying on the business of operation of ships is allowed a deduction of an amount not exceeding hundred per cent. of the profits derived from the business of operation of ships, subject to certain conditions including crediting of the amount to a reserve account. The first proviso to the said sub-section provides that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid-up share capital (excluding the amounts capitalised from the reserves) of the assessee, no allowance shall be made in respect of such excess.

The proposed amendment seeks to insert a third proviso to the said sub-section to provide that no deduction shall be allowed under the said section for any assessment year commencing on or after 1st April, 2005.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 10 of the Bill seeks to amend section 35AC of the Income-tax Act relating to expenditure on eligible projects or schemes.

Under the existing provisions contained in sub-section (4) of the said section, the National Committee may withdraw the approval granted to an association or institution if that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted, after giving a reasonable opportunity of being heard to the concerned association or institution.

The proposed amendment seeks to substitute the existing sub-section (4) so as to provide an additional ground for withdrawal of approval by the National Committee. It is proposed to provide that in a case where such association or institution, to which approval has been granted, fails to furnish to that Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed, the National

Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval. It is also proposed to provide that a copy of the order withdrawing the approval shall be forwarded to the Assessing Officer having jurisdiction over the concerned association or institution.

Under the existing provisions contained in sub-section (5), where the National Committee is satisfied that the project or the scheme notified as an eligible project or scheme under clause (b) of the Explanation to the said section is not being carried on in accordance with all or any of the conditions subject to which such project or the scheme was notified, such notification may be withdrawn in the same manner in which it was issued. The said notification can be withdrawn after a reasonable opportunity of being heard has been given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be.

The proposed amendment further seeks to substitute the existing sub-section (5) so as to provide an additional ground for withdrawal of notification of the eligible project or scheme by the National Committee. It is proposed to provide that in case a report in respect of such eligible project or the scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed, such notification may be withdrawn in the same manner in which it was issued. It is further proposed to provide that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or the local authority, as the case may be. It is also proposed to provide that a copy of the notification by which the notification of the eligible project or the scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or the local authority, as the case may be.

This amendment will take effect from 1st October, 2004.

Clause 11 of the Bill seeks to amend section 40 of the Income-tax Act relating to amounts not deductible.

The proposed amendment seeks to insert a new sub-clause (ia) in clause (a) of the said section so as to provide that any interest, commission or brokerage, fees for professional services or fees for technical services, payable to a resident or amount credited or paid to a contractor or sub-contractor being a resident for carrying out any work (including supply of labour for carrying out any work), on which tax has not been deducted or, after deduction, has not been paid before the expiry of the time prescribed under sub-section (1) of section 200 and in accordance with the other provisions of Chapter XVII-B shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession". It is further proposed to provide that where in respect of any such sum, tax has been deducted under Chapter XVII-B or paid in any subsequent year, such sum shall be allowed as deduction in computing the income of the previous year in which such tax has been paid. It is also proposed to define the expressions "commission or brokerage", "fees for technical services", "professional services" and "work" used in the proposed new clause (ia).

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 12 of the Bill seeks to amend section 56 of the Income-tax Act, relating to Income from other sources.

Clause 3 of the Bill proposes to insert sub-clause (xiii) in clause (24) of section 2 so as to bring certain amounts within the scope of income subject to certain exceptions specified in the said sub-clause (xiii).

It is proposed to insert a new clause (v) in sub-section (2) of section 56 so as to provide that income referred to in sub-clause (xiii) of clause (24) of section 2, shall be chargeable as "income from other sources".

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-06 and subsequent years.

Clause 13 of the Bill seeks to amend section 71 of the Income-tax Act relating to set off of loss from one head against income from another.

Under the existing provisions of the said section, the amount of loss computed under any head of income, other than "Capital gains" in respect of any assessment year, is allowed to be set off against income computed under any other head. The loss computed under the head "Capital gains" is not allowed to be set off against income under any other head.

The proposed amendment seeks to insert a new sub-section (2A) in the said section so as to provide that notwithstanding anything contained in sub-section (1) or sub-section (2) of the said section, the loss computed under the head "Profits and gains of business or profession" shall not be allowed to be set off against income under the head "Salaries".

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 14 of the Bill seeks to insert a new section 80CCD in the Income-tax Act relating to deduction in respect of contribution to pension scheme of Central Government.

Sub-section (1) of the proposed new section 80CCD seeks to provide that where an assessee being an individual, employed by the Central Government on or after 1st January, 2004, who has paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, there shall be allowed a deduction in the computation of his total income of the whole of the amount, paid or deposited by him as does not exceed ten per cent. of his salary in the previous year.

Sub-section (2) of the proposed new section provides that where in the case of an employee, the Central Government makes any contribution to the said account, there shall be allowed a deduction in the computation of the total income of the assessee of the whole of the amount contributed by the Central Government as does not exceed ten per cent. of his salary in the previous year.

Sub-section (3) of the proposed new section provides that where any amount standing to the credit of the assessee in his pension account in respect of which a deduction has been allowed under the proposed section 80CCD, together with the amount accrued thereon, if any, is received by the assessee or his nominee on account of closure or his opting out of the said pension scheme whether in whole or in part in any previous year, or as pension received from the annuity plan, shall be deemed to be the income of the assessee or his nominee, as the case may be, in the previous year in which such withdrawal is made or as the case may be, pension is received and shall accordingly be chargeable to tax as income of that previous year.

Sub-section (4) of the said section seeks to provide that where any amount paid or deposited by the assessee, has been allowed as a deduction under sub-section (1), no rebate with reference to such amount shall not be allowed under section 88.

It is also proposed to provide an *Explanation* so as to define the expression "salary".

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

Clause 15 of the Bill seeks to amend section 80DD of the Income-tax Act relating to deduction in respect of maintenance

including medical treatment of a dependant who is a person with disability.

The existing provisions of section 80DD of the Income-tax Act provide for a deduction of an amount of rupees fifty thousand to an individual or Hindu undivided family who has incurred expenditure for medical treatment, training and rehabilitation in respect of a dependant, being a 'person with disability', as defined under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A deduction of rupees seventy-five thousand is allowed, where such dependant is a 'person with severe disability' suffering from eighty per cent. or more of one or more disabilities. The term 'dependant' has been defined so as to include in the case of an individual, the spouse, children, parents, brothers and sisters and in the case of a Hindu undivided family, a member thereof, who is wholly or mainly dependant on the assessee and who has not claimed any deduction under section 80U. A person claiming deduction under this section is required to furnish a copy of the certificate issued by the medical authority along with the return of income.

The existing provision of clause (c) of the *Explanation* to the said section provides that the expression "disability" shall have the meaning assigned to it in clause (i) of section 2 of the Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It is proposed to amend the said clause so as to provide that the expression "disability" shall include "autism", cerebral palsy" and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

The existing provisions of clause (e) of the *Explanation* to the said section provide that the expression "medical authority" shall mean medical authority as referred to in clause (p) of section 2 of the Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It is further proposed to amend the said clause so as to provide that the expression "medical authority" shall include such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999".

The existing provision of clause (f) of the *Explanation* to the said section provides that the expression, "persons with disability" shall mean a person referred to in clause (t) of section 2 of the Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It is also proposed to amend the said clause so as to provide that the expression "person with disability" shall include a person with disability referred to in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

The existing provisions of clause (g) of the *Explanation* to the said section provides that the expression "person with severe disability" means a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It is also proposed to substitute the said clause to provide that the expression "person with severe disability" shall include a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 16 of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Sub-section (2) of the said section provides that the deduction may be claimed by an assessee for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or the enterprise develops and begins to operate any infrastructure facility or starts providing telecommunication service or develops an Industrial Park or a Special Economic Zone or generates power or commences transmission or distribution of power.

It is proposed to amend the said sub-section so as to provide that the assessee may also claim deduction for ten out of fifteen years beginning from the year in which an undertaking undertakes substantial renovation and modernisation of the existing transmission or distribution lines.

Sub-section (3) of the aforesaid section provides that the undertakings engaged in generation or distribution or transmission of power and formed by way of reconstruction or splitting up or by transfer to a new business of more than eighty per cent. of old plant and machinery, shall not be eligible for deduction under section 80-IA.

It is proposed to apply the conditions specified in this sub-section to the telecom sector also.

It is further proposed to provide that conditions specified in this sub-section shall not apply in case of transfer, either in whole or in part, of machinery or plant previously used by a State Electricity Board, whether or not such transfer is in pursuance of the splitting up or reconstruction of such State Electricity Board or reorganisation of the State Electricity Board under Part XIII of the Electricity Act, 2003.

Sub-section (4) of the said section 80-IA specifies the activities eligible for deduction.

Under the existing provisions contained in clause (ii) of sub-section (4) of the said section, any undertaking which has started or starts providing telecommunication services on or after 1st April, 1995 but on or before 31st March, 2004 is eligible for deduction for any ten assessment years out of fifteen years beginning from the year in which the undertaking starts providing telecommunication services.

It is proposed to amend the said clause (ii) so as to extend the said time-limit by one year up to 31st March, 2005.

Under the existing provisions of clause (iv) of sub-section (4) of the said section, an undertaking which is (a) set up in India for generation, or generation and distribution of power, if it begins to generate power during the period beginning on 1st April, 1993 and ending on 31st March, 2006; (b) starts transmission or distribution by laying a network of new transmission or distribution lines during the period beginning on 1st April, 1999 and ending on 31st March, 2006, is eligible for deduction under the said section.

It is also proposed to insert a new sub-clause (c) in the said clause (iv) so as to allow the said deductions to an undertaking which undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2006.

It is also proposed to insert an *Explanation* below the new sub-clause (c) so as to provide a definition for the expression 'substantial renovation and modernisation' to mean an increase in the plant and machinery in the network of transmission or distribution lines by at least fifty per cent. of the book value of such plant and machinery as on 1st April, 2004.

These amendments will take effect from 1st April, 2005, and will apply, accordingly, in relation to the assessment year 2005-2006 and subsequent years.

Clause 17 of the Bill 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.

Sub-clause (a) seeks to insert the reference of the proposed sub-section (11B) in sub-section (1) of the said section. The amendment is of consequential nature.

The existing provisions contained in sub-section (4) of the said section provide for 100% deduction from profits, for a period of five assessment years followed by 25% (30% in the case of a company) for the next five years, to the industrial undertakings engaged in manufacture or production of articles or things or operation of a cold storage plant set up during the period beginning on 1st April, 1993 and ending on 1st April, 2004 in the industrially backward States as listed in the Eighth Schedule.

Sub-clause (b) proposes to insert two provisos after the third proviso to sub-section (4). The proposed fourth proviso seeks to provide that the time limit for setting up of industrial undertakings in the State of Jammu and Kashmir and for commencement of manufacture or production of articles or things or operation of cold storage plant shall be extended from 31st March, 2004 to 31st March, 2005.

The proposed fifth proviso seeks to provide that no deduction under this sub-section shall be allowed to an industrial undertaking located in the State of Jammu and Kashmir which is engaged in the manufacture or production of articles or things specified in Part 'C' of the Thirteenth Schedule.

Under the existing provisions contained in sub-section (8A), the amount of deductions allowable under the section in the case of a company carrying on scientific research and development shall be hundred per cent. of the profits and gains for ten consecutive assessment years beginning from the initial period subject to certain conditions. Clause (iii) of the said sub-section stipulates that the company should be approved by the prescribed authority at any time after 31st March, 2000 but before 1st April, 2004.

Sub-clause (c) proposes to amend sub-section (8A) so as to extend the time limit up to 31st March, 2005.

Under the existing provisions contained in sub-section (10), hundred percent. 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 the 31st March, 2005 subject to the conditions specified in clauses (a) to (c) of the said sub-section. The existing provisions of the said sub-section provides that (a) the undertaking should have commenced development of the housing project after the 1st day of October, 1998, (b) the project should be on a size of a plot of land which has a minimum area of one acre, and (c) the residential unit should have a maximum built-up area of one thousand square feet where such residential units is situated within the cities of Delhi or Mumbai or within twenty-five kilometers from the municipal limits of these cities and one thousand and five hundred square feet at any other place.

Sub-clause (d) seeks to substitute sub-section (10) of the said section so as to provide, *inter alia*, a hundred percent. deduction of the profits derived by an undertaking developing and building housing projects approved by a local authority before 31st March, 2007 instead of 31st March, 2005 under the existing provisions, subject to the conditions that (a) such undertaking has commenced or commences development and construction of the housing project on or after 1st October, 1998 and completes the construction within four years, from the end of the financial year in which the housing project is approved by the local authority; (b) the project is on the size of a plot of land which has a minimum area of one acre except in the case of a housing project carried out in accordance with a scheme framed by the Central Government or a State Government for reconstruction or redevelopment of existing buildings, and such scheme is notified by the Board in this behalf; (c) the residential unit has a maximum built-up area of one thousand square feet where such residential unit is situated within the cities of Delhi or Mumbai or within twenty-five kilometres from the municipal limits of these cities and one thousand and five hundred square feet at any other place; and (d) the built-up area of the shops and other commercial establishments included in the housing project does not exceed five per cent. of the aggregate built-up area of the housing project or two thousand square feet, whichever is less.

It is further proposed to insert an *Explanation* in clause (a) of the proposed sub-section (10) so as to provide that the date of approval shall be the date on which the building plan of the said project is first approved by the local authority in case where the approval in respect of the same is obtained more than once and also to provide that the date of completion of construction shall be the date on which the completion certificate is issued by the local authority.

The existing provisions of sub-section (11A) of the said section provide that an undertaking deriving profit from the integrated business of handling, storage and transportation of food grains, shall be allowed hundred per cent. deduction of such profits and gains for five assessment years beginning with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company).

The proposed sub-clause (e) seeks to extend the said deductions to undertakings engaged in the business of processing, preservation and packaging of fruits and vegetables.

Sub-clause (f) seeks to insert a new sub-section (11B) in the said section so as to provide that the profits derived by an undertaking from the business of operating and maintaining a hospital in a rural area shall be eligible for deduction of hundred per cent. of such profits and gains for five assessment years beginning from the initial assessment year in which the undertaking begins to provide medical services. An undertaking shall be eligible for such deduction if (a) such hospital is constructed during the period beginning on 1st October, 2004 and ending on 31st March, 2008, (b) has at least one hundred beds for patients; and (c) the construction is in accordance with the regulations of the local authority. The assessee is required to file an audit report in the prescribed form and in the manner specified therein for claiming the deduction under the proposed sub-section (11B).

The existing provision of sub-section (14) of the said section defines certain expressions.

Sub-clause (g) seeks to define the terms "built-up area" and to amend the definition of the expression "initial assessment year".

These amendments will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 18 of the Bill seeks to amend section 80U of the Income-tax Act relating to deduction in the case of a person with disability.

The existing provisions of section 80U of the Income-tax Act provide for a deduction of an amount of rupees fifty thousand to an individual who is a 'person with disability", as defined under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A deduction of rupees seventy-five thousand is allowed where such individual is a 'person with severe disability' suffering from eighty per cent. or more of one or more disabilities. An individual claiming deduction under this section is required to furnish a copy of the certificate issued by the medical authority along with the return of income.

The *Explanation* to the said section defines the expressions "disability", "medical authority", "person with disability", "severe disability" with reference to the relevant provisions of the Persons With Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

It is proposed to substitute the said *Explanation* so as to extend the definition of the above mentioned expressions to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Clause (a) of the proposed *Explanation* provides that the expression "disability" shall have the meaning assigned to it in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and includes "autism", "cerebral palsy" and "multiple disability" referred to in clauses (a), (c) and (h) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Clause (b) of the proposed *Explanation* provides that the expression "medical authority" means the medical authority as referred to in clause (p) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or such other medical authority as may, by notification, be specified by the Central Government for certifying "autism", "cerebral palsy", "multiple disabilities", "person with disability" and "person with severe disability" referred to in clauses (a), (c), (h), (j) and (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

Clause (c) of the proposed *Explanation* provides that the expression "person with disability" means a person referred to in clause (t) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

Clause (d) of the proposed *Explanation* provides that the expression "person with severe disability" means a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (4) of section 56 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, or a person with severe disability referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 19 of the Bill seeks to amend section 87 of the Income-tax Act.

Sub-section (1) of the said section provides that in computing the amount of income-tax on the total income of an assessee with which he is chargeable for any assessment year, the deductions specified in sections 88, 88A, 88B and 88C are allowed from the amount of income-tax in accordance with and subject to the provisions of, those sections.

Sub-section (2) of the said section provides that the aggregate amount of deductions under section 88 or section 88A or section 88B or section 88C shall not exceed the amount of income-tax (as computed before allowing the deductions under Chapter VIII) on the total income of the assessee with which he is chargeable for any assessment year.

It is proposed to insert a new section 88D (*vide* clause 21 of the Bill) relating to rebate to individual having total income not exceeding one hundred thousand rupees.

It is proposed to give reference of new section 88D, in sub-section (1) and also in sub-section (2) of section 87. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 20 of the Bill seeks to amend section 88 of the Income-tax Act relating to tax rebate on life insurance premia, contribution to provident fund, etc.

The existing provisions contained in sub-clause (c) of clause (xv) of sub-section (2) of section 88 provide for rebate on repayment of loans taken for the purposes of purchase or construction of a residential house property, income from which is chargeable to tax under the head "Income from house property". The said sub-clause (xv) allows such rebate on repayment of the amount borrowed by the assessee, *inter alia*, from the Central Government, or any State Government, or any bank including a co-operative bank, or the Life Insurance Corporation, or the National Housing Bank, or any public company engaged in the business of housing, finance, or from an employer who is a public company, or a public sector company, or a university, or a local authority or a co-operative society.

It is proposed to insert a new item (6A) in sub-clause (c) of clause (xv) of the said sub-section so as to provide for a tax rebate for repayment of an amount borrowed by the assessee for the purposes of purchase or construction of a residential house property from his employer where such employer is an authority or a board or a corporation or any other body established under a Central or State Act.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 21 of the Bill seeks to insert a new section 88D in the Income-tax Act, providing for tax rebate in the case of individuals having total income not exceeding one hundred thousand rupees.

The proposed section seeks to provide that an assessee, being an individual resident in India, whose total income does not exceed one hundred thousand rupees, shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under Chapter VIII on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent. of such income-tax.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 22 of the Bill seeks to amend section 90 of the Income-tax Act, relating to agreement with foreign countries.

Under the existing provisions contained in the *Explanation* to section 90, it is declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company, where such foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India.

It is proposed to omit the portion "where such foreign company has not made the prescribed arrangement for declaration and payment within India, of the dividends (including dividends on preference shares) payable out of its income in India" occurring in the *Explanation* as the same has become redundant.

This amendment will take effect retrospectively from 1st April, 1962, and will, accordingly, apply in relation to the assessment year 1962-1963 and subsequent years.

Clause 23 of the Bill seeks to amend section 94 of the Income-tax Act relating to avoidance of tax by certain transactions in securities.

Under the existing provisions of sub-section (7) of said section, where a person buys securities or unit within a period of three months prior to the record date and thereafter sells the same within a period of three months after such date, and the dividend received on such securities or units is exempt, then, the loss arising on account of such purchase and sale of securities or unit to the extent

of the exempt dividend income shall be ignored for the purpose of computing his income chargeable to tax.

Sub-clause (a) seeks to amend sub-section (7) of the aforesaid section so as to extend the time, limit in relation to sale of units from three months to nine months after record date.

Sub-clause (b) seeks to insert a new sub-section (8) in the aforesaid section so as to provide that, where a person buys or acquires any units within a period of three months prior to the record date and he is allotted or is entitled to additional units on the basis of such units without making any payment, and thereafter sells all or any of such units while continuing to hold all or any of the additional units within a period of nine months after such date, then, the loss, if any, arising to him on account of such purchase and sale of units shall be ignored for the purposes of computing his income chargeable to tax and the amount of loss so ignored shall, notwithstanding anything contained in any other provision of the Income-tax Act, be deemed to be the cost of purchase or acquisition of such additional units as are held by him on the date of such sale or transfer.

Under the existing provisions of clause (aa) of the *Explanation* to the said section, "record date", for the purposes of said section, means such date as may be fixed by a company or a Mutual Fund or the Administrator of the specified undertaking or the specified company for the purposes of entitlement of the holder of the securities or the unit-holder, to receive dividend or income, as the case may be.

Sub-clause (c) seeks to amend clause (aa) of the *Explanation* to the aforesaid section so as to provide that "record date" also includes such date on which a unit-holder is allotted or is entitled to additional units without any payment.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 24 of the Bill seeks to insert a new section 111A in the Income-tax Act relating to tax on short term capital gains in certain cases.

The proposed new section provides that where the total income of an assessee includes any income, chargeable under the head "Capital gains", arising from the transfer of a short-term capital asset, being securities and the transaction of sale of such securities is entered into on a recognised stock exchange in India, on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force, the tax payable by the assessee on such short-term capital gains shall be at the rate of ten per cent.

It is also proposed to provide in the proviso to this section that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such short-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such short-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such short-term capital gains shall be computed at the rate of ten per cent.

It is also proposed to provide definitions of the expressions "securities" and "recognised stock exchange" as having the same meaning as in clause (38) of section 10 of the Act.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 25 of the Bill 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 insert a new proviso to item (ii) of sub-section (1) of the said section so as to provide that the amount of income-tax payable on the income by way of short-term capital gains referred to in section 111A shall be calculated, at the rate of ten per cent.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 26 of the Bill seeks to amend section 115JB of the Income-tax Act relating to special provision for payment of tax by certain companies.

Under the existing provisions contained in the said section 115JB, in case of a company, if the income-tax payable on the total income as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after the 1st April, 2001, is less than seven and one-half per cent. of its book profit, the tax payable for the relevant previous year shall be deemed to be seven and one-half per cent. of such book profit. The "book profit" means the net profit as shown in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 as reduced by certain adjustments, as specified in that section. The aforesaid section, *inter alia*, provides that the book profit shall be increased by the amount or amounts of expenditure relatable to any income referred to in section 10 shall be reduced by the amount of income referred to in that section.

It is proposed to amend clause (f) of the *Explanation* to section 115JB to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to any income to which section 10 [excluding the income referred to in clause (23G) thereof] apply. It is further proposed to amend clause (ii) of the said *Explanation* so as to provide that the amount of income, to which any of the provisions of section 10 [excluding the income referred to in clause (23G) thereof] apply, shall be reduced from the book profit for the purposes of calculation of income-tax payable under the aforesaid section.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 27 of the Bill seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit-holders.

Under the existing provisions contained in sub-section (2) of the said section, 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 proposed to amend sub-section (2) so as to provide that 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 income-tax on such distributed income at the rate of twelve and one-half per cent. if distribution is made to any person, being an individual or Hindu undivided family and at the rate of twenty per cent. in any other case.

This amendment will take effect from 9th July, 2004.

Under the existing provisions contained in the proviso to the aforesaid sub-section (2), no additional tax shall be levied in respect of any income distributed, to unit holder 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 proposed to extend the said exemption beyond 31st March, 2004 and hence it is proposed to omit the said time-limit.

This amendment will take effect retrospectively from 1st April, 2004.

Clause 28 of the Bill seeks to insert a new Chapter XII-G relating to special provisions for income of shipping companies. This Chapter contains 30 sections from section 115V to section 115VZC.

The proposed section 115V defines certain expressions used in the said Chapter.

The proposed section 115VA relating to computation of profits and gains of shipping business and provides that a tonnage tax company, may, at its option, compute the income from the business of operating qualifying ships in accordance with the provisions of the Chapter and such income shall be deemed to be the income chargeable to tax under the head "Profits and gains of business or profession".

The proposed section 115VB relating to operating ships and provides that a company shall be regarded as operating a ship if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship has been chartered in by it in an arrangement such as slot charter, space charter or joint charter. However, a company shall not be regarded as the operator of a ship which has been chartered out on bareboat charter-cum-demise terms or on bareboat charter terms for a period of three years.

The proposed section 115VC relating to the qualifying company provides that a company shall be a qualifying company if it is a company formed and registered under the Companies Act, 1956; the place of effective management of the company is in India; it owns at least one qualifying ship; and the main object of the company is to carry on the business of operating qualifying ships. The expression "place of effective management of the company" has been defined in the Explanation to the proposed section.

The proposed section 115VD relating to qualifying ship and provides that a qualifying ship means any seagoing ship or vessel of fifteen net tonnage or more which is registered under the Merchant Shipping Act, 1958 and in respect of which a valid certificate indicating therein its net tonnage is in forece but does not include (i) a seagoing ship or vessel if the main purpose for which it is used is for the provision of goods or services of a kind normally provided on land; (ii) fishing vessels; (iii) factory ships; (iv) pleasure craft; (v) harbour and river ferries; (vi) offshore installations; (vii) dredgers; (viii) a qualifying ship which is used as a fishing vessel for a period of more than thirty days during a previous year.

The proposed section 115VE provides for the manner of computation of income. It has been provided that a tonnage tax company engaged in the business of operating qualifying ships shall, compute the profits from such business under the tonnage tax scheme and such profit, shall be computed separately from the profit and gains from any other business. The business of operating qualifying ships giving rise to income referred to in sub-section (1) of section 115V-I shall be considered as a separate business distinct from all other activities or business carried on by the company. It has also been provided that the profits referred to in sub-section (1) shall be computed separately from the profits and gains from any other business. It has also been provided that the scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP. It has also been provided that the profits and gains from the business of operating qualifying ships of a company engaged in such business and not covered under the tonnage tax scheme or, which has not made an option to that effect, as the case may be, shall be computed in accordance with the other provisions of this Act.

The proposed section 115VF provides that subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (1) of section 115V-I.

The proposed section 115VG provides for the computation of tonnage income of a tonnage tax company. It has been provided that the tonnage income for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-section (2) or sub-section (3). The tonnage income of a qualifying ship shall be calculated on the basis of the daily tonnage income of such ship multiplied by the number of days in the previous year, or as the case may be, the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year. It has also been provided that the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in the proposed section 115VX and includes deemed tonnage computed in the prescribed manner. The said section also provides that no deduction or set off shall be allowed in computing the tonnage income under the Chapter. The said section also provides for the rounding off of the tonnage. It has been provided that deemed tonnage shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

The proposed section 115VH provides for calculation of tonnage income in case of joint operation. The said section provides that where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest. It has also been provided that where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

The proposed section 115V-I relating to relevant shipping income. It has been provided that the relevant shipping income of a tonnage tax company means its profits from core activities referred to in sub-section (2) and its profits from incidental activities referred to in sub-section (5). It has been provided that where the aggregate of all the incidental activities specified in clause (ii) exceeds one-fourth per cent. of the turnover from core activities referred to in sub-section (2), such excess shall not form part of relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act. Core activities of a tonnage tax company have been specified in sub-section (2). It has also been provided that the Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (ii) of sub-section (2) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section. It is also proposed to be provided that every notification issued under this Chapter shall be laid before Parliament.

The incidental activities of the tonnage tax company shall be the activities which are incidental to the core activities and which may be prescribed for the purpose. It has been provided that the relevant shipping income attributable to operating non-qualifying ships shall be taxable under the other provisions of this Act. It has also been provided that where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case had been made at the market value of such goods or services as on that date. Where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit. It has also been provided that where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing

Officer shall, in computing the relevant shipping income of the tonnage tax company for the purpose of this Chapter, take the amount of income as may be reasonably deemed to have been derived therefrom. The relevant shipping income of a tonnage tax company shall include a loss and such loss shall be deemed to have never accrued for the purposes of the Chapter.

The proposed section 115VJ relates to treatment of common costs. It has been provided that where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis. It has also been provided that where any asset, other than qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purpose of the tonnage tax business and for the other business.

The proposed section 115VK relates to depreciation. It has been provided that the depreciation for the first previous year of the tonnage tax scheme shall be computed on the written down value of the qualifying ships which will be computed in accordance with the provisions of sub-section (2). The written down value of the block of qualifying assets, as on the first day of the previous year, shall be divided in the ratio of the book written down value of the qualifying ships and the book written down value of the non-qualifying ships. The block of qualifying assets shall constitute a separate block of assets. The manner for computing the book written down value of the block of qualifying assets and the block of other assets has been specified in sub-section (4). The allocation of depreciation in case an asset forming part of the block of qualifying assets begins to be used for purposes other than the tonnage tax business and in case an asset forming part of the block of other assets begins to be used for tonnage tax business has been provided for in sub-sections (5), (6) and (7). It has been provided that for the purposes of the Chapter, depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value has been brought forward from the preceding previous year. The expression “book written down value” has been defined.

The proposed section 115VL relates to general exclusion of deductions and set off, etc. It has been provided that sections 30 to 43B shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant previous years, had been given full effect to for that previous year itself; no loss referred to in sub-sections (1) and (3) of section 70 or sub-sections (1) and (2) of section 71 or sub-section (1) of section 72 or sub-section (1) of section 72A, in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the previous years when the company is under the tonnage tax scheme; no deduction shall be allowed under Chapter VI-A in relation to the profits and gains from the business of operating qualifying ships; and in computing the depreciation allowance under section 32 of the Income-tax Act, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous year.

The proposed section 115VM relates to exclusion of loss. It has been provided that section 72 shall apply in respect of any losses that have accrued to a company before its entry in tonnage tax scheme which are attributable to its tonnage tax business as if such losses had been set off against the relevant shipping income in any of the previous years when the company is under the tonnage tax scheme. The losses referred to in sub-section (1) shall not be available for set off against any income other than relevant shipping income in any previous year beginning on or after the company exercises its option under section 115VP. It has also been provided that any apportionment necessary to determine the losses referred to in sub-section (1) shall be made on a reasonable basis.

The proposed section 115VN relates to chargeable gains from transfer of tonnage tax assets. It has been provided that profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax in accordance with the provisions of section 45, read with section 50, and the capital gains so arising shall be computed in accordance with the provisions of sections 45 to 51.

The proposed section 115V-O relates to exclusion from section 115JB. The proposed section seeks to exclude the book profits or loss derived from the activities of a tonnage tax company referred to in sub-section (1) of section 115V-I from section 115JB.

The proposed section 115VP relates to method and time of opting for tonnage tax scheme. It has been provided that a qualifying company may opt for the tonnage tax scheme by making an application to the Joint-Commissioner having jurisdiction over the company in the form and manner as may be prescribed. It has also been provided that the application under sub-section (1) may be made by any existing qualifying company at any time after 30th September, 2004 but before 1st January, 2005. This may be called the initial period. In case of a company incorporated after the initial period or a company incorporated before the initial period but which becomes a qualifying company for the first time after the initial period, an application can be made within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be. The Joint Commissioner, on receipt of an application for tonnage option under sub-section (1), may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about the eligibility of the company to make such option for tonnage tax scheme, he shall either pass an order in writing approving the option for tonnage tax scheme or, if he is not so satisfied, pass an order in writing refusing to approve the option for tonnage tax scheme, and a copy of such order shall be sent to the applicant after the applicant has been given a reasonable opportunity of being heard. Every order granting or refusing the approval of the option for tonnage tax scheme under clause (i) or clause (ii), as the case may be, of sub-section (3) shall be passed before the expiry of one month from the end of the month in which application was received under sub-section (1). It has also been provided that where an order granting approval for tonnage tax scheme is passed under sub-section (3), the provisions of the proposed Chapter shall apply from the assessment year relevant to the previous year in which the option for tonnage tax scheme is exercised.

The proposed section 115VQ relates to period for which tonnage tax option to remain in force. It has been provided that an option for tonnage tax scheme after it has been approved under sub-section (3) of section 115VP shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised. An option for tonnage tax scheme shall cease to have effect from the assessment year relevant to the previous year in which the qualifying company ceases to be so or a default is made in complying with the provisions contained in section 115VT or section 115VU or section 115VV. The tonnage tax option shall also cease to have effect in case a company is excluded from the tonnage tax scheme under section 115VZC or where the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Chapter may not be made applicable to it in such cases the profits of the company for the business of operating qualifying ships shall be computed in accordance with the other provisions of the Income-tax Act.

The proposed section 115VR relates to renewal of tonnage tax scheme. It has been provided that an option for tonnage tax scheme approved under sub-section (3) of section 115VP may be renewed within one year from the end of the previous year in which the option ceases to have effect and the provisions of sections 115VP and 115VQ shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

The proposed section 115VS relates to prohibition to opt for tonnage tax scheme in certain cases. It has been provided that a qualifying company which, on its own, opts out of the tonnage tax scheme or makes a default in complying with the provisions of section 115VT or section 115VU or section 115VV or whose option has been excluded from tonnage tax scheme in pursuance of an order made under sub-section (1) of section 115VZC, shall not be eligible to opt for tonnage tax scheme for a period of ten years from the date of such opting out or default or order, as the case may be.

The proposed section 115VT relates to transfer of profits to tonnage tax reserve account. It has been provided that a tonnage tax company shall be required to credit to a reserve account (hereafter referred to as the Tonnage Tax Reserve Account) an amount not less than twenty per cent. of the book profits derived from the activities referred to in clauses (i) and (ii) of sub-section (1) of section 115V-I in each previous year to be utilised in the manner laid down in section 115VT. It has been provided that a tonnage tax company may transfer a sum in excess of twenty per cent. of the book profits and such excess sum transferred shall also be utilised in the manner laid down in section 115VT. The Explanation below sub-section (1) defines the expression “book profit”. It has further been provided under sub-section (2) that where the company has book profits from the business of operating qualifying ships and book loss from any other sources, and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (1), the company shall create the reserves to the extent possible in that previous year and the shortfall, if any, shall be added to the amount of the reserves required to be created for the following previous year and such shortfall shall be deemed to be part of the reserve requirement of that following previous year. Sub-section (3) of the said section provides for the manner in which the amount credited to the Tonnage Tax Reserve Account under sub-section (1) shall be utilised by the company. Sub-section (4) of the said section provides for taxing of an appropriate portion of the relevant shipping income in case where any amount credited to the Tonnage Tax Reserve Account under sub-section (1)-(i) has been utilised for any purpose other than that referred to in clause (a) or clause (b) of sub-section (3), or (ii) has not been utilised for the purpose specified in clause (a) of sub-section (3); or (iii) has been utilised for the purpose of acquiring a new ship as specified in clause (a) of sub-section (3), but such ship is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the previous year in which it was acquired. Sub-section (5) of the said section provides for taxing of a proportion of the relevant shipping income in case of shortfall of credit to the Tonnage Tax Reserve Account. Sub-section (6) of the said section provides that if the reserve required to be created under sub-section (1) is not created for any two consecutive previous years of a tonnage tax company, the option of the company for tonnage tax scheme shall cease to have effect from the start of the previous year following the second consecutive previous year in which the failure to create the reserve under sub-section (1) occurred. The *Explanation* to the said section defines the expression “new ship”.

The proposed section 115VU relates to minimum training requirement for tonnage tax company. It has been provided that a tonnage tax company, after its option has been approved under sub-section (3) of section 115VP shall be required to comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director-General of Shipping and notified in the Official Gazette by the Central Government. A copy of the certificate issued by the Director-General of Shipping to the effect that such company has complied with the minimum training requirement in accordance with the guidelines referred to in sub-section (1) for the previous year shall be required to be furnished along with the return of income. It has also been provided that if the minimum training requirement is not complied with for any five consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the start of the previous year following the fifth consecutive year in which the failure to comply with the minimum training requirement under sub-section (1) occurred.

The proposed section 115VV relates to limit for charter in of tonnage. It has been provided that in the case of every company which has opted for tonnage tax scheme, not more than forty nine per cent. of the net tonnage of the qualifying ships operated by it during any previous year shall be chartered in. Sub-section (2) of the said section provides that the proportion of net tonnage referred in sub-section (1) in respect of a previous year shall be calculated based on the average of net tonnage during that previous year. Sub-section (3) lays down the manner of computation of the average of net tonnage. Sub-section (4) of the said section provides that where the net tonnage of ships chartered in exceeds the limit under sub-section (1) during any previous year, the total income of such company in relation to that previous year shall be computed as if the option for tonnage tax scheme does not have effect for that previous year. Sub-section (5) of the said section provides that where the limit under sub-section (1) is exceeded in any two consecutive previous years, the option for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the limit was exceeded.

The proposed section 115VW relates to maintenance and audit of accounts. The said section provides that an option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a previous year unless such company maintains separate books of account in respect of the business of operating qualifying ships and furnishes, along with the return of income for that previous year, the report of an accountant, in the prescribed form duly signed and verified by such accountant.

The proposed section 115VX relates to determination of tonnage. The said section provides that the tonnage of the ship shall be determined in accordance with the valid certificate indicating its net tonnage. Clause (b) defines valid certificates for this purpose.

The proposed section 115VY relates to amalgamation. It has been provided that in case of amalgamation, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company if it is a qualifying company. It has also been provided that where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under sub-section (1) of section 115VP within three months of the date of the approval of the scheme of amalgamation. It is also proposed to be provided that where the amalgamating companies are tonnage tax companies, the provisions of this Chapter shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force. It has also been provided that where one of the amalgamating companies is a qualifying company on the 1st October, 2004 and which has not exercised option for tonnage tax scheme within the initial period, the provisions of this Chapter shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed in accordance with the other provisions of the Act.

The proposed section 115VZ relates to demerger and provides that in a scheme of demerger, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period if it is a qualifying company. It has also been provided that the option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

The proposed section 115VZA relates to the effect of temporarily ceasing to operate qualifying ships. The said section provides that a temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Chapter.

The proposed section 115VZB relates to avoidance of tax. Sub-section (1) of the said section provides that the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme. Sub-section (2) of the said section provides that a transaction or arrangement shall be considered as an abuse if the entering into or the application of such transaction or arrangement results, or would, but for the section have resulted in a tax advantage being obtained by certain persons. The *Explanation* to the said sub-section defines the expression "tax advantage".

The proposed section 115VZC relates to exclusion from tonnage tax scheme. Sub-section (1) of the said section provides that where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (1) of section 115VZB, the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme after giving an opportunity of being heard to such company. It has also been provided that no order under this sub-section shall be passed without the previous approval of the Chief Commissioner. Sub-section (2) of the said section provides that the section shall not apply where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Chapter. Sub-section (3) of the said section provides that where an order has been passed under sub-section (1) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of April of the previous year in which the transaction or arrangement was entered into and the income from the business of operating ships shall be computed in accordance with the other provisions of this Act.

This amendment will take effect from 1st April, 2005 and will, accordingly, apply in relation to assessment year 2005-2006 and subsequent years.

Clause 29 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

The existing provisions contained in clause (c) of the *Explanation* to sub-section (9) of the said section provide that the return of income shall be regarded as defective if it is not accompanied, *inter alia*, by the proof of tax, if any, claimed to have been deducted at source.

A new sub-section (3) in section 199 and a new section 203AA are proposed to be inserted *vide* clauses 38 and 43 of the Bill. These provisions require furnishing of a statement of the tax deducted on or after 1st April, 2005 and paid to the credit of the Central Government, to the person from whose income, tax has been deducted or on behalf of whom tax has been paid and further provide that the persons on whose account such tax deductions have been made shall be given credit of such tax deducted on the basis of a statement to be given by the person responsible for deducting tax without production of certificate.

The proposed amendment seeks to amend sub-clause (i) of clause (c) of the said *Explanation* to provide that where the return is not accompanied by the proof of tax, if any, claimed to have been deducted at source after the 1st April, 2005, the return of income shall not be regarded as defective. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2005.

Clause 30 of the Bill seeks to amend section 139A of the Income-tax Act relating to permanent account number.

The existing provisions contained in the first proviso to sub-section (5A) of the said section provide that a non-resident referred to in sub-section (4) of section 115AC, or sub-section (2) of section 115BBA or a non-resident Indian referred to in section 115G shall not be required to intimate his permanent account number.

Sub-clause (a) seeks to omit the said first proviso.

After the proposed amendment, the persons referred to in the omitted provision shall be required to intimate his permanent account number to the person responsible for deducting tax under Chapter XVII-B.

This amendment will take effect from 1st April, 2005.

A new sub-section (1C) in section 206C of the Act providing for collection of tax in the case of contracts or licence or lease relating to parking lot, toll plaza or mine or quarry is proposed to be inserted *vide* clause 47 of the Bill.

Sub-clause (b) seeks to insert the reference of "licensee or lessee" in sub-sections (5C) and (5D) of section 139A. The proposed amendment is consequential in nature.

This amendment will take effect from 1st October, 2004.

Clause 31 of the Bill seeks to insert a new section 142A of the Income-tax Act relating to estimate by Valuation Officer in certain cases.

Sub-section (1) of the proposed new section 142A provides that where an estimate of the value of any investment referred to in section 69 or section 69B or the value of any bullion, jewellery or other valuable article referred to in section 69A or section 69B is required for the purpose of making an assessment or re-assessment under this Act, the Assessing Officer may require the Valuation Officer to make an estimate of such value and report the same to him.

Sub-section (2) of the proposed new section 142A provides that the Valuation Officer to whom a reference is made under sub-section (1) may, for the purposes of dealing with such reference, have all the powers that he has under section 38A of the Wealth-tax Act, 1957.

Sub-section (3) of the proposed new section 142A provides that the Assessing Officer may, on receipt of the report from the Valuation Officer and after giving the assessee an opportunity of being heard, take into account such report in making such assessment or re-assessment.

The provisions contained in the proposed new section 142A shall not apply in respect of assessment made on or before 30th September, 2004 and where such assessment has become final and conclusive on or before that date, except in cases where re-assessment is required to be made under section 153A.

It is proposed to provide in the *Explanation* that the definition of the expression "Valuation Officer", shall have the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.

This amendment will take effect retrospectively from 15th November, 1972.

Clause 32 seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessments and re-assessments.

It is proposed to insert new clauses (vi) and (vii) in *Explanation 1* to the said section so as to provide that the period commencing from the date on which an application is made before the Authority for Advance Rulings and ending with the date on which the order rejecting the application or, as the case may be, the date on which the advance ruling pronounced by it is received by the Commissioner, shall be excluded in computing the period of limitation under the section.

This amendment will take effect from 1st October, 2004.

Clause 33 seeks to amend section 153B of the Income-tax Act relating to time limit for completion of assessment under section 153A.

It is proposed to insert new clauses (v) and (vi) in the *Explanation* to the said section so as to provide that the period commencing from the date on which an application is made before the Authority for Advance Rulings and ending with the date on which the order rejecting the application or, as the case may be, the date on which the advance ruling pronounced by it is received by the Commissioner, shall be excluded in computing the period of limitation under the section.

This amendment will take effect from 1st October, 2004.

Clause 34 of the Bill seeks to amend section 194C of the Income-tax Act relating to deduction of tax at source from payments to contractors and sub-contractors.

The existing provisions contained in sub-section (3) of the said section, *inter alia*, provide that no tax is required to be deducted at source under sub-section (1) or sub-section (2) from any sum credited or paid in pursuance of any contract, the consideration for which does not exceed twenty thousand rupees.

The proposed amendment seeks to substitute clause (i) of sub-section (3) of the said section so as to provide that no deduction of tax shall be made under sub-section (1) or sub-section (2) of the aforesaid section where the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor or sub-contractor, if the sum so credited or paid does not exceed twenty thousand rupees.

It is further proposed to provide that where the aggregate of amounts of such sums credited or paid or likely to be credited or paid, during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (1) or, as the case may be, sub-section (2) shall be liable to deduct income-tax under this section.

These amendments will take effect from 1st October, 2004.

Clause 35 of the Bill seeks to insert a new section 194LA in the Income-tax Act relating to payment of compensation on acquisition of certain immovable property.

The proposed new section seeks to provide that any person responsible for paying to a resident any sum being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land) shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax on income comprised therein. It is also proposed that no tax will be required to be deducted where the amount of such payment or, as the case may be, the aggregate amount of such payments to a resident during the financial year does not exceed one hundred thousand rupees. It is further proposed to define the expressions “agricultural land” and “immovable property” used in the proposed new section.

This amendment will take effect from 1st October, 2004.

Clause 36 of the Bill seeks to amend section 197 of the Income-tax Act relating to certificate for deduction of income-tax at lower rate.

The proposed amendment is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 37 of the Bill seeks to amend section 198 of the Income-tax Act relating to tax deducted income received.

The proposed amendment is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 38 of the Bill seeks to amend section 199 of the Income-tax Act relating to credit for tax deducted.

The proposed amendment in sub-clause (a) is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Under the existing provisions contained in section 199, credit of any deduction made and paid to the Central Government is treated as a payment of tax on behalf of the person from whose income the deduction was made and credit is given to him for the amount so deducted on the production of a certificate furnished under section 203 in the assessment made under the Act for the assessment year for which the income is assessable.

Sub-clause (b) seeks to insert a new sub-section (3) in the said section to provide that where any deduction is made in accordance with the provisions of Chapter XVII-B on or after the 1st day of April, 2005 and paid to the Central Government, the amount of tax deducted and specified in the statement referred to in section 203AA shall be treated as a payment of tax on behalf of the persons referred to in sub-section (1) or, as the case may be, sub-section (2) and credit shall be given to him for the amount so deducted in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.

This amendment will take effect from 1st April, 2005.

Clause 39 of the Bill seeks to amend section 200 of the Income-tax Act relating to duty of person deducting tax.

The proposed amendment in sub-clause (a) is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Sub-clause (b) seeks to insert a new sub-section (3) in the said section to provide that any person deducting any sum on or after 1st April, 2005 in accordance with the provisions of Chapter XVII-B or, as the case may be, any person being an employer referred to in sub-section (1A) of section 192 shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare quarterly statements for the period ending on 30th June, 30th September, 31st December and 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

This amendment will take effect from 1st April, 2005.

Clause 40 of the Bill seeks to amend section 202 of the Income-tax Act relating to deduction only one mode of recovery.

The proposed amendment is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 41 of the Bill seeks to amend section 203 of the Income-tax Act relating to certificate for tax deducted.

The proposed amendment in sub-clause (a) is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

A new sub-section (3) in section 199 and a new section 203AA are proposed to be inserted vide clauses 38 and 43 of the Bill. These provisions require furnishing of a statement of the tax deducted on or after 1st April, 2005 and paid to the credit of the Central Government, to the person from whose income, tax has been deducted or on behalf of whom tax has been paid and further provide that the persons on whose account such tax deductions have been made shall be given credit of such tax deducted and shown in the statement without production of certificate.

Sub-clause (b) seeks to provide that no certificate for tax deducted under the said section 203 may be issued for any tax deducted on or after 1st April, 2005.

The proposed amendment is of a consequential nature.

This amendment will take effect from 1st April, 2005.

Clause 42 of the Bill seeks to substitute a new section for section 203A of the Income-tax Act relating to tax deduction account number.

The existing provisions of section 203A provide for the allotment of tax-deduction account number. Sub-section (1) requires that every person deducting tax in accordance with the provisions of the Act shall apply for allotment of a tax-deduction account number within such time as may be prescribed by rules made under the Act. Sub-section (2) requires that such number shall be quoted in all documents relating to certain transactions.

The existing provisions of section 206CA provide that every person collecting tax at source in accordance with the provisions of section 206C shall apply to the Assessing Officer for the allotment of a tax-collection account number. It further provides that such number shall be quoted in all documents relating to certain transactions.

It is proposed to substitute section 203A with a new section incorporating therein the existing provisions of sections 203A and 206CA and making provisions, *inter alia*, for common identification number for tax-deduction under the Act, as well as for tax-collection under the provisions falling under Chapter XVII-B and XVII-BB.

This amendment will take effect from 1st October, 2004.

Clause 43 seeks to insert a new section 203AA in the Income-tax Act, relating to requirement of furnishing of statement of tax deducted, etc.

It is proposed to insert a new section 203AA so as to provide that the prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) of section 200, shall, within the prescribed time after the end of each financial year beginning on or after 1st April, 2005 prepare and deliver to the person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted and such other particulars as may be prescribed.

This amendment will take effect from 1st April, 2005.

Clause 44 of the Bill seeks to amend section 204 of the Income-tax Act relating to meaning of "person responsible for paying".

The proposed amendment is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 45 of the Bill seeks to amend section 205 of the Income-tax Act relating to bar against direct demand on assessee.

The proposed amendment is consequential to the insertion of new section 194LA in the Act *vide* clause 35 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 46 of the Bill seeks to amend section 206 of the Income-tax Act relating to persons deducting tax to furnish prescribed returns.

Under the existing provisions 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.

It is proposed to amend the said sub-section so as to enable filing of the returns with any authority or agency specified by rules made by the Central Board of Direct Taxes.

It is also proposed to insert a proviso to the said sub-section so as to provide that the Board may, if it considers necessary or expedient so to do, frame a scheme for the purposes of filing of returns with such other authority or agency referred to in the said sub-section.

These amendments will take effect from 1st October, 2004.

Under the existing provision contained in sub-section (2) of the said section, the person responsible for deducting tax in accordance with 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 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 computer media like floppy, diskette, magnetic cartridge tape, etc. and in the manner as may be specified in the scheme. The 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.

It is proposed to amend sub-section (2) so as to require the prescribed person in the case of every office of the Government also to 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.

This amendment will take effect from 1st April, 2005.

Clause 47 of the Bill seeks to amend section 206C of the Income-tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

Sub-clause (a) seeks to insert a new sub-section (1C) in the said section so as to provide that every person, who grants a lease or a licence or enters into a contract or otherwise transfers any right or interest in any parking lot or toll plaza or mine or quarry to another person, other than a public sector company (hereafter referred to as "licensee or lessee") for the use of such parking lot or toll plaza or mine or quarry for the purpose of business shall, at the time of debiting of the amount payable by the licensee or lessee to the account of the licensee or lessee or at the time of receipt of such amount from the said licensee or lessee in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the licensee or lessee of any such licence, contract or lease of the nature specified in column (2) of the Table given under the proposed sub-section, a sum equal to the percentage specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax.

The amendments proposed in sub-sections (2), (3), (5) and (9) of the said section *vide* sub-clause (b), item (i) of sub-clause (c), item (i) of sub-clause (e) and sub-clause (h) respectively are consequential in nature.

This amendment will take effect from 1st October, 2004.

Item (ii) of sub-clause (c) seeks to insert a proviso in sub-section (3) of the said section to provide that the person collecting tax on or after 1st April, 2005 in accordance with the provisions of the section shall, after paying the tax deducted to the Central Government within the prescribed time, prepare quarterly statement for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority such statement in such form and verified in such manner and setting forth such particulars and within such time as may be prescribed.

Sub-clause (d) seeks to insert a proviso in sub-section (4) of the said section to provide that where any amount is collected in accordance with the provisions of the section on or after 1st April, 2005 and paid under sub-section (3) to the Central Government, amount of tax collected shown in the statement referred to in the second proviso to sub-section (5) shall be treated as a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to him for the amount so collected in the assessment made under this Act for the assessment year for which such income is assessable without the production of certificate.

Item (ii) of sub-clause (e) seeks to insert a proviso in sub-section (5) of the said section to provide that no certificate shall be required to be furnished in case where tax has been collected in accordance with the foregoing provisions of this section on or after 1st April, 2005. The proposed amendment further seeks to provide that the prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) shall, within the prescribed time after the end of each financial year, prepare and deliver to the persons referred to in sub-section (1) or, as the case may be, sub-section (2), a statement in the prescribed form specifying the amount of tax deducted and such other particulars as may be prescribed by rules made by the Central Board of Direct Taxes.

This amendment will take effect from 1st April, 2005.

Under the existing provisions of sub-section (5A) of the said section, every person collecting tax at source is required to furnish half-yearly returns for the periods ending on 30th September and 31st March of each financial year to the prescribed income-tax authority in such form and manner and setting forth such particulars and within such time as may be prescribed.

Sub-clause (f) seeks to amend sub-section (5A) of the said section to provide that every person collecting tax in accordance with the provisions of the section shall, within the prescribed time after the end of each financial year, 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.

It is further proposed to amend the said sub-section so as to enable filing of the returns with any authority or agency specified by rules made by the Central Board of Direct Taxes.

It is also proposed to insert a proviso to the said sub-section so as to provide that the Board may, if it considers necessary or expedient to do so, frame a scheme for the purposes of filing of returns with such other authority or agency referred to in the said sub-section (1).

The existing provisions of sub-section (5B) of the said section provide that the return of tax collected at source may be filed on computer media such as floppies, diskettes, magnetic cartridge tapes, CD-ROMs or any other computer readable media as may be specified by the Board. Sub-section (5C) of the said section provides that the information in such return shall be admitted as evidence in any other proceedings under the Act.

Sub-clause (g) seeks to substitute sub-sections (5B) and (5C) of the said section with new sub-sections (5B), (5C) and (5D).

The proposed sub-section (5B) seeks to provide that the person responsible for collecting tax under the provisions of the said section, other than in a case where the seller is a company, the Central Government or a State Government, 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 readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme. The proposed proviso to the said sub-section provides that where the person collecting tax is a company or the Central Government or a State Government, every person collecting tax in accordance with the provisions of this section 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 new sub-section (5C) seeks to provide that a return filed on computer media shall be deemed to be a return for the purposes of sub-section (5A) and the rules made thereunder and shall be admissible in any proceedings made thereunder, without further proof of production of the original, as evidence of any contents of the original or of any facts stated therein.

It is further proposed to insert a new sub-section (5D). The proposed new sub-section (5D) seeks to provide that where the Assessing Officer considers that the return delivered or cause to be delivered under sub-section (5B) is defective, he may intimate the defect to the person collecting tax 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 this Act, such return shall be treated as an invalid return and the provisions of the Income-tax Act shall apply as if such person had failed to deliver the return.

This amendment will take effect from 1st April, 2005.

Sub-clause (h) seeks to amend sub-section (9) so as to make certain consequential amendments.

Clause 48 seeks to amend section 206CA of the Income-tax Act relating to tax-collection account number.

The existing provisions contained in the said section provide that every person collecting tax in accordance with the provisions of section 206C shall apply to the Assessing Officer for the allotment of a tax-collection account number. The section also provides that such number is to be quoted in all challans, in all certificates and in all the returns delivered in accordance with the provisions of section 206C and in all other documents pertaining to such transactions as may be prescribed in the interest of revenue.

*S*ection 203A of the Income-tax Act, is proposed to be substituted *vide* clause 42 of the Bill incorporating therein the provisions contained in sections 203A and 206CA. It is, therefore, proposed to amend the aforesaid section 206CA so as to limit period of its operation up to 1st October, 2004 only. The proposed amendment is consequential in nature.

This amendment will take effect from 1st October, 2004.

Clause 49 of the Bill seeks to amend section 245RR of the Income-tax Act relating to cases in which no income-tax authority or the Appellate Tribunal shall proceed to decide any issue.

It is proposed to amend the said sub-section so as to give reference of sub-section (1) of section 245Q in place of sub-section (1) of section 245R. The proposed amendment is of a drafting and clarificatory nature.

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

Clause 50 of the Bill seeks to amend section 246A of the Income-tax Act relating to appealable orders before Commissioner (Appeals).

A new Chapter XII-G relating to special provisions for income of shipping companies *vide* clause 28 of the Bill is proposed to be inserted.

The proposed section 115VP in the said Chapter, *inter alia*, provides for the rejection of an option by a company for the tonnage tax scheme. It is proposed to provide that a company aggrieved by an order under the said section 115VP refusing to approve the option for the tonnage tax scheme may appeal to the Commissioner (Appeals).

The proposed amendment is consequential in nature.

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.

Clause 51 of the Bill seeks to amend section 253 of the Income-tax Act relating to appeals to the Appellate Tribunal.

A new Chapter XII-G relating to special provisions for income of shipping companies *vide* clause 28 of the Bill is proposed to be inserted.

The proposed section 115VZC provides that an assessing officer may exclude a tonnage tax company from the tonnage tax scheme if such company is a party to arrangement of transaction which is an abuse of such scheme. An order excluding the tonnage tax company shall be passed after seeking approval of the Chief Commissioner.

It is proposed to provide that a company aggrieved by an order for excluding it from the tonnage tax scheme may appeal to the Appellate Tribunal.

The proposed amendment is consequential in nature.

This amendment will take effect from 1st October, 2004.

Clause 52 of the Bill seeks to insert a new section 271FA in the Income-tax Act relating to penalty for failure to furnish annual information return.

The proposed new section seeks to provide that if a person who is required to furnish an annual information return in respect of any financial year beginning on or after the 1st April, 2004, as required under sub-section (1) of the proposed section 285BA, fails to furnish such return within the time prescribed the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

This amendment will take effect from 1st April, 2005.

Clause 53 of the Bill seeks to amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.

The proposed amendment seeks to insert a new clause (k) in sub-section (2) in the said section to provide that if any person fails to deliver or cause to be delivered in due time a copy of the statement as required by sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall pay, by way of penalty, a sum of one hundred rupees for every day of such default.

This amendment will take effect from 1st April, 2005.

Clause 54 of the Bill seeks to amend section 272B of the Income-tax Act relating to penalty for failure to comply with the provisions of section 139A.

The proposed amendment seeks to provide that if a person who is required to intimate his permanent account number as required by sub-section (5C) of section 139A, quotes or intimates a number which is false and which he either knows or believes to be false or does not believe to be true, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of ten thousand rupees.

The proposed amendment is consequential in nature.

This amendment will take effect from 1st April, 2005.

Clause 55 of the Bill seeks to amend section 272BBB of the Income-tax Act relating to penalty for failure to comply with the provisions of section 206CA.

The existing provisions contained in the said section provide for a penalty of ten thousand rupees for the failure to comply with the provisions of section 206CA.

It is proposed to make the provisions of the said section 272BBB inoperative in case of failure to comply with the provisions of section 206CA with effect from 1st October, 2004. The proposed amendment is consequential to the amendment of section 206CA proposed *vide* clause 48 of the Bill.

This amendment will take effect from 1st October, 2004.

Clause 56 of the Bill seeks to insert a new section 277A in the Income-tax Act relating to falsification of books of account or document, etc.

It is proposed to insert a new section 277A in the Income-tax Act, *inter alia*, to provide punishment with rigorous imprisonment for a term not less than three months but which may extend to three years and with fine for falsification of books of account or document, etc. to enable any other person to evade any tax, penalty or interest chargeable or imposable under the Act.

The *Explanation* to the proposed section 277A provides that it shall be sufficient in any charge (without specifying any particular instance or sum of tax, penalty or interest which has been or would have been evaded by such other person) to allege the general intent to enable such other person to evade any tax, penalty or interest.

This amendment will take effect from 1st October, 2004.

Clause 57 of the Bill seeks to amend section 278B of the Income-tax Act relating to offences by companies.

Under the existing provisions of the said section, where an offence has been committed by a company, the company as well as the person who was in charge of, and was responsible to, the company for the conduct of its business at the time when the offence was committed shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the offence. Further, if in the case of a company it is proved that the offence had been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be prosecuted and punished accordingly.

It is proposed to insert sub-section (3) in the said section so as to provide that if an offence under the Act has been committed by a person being a company and punishment for such offence imprisonment and fine, then, such company shall be punished only with fine but every person who was in-charge of and was responsible to the company for the conduct of the business of the company or a director, manager, secretary or other officer of such company with whose consent or connivance or neglect such offence was committed, shall be liable to be proceeded against and punished in accordance with the provisions of the Act.

This amendment will take effect from 1st October, 2004.

Clause 58 of the Bill seeks to amend section 285BA of the Income-tax Act relating to furnishing of annual information return.

The existing provisions of the said section 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.

It is proposed to substitute the said section 285BA. The proposed new sub-section (1) provides that an assessee or the prescribed person in the case of an office of Government, or certain other authorities who are responsible for registering or maintaining a record under any law, of or enters into any specified financial transactions shall furnish an annual information return in respect of such transactions to the prescribed income-tax authority or such other authority or agency as may be prescribed. The obligation specified in the said sub-section shall be for the financial year 2004-2005 and subsequent years.

The proposed sub-section (2) provides that the annual information return shall be furnished within the prescribed time after the end of financial year in such form and manner (including on floppy, diskette, magnetic cartridge tape, CD-ROM or any computer readable media) as may be prescribed.

The proposed sub-section (3) defines the expression "specified financial transaction" so as to include a transaction of purchase, sale or exchange of goods or property or right or interest in a property or a transaction for rendering any service which may be prescribed or a transaction under a works contract or a transaction by way of an investment made, or an expenditure incurred, or a transaction for taking or accepting any loan or deposit where the value or the aggregate value of such transactions during a financial year exceeds fifty thousand rupees or such other higher value as may be prescribed. It is also proposed to provide that the Board may prescribe different value for different-transactions, having regard to the nature of the financial transaction, for different persons required to furnish annual information.

The proposed sub-section (4) provides that where the prescribed income-tax authority considers that the annual information return is defective, he may intimate such defect to the person who has furnished such return and give him an opportunity to rectify the same within one month or such further period as allowed and if the defect is not rectified within the said period of one month or, the period further allowed, such return shall be treated as invalid return and provisions of the Act shall apply as if such person had failed to furnish the annual information return.

The proposed sub-section (5) provides that where a person referred to in the proposed sub-section (1) has not furnished the annual information return within the prescribed time, the prescribed income-tax authority may serve upon him a notice requiring him to furnish such return within a period not exceeding sixty days and such person shall furnish such return within the time specified in the notice.

This amendment will take effect from 1st April, 2005, and will apply to the financial transactions entered into on or after 1st April, 2005.

Clause 59 of the Bill seeks to amend the Thirteenth Schedule of the Income-tax Act.

The said Schedule specifies the list of articles or things and the States for the purposes of availing of deductions under section 80-IC of the said Act.

*S*ub-section (4) of section 80-IB is proposed to be amended *vide* clause 17 of the Bill so as to provide that no deduction under sub-section (4) of that section shall be allowed to an industrial undertaking in the State of Jammu and Kashmir which is engaged in the manufacture or production of articles or things specified in Part C of the Thirteenth Schedule.

It is proposed to insert a new Part C in the said Schedule so as to specify such articles or things, being, Cigarettes/cigars of tobacco, manufactured tobacco and substitutes; Distilled/brewed alcoholic drinks and Aerated branded beverages and their concentrates, the manufacture or production of which would disallow the deductions under the proposed new fifth proviso to sub-section (4).

This amendment will take effect from 1st April, 2005, and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent years.