

Notes on clauses

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 2001-2002. Further, it lays down the rates at which tax is to be deducted at source during the financial year 2001-2002 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 income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2001-2002.

Rates of income-tax for the assessment year 2001-2002

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2001-2002. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2000, 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 2000-2001.

Rates for deduction of tax at source during the financial year 2001-2002 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 2001-2002 from incomes other than "Salaries". These rates are broadly the same as those specified in Part II of the First Schedule to the Finance Act, 2000, for the purposes of deduction of income-tax at source during the financial year 2000-2001. However, the rates of tax to be deducted on income by way of winnings from lotteries and crossword puzzles, and income by way of winnings from horse races, have been reduced from forty per cent. to thirty per cent. Tax on income by way of winnings from card games and other games of any sort is required to be deducted at source at the rate of thirty per cent. The amount of tax so deducted shall be increased by a surcharge for purposes of the Union calculated at the rate of two per cent. of such income-tax except in the case of a foreign company.

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 2001-2002

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source from "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 2001-2002.

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 2001-2002, except for co-operative societies having income above thirty thousand rupees where the tax payable will be three thousand rupees *plus* thirty per cent. of the amount by which the total income exceeds twenty thousand rupees.

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 2001-2002.

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 2001-2002.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2001-2002. The rate of tax in the case of domestic companies will continue to be thirty-five per cent. and in the case of foreign companies it will be forty-eight per cent.

In the case of every person being an individual, Hindu undivided family, association of persons or body of individuals whose income exceeds sixty 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 two per cent. of such tax.

In the case of every artificial juridical person, co-operative society, firm, local authority or domestic 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 per cent. of such tax.

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

Sub-clause (a) seeks to insert a new sub-clause (12A) to define "books or books of account" to include ledgers, day-books, cash books, account-books and other books whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device.

Sub-clause (b) seeks to insert a new sub-clause (22AA) to define "document" to include electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

These amendments will take effect from 1st June, 2001.

The existing section 194B of the Income-tax Act, *inter alia*, provides for deduction of income-tax at source on the income by way of winnings from any lottery at the rates in force. It is proposed to amend the said section 194B *vide* clause 65 of the Bill to provide for deduction of income-tax at source on the income by way of winnings from card game and other game of any sort. Section 115BB of the Income-tax Act provides for the rate at which income-tax shall be payable on the income by way of winnings from any lottery or card game and other game of any sort. Sub-clause (ix) of clause (24) of section 2 defines the expression "income" to include, *inter alia*, any winnings from lotteries or card games and other games of any sort.

Sub-clause (c) seeks to insert an *Explanation* in the said sub-clause (ix) to define the expressions "lottery" to include winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever under any scheme or arrangement by whatever name called; and "card game and other game of any sort" to include any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game.

Sub-clause (d) seeks to define the expression "insurer" used in the proposed amendments *vide* clauses 34 to 36 and 43. The insurer shall mean an Indian insurance company which has been granted a certificate of registration under the Insurance Act, 1938.

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

Clause 4 seeks to amend section 9 of the Income-tax Act relating to income deemed to accrue or arise in India.

Under the existing provision contained in clause (vi) of sub-section (1) of the said section, income by way of royalty payable shall be deemed to accrue or arise in India subject to certain conditions specified in that clause. The term "royalty" has been defined in *Explanation 2* to this clause.

It is proposed to include the use or right to use any industrial, commercial or scientific equipment within the scope of the said *Explanation*.

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

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

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

Sub-clause (a) seeks to enlarge the scope of the exemption by extending it to an employee of any State Government. The amount received by employees under scheme or schemes of voluntary retirement of any State Government shall be exempt with effect from 1st April, 2001 in accordance with the proposed amendment.

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

This sub-clause also proposes to enlarge the scope of the exemption by extending it to an employee of the Central Government.

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

Sub-clause (b) seeks to substitute item (a) and amend items (b), (c), (d), (e) and (f) of sub-clause (iv) of clause (15) so as to provide that the interest payable on any moneys borrowed, or on moneys borrowed under an agreement approved before 1st June, 2001 by Government or a local authority or by an industrial undertaking or by any other financial institution or a banking company under the Banking Regulation Act, 1949 or by certain Government companies as specified in those items, shall not be included in the total income.

This sub-clause also proposes to substitute *Explanation 1A* so as to provide that the expression "interest" shall not include any interest paid on delayed payment of loan or on default if it is in excess of two per cent. per annum over the rate of interest payable in terms of such loan.

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

Under the existing provision contained in clause (23AAB), any income of a fund set up by the Life Insurance Corporation of India on or after 1st October, 1996 under a pension scheme to which contribution is made by any person and which is approved by the Controller of Insurance, is exempt from income-tax.

Sub-clause (c) seeks to provide that income of any fund set up by any other insurer who is approved by the Insurance Regulatory and Development Authority shall also be eligible for exemption.

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

Sub-clause (d) seeks to insert a new clause (23BBB) so as to exempt any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions, registered as ASOSAI SECRETARIAT under the Societies Registration Act, 1860, for a period of three previous years relevant to the assessment years beginning on the 1st day of April, 2001.

This amendment will take effect retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment years 2001-2002, 2002-2003 and 2003-2004.

Under the existing provision, the income of any fund or institution referred to in sub-clause (iv) or any trust or institution referred to in sub-clause (v) or any university or other educational institution or hospital or other medical institution referred to in sub-clauses (vi) and (via) of clause (23C) of section 10, is not exempt under the said sub-clauses unless the income is applied or accumulated for application, wholly and exclusively to the objects for which the fund, etc., is established. At present, no maximum time has been provided for accumulation of such income.

Sub-clause (e) seeks to provide that after 1st April, 2001, if any income of the fund or trust or institution or university or other educational institution or hospital or other medical institution, has not been applied to the objects for which the fund, etc., is established and such income is accumulated, the maximum period of such accumulation will be limited to five years only.

This sub-clause further proposes to amend third proviso to this clause so as to provide that the educational and medical institutions referred to in sub-clauses (vi) and (via) holding any assets in the form of equity shares of a public company, including bonus shares thereon, and forming part of their corpus before 1st June, 1998, will not be denied exemption, even if these are not invested in the assets specified under sub-section (5) of section 11 of the Income-tax Act.

This sub-clause also seeks to insert a new proviso after the eighth proviso so as to provide that an institution or trust having total receipts of more than ten lakh rupees, or a university or other educational institution or hospital or other medical institution having total receipts exceeding one crore rupees, shall publish its accounts in a local newspaper and furnish a copy of such newspaper along with the application prescribed in clause (23C).

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

Under the existing provision contained in clause (23FB), any income of a venture capital company or a venture capital fund set up to raise funds for investment in a venture capital undertaking is not included in the total income of the previous year. As per the *Explanation* to this clause, "venture capital undertaking" means a domestic company whose shares are not listed in a recognised stock exchange in India. If the shares of such venture capital undertaking get listed subsequently in a recognised stock exchange and if the initial investment made continues, the venture capital company and venture capital fund may lose exemption by virtue of this *Explanation*.

Sub-clause (f) seeks to insert another *Explanation* in clause (23FB) to clarify that the income of a venture capital company or venture capital fund shall continue to be exempt even if the shares of the venture capital undertaking in which the venture capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock exchange in India.

The "venture capital fund" has been defined in clause (23FB) as a fund operating under a trust deed registered under the provisions of the Registration Act, 1908. It is also proposed to clarify that the fund operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963, shall be within the scope of the said clause.

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

Sub-clause (g) seeks to amend clause (23G). Under the existing provision contained in this clause, 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 from investments made by way of shares or long-term finance in any enterprise wholly engaged in the business of (i) developing, (ii) maintaining and operating, or (iii) developing, maintaining and operating any infrastructure facility and which has been approved by the Central Government, is exempt. It is proposed to enlarge the scope of the exemption by extending it to co-operative banks also.

This sub-clause further seeks to provide that 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, from investments in any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA shall not be included in computing the total income.

This sub-clause also seeks to omit clause (c) to *Explanation 1* and to include and define the expressions "co-operative banks" and "interest" for the purposes of the said clause.

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

Under the existing provisions contained in sub-clauses (ii) and (iii) of clause (33), any income by way of income received in respect of units from the Unit Trust of India or units of a mutual fund specified under clause (23D) is not included while computing the total income.

Sub-clause (h) seeks to amend the said clause (33) so as to clarify that income received, in respect of units of Unit Trust of India or a mutual fund on transfer of such units to persons other than Unit Trust of India or a mutual fund shall not be exempt.

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

Clause 6 seeks to amend section 10A of the Income-tax Act relating to newly established undertakings in free trade zone, etc.

Under the existing provision contained in sub-section (1) of the said section, any profits and gains derived by an assessee from an undertaking to which this section applies shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

The second proviso to sub-section (1) provides that where an undertaking initially located in any free trade zone or export

processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the said period of ten consecutive assessment years is reckoned from the assessment year relevant to the previous year in which such undertaking was first set up in such free trade zone or export processing zone.

Item (i) of sub-clause (a) seeks to amend the second proviso to sub-section (1) so as to provide that such period of ten consecutive assessment years shall be reckoned from the assessment year relevant to the previous year in which such undertaking began to manufacture or produce such articles or things or computer software in the free trade zone or export processing zone.

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

Under the existing provision contained in the third proviso to sub-section (1), the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent. of total sales of such undertaking shall be deemed to be the profits and gains derived from the export of articles or things or computer software.

Item (ii) of sub-clause (a) seeks to omit the third proviso to disallow the profits and gains derived from such domestic sales included in the profits and gains derived from the export of such articles or things or computer software.

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

Under the existing provision contained in sub-section (4), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

Sub-clause (b) seeks to clarify that such proportions shall be calculated with reference to the profits and gains of the business of the undertaking and not from any other business carried on by the assessee.

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

Item (i) of sub-clause (c) seeks to amend *Explanation 1* to the said section so as to clarify that the company referred to in the *Explanation* shall be the company in which the public are not substantially interested. The company in which the public are substantially interested has been defined in clause (18) of section 2 of the Income-tax Act.

Item (ii) of sub-clause (c) seeks to amend clause (iv) of *Explanation 2* to the said sub-section to clarify that the "export turnover" for computation of profits would relate to profits of the undertaking and not to the business as a whole.

Item (iii) of sub-clause (c) seeks to insert *Explanation 3* to the aforesaid sub-section to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

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

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

Under the existing provision contained in sub-section (1) of the said section, any profits and gains derived by an assessee from a hundred per cent. export-oriented undertaking to which this section applies shall not be included in the total income of the assessee for ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software.

Under the existing provision contained in the second proviso to the said sub-section (1), the profits and gains derived from such domestic sales of articles or things or computer software as do not exceed twenty-five per cent. of total sales of such undertaking shall be deemed to be the profits and gains derived from the export of articles or things or computer software.

Sub-clause (a) seeks to omit the second proviso to disallow the profits and gains derived from such domestic sales included in the profits and gains derived from the export of such articles or things or computer software.

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

Under the existing provision contained in sub-section (4) of the said section, the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the assessee.

Sub-clause (b) seeks to clarify that such proportion shall be calculated with reference to the profits and gains of the business of the undertaking and not from any other business carried on by the assessee.

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

Item (i) of sub-clause (c) seeks to amend *Explanation 1* to the aforesaid section so as to clarify that the company referred to in the said *Explanation* shall be the company in which the public are not substantially interested. The company in which the public are substantially interested has been defined in clause (18) of section 2 of the Income-tax Act.

Item (ii) of sub-clause (c) seeks to amend clause (iii) of *Explanation 2* to the said sub-section (4) to clarify that the "export turnover" for computation of profits would relate to profits of the undertaking and not to the business as a whole.

Item (iii) of sub-clause (c) seeks to insert *Explanation 3* to the aforesaid section to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

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

Clause 8 seeks to insert new section 10BB in the Income-tax Act relating to meaning of computer programmes in certain cases.

It is proposed to insert a new section so as to clarify that the profits and gains derived by an undertaking from the production of computer programmes under section 10B as it stood prior to its substitution by section 7 of the Finance Act, 2000 shall be construed as if for the words "computer programmes", the words "computer programmes or processing or management of electronic data" had been substituted in that section.

This amendment will take effect retrospectively from 1st April, 1994 and will, accordingly, apply in relation to the assessment year 1994-1995 and subsequent years.

Clause 9 seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

Under the existing provision contained in sub-section (2) of the said section, if seventy-five per cent. of the income derived from property held for charitable or religious purposes is not applied for such purposes, then, the portion not applied is permitted to be accumulated or set apart for application for such purposes for a period of ten years.

It is proposed to amend the said sub-section so as to reduce the period of accumulation in respect of the income accumulated after 1st April, 2001 from ten years to five years.

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

Clause 10 seeks to amend section 12A of the Income-tax Act relating to conditions as to registration of trusts, etc.

Section 12A provides that two conditions of registration and audit of its accounts must be fulfilled by any trust or institution before claiming exemption under sections 11 and 12. It is proposed to add two more conditions so as to provide that where the total income of the trust or institution as computed under the Income-tax Act without giving effect to the provisions of sections 11 and 12 exceeds ten lakh rupees in any previous year, the trust or institution, as the case may be, shall publish its accounts in a local newspaper and furnish a copy of such newspaper along with the return of income.

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

Clause 11 seeks to insert a new section 14A in the Income-tax Act relating to expenditure incurred in relation to income not includible in the total income.

The new section seeks to provide that no deduction shall be made in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income under the Act.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-63 and subsequent years.

Clause 12 seeks to amend section 16 of the Income-tax Act relating to deductions from salaries.

Under the existing provision contained in sub-clause (a) of clause (ii), a deduction of entertainment allowance is allowed to an assessee who is in receipt of a salary from the Government. The deduction allowable in such cases is a sum equal to one-fifth of the salary or five thousand rupees, whichever is less. Sub-clause (b) of clause (ii) provides for a similar deduction in case of other assessee in receipt of entertainment allowance who have been continuously in receipt of such allowance regularly from the present employer from a date before the 1st day of April, 1955. The deduction in such cases is restricted to the entertainment allowance received from such employer before the 1st day of April, 1955 or a sum equal to one-fifth of salary or seven thousand five hundred rupees, whichever is the least.

It is proposed to delete the said clause (ii) to discontinue deduction for entertainment allowance provided in sub-clause (b) to the persons other than those employed in the Government.

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

Clause 13 seeks to amend section 17 of the Income-tax Act relating to the definitions of "salary", "perquisite" and "profits in lieu of salary".

Under the existing provision contained in clause (2) of the said section, the value of any benefit or amenity granted or provided free of cost or at concessional rate by an employer to an employee (not being a director of a company or a person who has a substantial interest in the company) is not regarded as "perquisite" received by the employee where the salary exclusive of the value of perquisites other than by way of monetary payment of such employee does not exceed twenty-four thousand rupees.

Sub-clause (a) seeks to amend item (c) of sub-clause (iii) of clause (2) to increase the monetary limit of salary from twenty-four thousand rupees to fifty thousand rupees and also seeks to insert a new sub-clause (viii) in the said clause (2) so as to provide that the value of any fringe benefit or amenity provided to an employee shall be determined in such manner as may be prescribed.

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

Under the existing provision contained in sub-clause (iii) of clause (2) of the said section, the value of any benefit or amenity granted or provided free of cost or at concessional rate in the cases specified therein shall be included in the perquisite. The proviso to sub-clause (iii) provides that the said sub-clause (iii) shall not apply to the value of any benefit provided directly or indirectly by a company free of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants under the Employees' Stock Option Plan or Scheme of the said company.

It is further proposed to amend the proviso to sub-clause (iii) to provide that the provision contained in the said sub-clause (iii) shall not apply if the shares, debentures or warrants are allotted by a company to its employees under the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme in accordance with the guidelines issued by the Securities and Exchange Board of India.

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

It is also proposed to insert a new sub-clause (viii) in clause (2).

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

Sub-clause (b) seeks to insert a new sub-clause (iii) in clause (3) of the said section so as to include any amount due to or received, whether in lump sum or otherwise, by any assessee from any person before joining any employment, or after cessation of such employment as income of that person under the head "Salaries".

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

Clause 14 seeks to substitute new section for section 23 of the Income-tax Act relating to determination of annual value of house property.

The existing provision of the said section provides for the determination of annual value of a property in certain circumstances including where the property is let, or is self-occupied, or is vacant, or is partially let, or is let for part of the year. The annual value so determined is subject to the deductions allowable under section 24, including deductions on account of vacancy for any part of the year in respect of the property let, and on account of rent which cannot be realised.

It is proposed to substitute the said section so as to provide for determination of annual value in certain circumstances specified in the proposed new section after allowing deductions in computing the annual value on account of vacancy and unrealised rent.

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

Clause 15 seeks to substitute new section for section 24 of the Income-tax Act relating to deductions from income from house property.

Under the existing provisions contained in the said section, the income chargeable under the head "Income from house property" is, in certain cases, computed after making deductions of one-fourth of the annual value in respect of repairs of, and collection of rent from, the property; the amount of insurance premium paid; any annual charge in respect of the property (not being a charge created by the assessee voluntarily or a capital charge); ground rent; interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing the property; land revenue or any other tax levied by the State Government; part of the annual value proportionate to the period during which a property which is let was vacant; and the amount of rent subject to rules made in this behalf which the assessee cannot realise.

It is proposed to substitute the said section so as to provide for a deduction of an amount equal to thirty per cent. of the annual value while computing the income chargeable under the head "Income from house property".

It is also proposed, *inter alia*, to provide for a deduction up to an amount of one lakh fifty thousand rupees payable as interest on capital borrowed on or after 1st April, 1999 for the acquisition and construction of a property, where such acquisition or construction is completed before 1st April, 2003 and to be occupied or occupied by the assessee for his own residence.

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

Clause 16 seeks to amend section 25 of the Income-tax Act relating to amounts not deductible from income from house property.

Under the existing provision of the said section, any annual charge or interest chargeable to tax under the Income-tax Act, which is payable outside India, on which tax has not been paid or deducted under Chapter XVIIIB of the said Act and in respect of which there is no person in India who may be treated as an agent under section 163, shall not be deducted in computing the income chargeable under the head "Income from house property".

It is proposed to omit reference to annual charge in the said section. The proposed amendment is of consequential nature.

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

Clause 17 seeks to amend section 25A of the Income-tax Act relating to special provision for cases where unrealised rent allowed as deduction is realised subsequently.

Under the existing provision contained in the said section, where a deduction has been made under section 24 in the assessment for any year in respect of rent from property which the assessee cannot realise, and subsequently during any previous year, the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and shall be charged to tax without making any deduction under section 23 or section 24 as the income of that previous year, whether the assessee is the owner of the property in that year or not.

It is proposed to amend the said section so as to provide that the provision of this section shall apply so far as it relates to deduction under section 23 or section 24, as it stood immediately

before its substitution proposed in the Bill. Sections 23 and 24 of the Income-tax Act are proposed to be substituted *vide* clauses 14 and 15 of the Bill. The proposed amendment is of consequential nature.

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

Clause 18 seeks to insert a new section 25AA in the Income-tax Act relating to unrealised rent received subsequently to be charged to income-tax.

It is proposed to insert a new section to provide that where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year. Sections 23 and 24 are proposed to be substituted *vide* clauses 14 and 15 of the Bill. The proposed amendment is of consequential nature.

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

Clause 19 seeks to amend section 25B of the Income-tax Act relating to special provision for arrears of rent received.

Under the existing provision, where the assessee receives any amount by way of arrears of rent from property not charged to income-tax for any previous year, the amount received, after deducting a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property is deemed to be the income chargeable under the head "Income from house property" of the year in which such rent is received.

It is proposed to amend the said section to provide that the amount of arrears of rent so received, after deducting a sum equal to thirty per cent. of such amount instead of the said one-fourth of such amount, shall be deemed to be such income chargeable under the head "Income from house property" of such previous year. The proposed amendment is of consequential nature.

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

Clause 20 seeks to amend section 27 of the Income-tax Act relating to the definition of the expressions "owner of house property" and "annual charge", etc.

The existing provision of the said section provides definitions, *inter alia*, of the expressions "annual charge" and "capital charge".

It is proposed to omit definitions of the expressions "annual charge" and "capital charge". The proposed amendment is of consequential nature.

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

Clause 21 seeks to amend section 32 of the Income-tax Act relating to depreciation.

Sub-clause (a) seeks to insert a new *Explanation 5* in clause (ii) of sub-section (1) of the said section so as to clarify that the provisions of sub-section (1) of section 32 shall apply whether or not the assessee has claimed the deduction for depreciation in computing his total income.

Sub-clause (b) seeks to substitute sub-section (2) so as to provide that where full effect cannot be given to the depreciation allowance in any previous year owing to there being no profits or gains chargeable for that previous year or owing to the profits or

gains chargeable being less than the allowance, the depreciation allowance or part thereof to which effect has not been given shall be added to the amount of allowance for depreciation for the following previous year, or for the succeeding previous years till such time the full effect has been given to the depreciation allowance claimed by the assessee.

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

Clause 22 seeks to amend section 33AB of the Income-tax Act relating to tea development account.

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

It is proposed to amend the said sub-section (1) so as to enhance the said limit of deduction from twenty per cent. to forty per cent.

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

Clause 23 seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research.

Under the existing provision contained in sub-section (2AA), any sum paid by an assessee to an approved National Laboratory or a University or an Indian Institute of Technology for carrying out approved programme of scientific research is eligible for weighted deduction of one and one-fourth times of the sum so paid.

Sub-clause (a) proposes to extend the said sub-section to such specified persons as may be approved by the prescribed authority.

Under the existing provision contained in clause (1) of sub-section (2AB), a company engaged in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board is allowed a deduction of a sum equal to one and one-half times of the expenditure incurred by it on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility, as approved by the prescribed authority.

Sub-clause (b) proposes to amend the said clause so as to allow the aforesaid deduction to a company engaged in the business of bio-technology also.

This sub-clause also proposes to insert an *Explanation* to clause (1) of sub-section (2AB) so as to provide that the expenditure on scientific research on in-house research and development in relation to drugs and pharmaceuticals under the said clause shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970.

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

Clause 24 seeks to insert a new section 35DDA in the Income-tax Act relating to amortisation of expenditure incurred under voluntary retirement scheme.

Sub-section (1) of the said new section proposes to provide that where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee at the time of his voluntary retirement under any scheme of voluntary retirement framed in accordance with the guidelines prescribed under clause (10C) of section 10, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.

Sub-section (2) of the said new section proposes to provide that no deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of the said Act.

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

Clause 25 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be allowed only on actual payment.

Sub-clause (ii) of this clause seeks to insert a new clause (f) in section 43B so as to extend the scope of this section to include any sum payable by an employer in lieu of any leave at the credit of his employee as a deduction only in computing the income of that previous year in which such sum is actually paid.

Sub-clause (iii) seeks to insert the words, brackets and letter "or clause (f)" in the first proviso to the said section so as to make the proviso applicable to clause (f).

Sub-clause (iv) seeks to insert *Explanation 3B* so as to provide that where a deduction in respect of any sum referred to in clause (f) of the said section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.

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

Clause 26 seeks to amend section 44AB of the Income-tax Act relating to audit of accounts of certain persons carrying on business or profession.

Under the existing provision contained in the second proviso to the said section, where a person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of that section if such person gets his accounts audited under such law before the specified date and furnishes by that date, the report of the audit as required under such other law and a further report in the form prescribed under the aforesaid section.

Sub-clause (a) proposes to amend the second proviso so as to provide that the said further report shall be furnished by an accountant.

Under the existing provision contained in clause (ii) of *Explanation* to the said section, the specified date in the case of an assessee being a company for getting his accounts of the previous year audited by an accountant and furnishing the report of such audit in the prescribed form is the 30th November of the assessment year and in any other case, the specified date is the 31st October of the assessment year.

Sub-clause (b) proposes to substitute the said clause (ii) of the *Explanation* to provide that the specified date in the case of an assessee being a company shall be the 31st October and in any

other case the specified date shall be the 31st July of the assessment year.

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

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

Under the existing provision contained in clause (iii) of section 47, any transfer of a capital asset under a gift or will or an irrevocable trust is not regarded as transfer. The proviso to the said clause (iii) provides that the provisions contained in clause (iii) shall not apply to a transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under the Employees' Stock Option Plan or Scheme.

It is proposed to amend the said proviso to clause (iii) to provide that the provisions contained in that clause shall not apply if the shares, debentures or warrants are allotted by a company to its employees under the Employees' Stock Option Scheme or Employees' Stock Purchase Scheme in accordance with the guidelines issued by the Securities and Exchange Board of India.

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

Under the existing provisions contained in clause (viiia) of section 47, any transfer of a capital asset, being bonds or shares referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident is not regarded as a transfer.

It is proposed to substitute section 115AC *vide* clause 47 of the Bill. As a consequence to this, it is proposed to substitute the word "shares" used in clause (viiia) of section 47 with the words "Global Depository Receipts". The proposed amendment is of consequential nature.

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

Clause 28 seeks to amend section 49 of the Income-tax Act relating to cost with reference to certain modes of acquisition.

It is proposed to insert a new sub-section (2AA) to provide that where the capital gain arises from the transfer of a share, debenture or warrant, which has been taken into account while computing the value of perquisite under clause (2) of section 17, the cost of acquisition of such share, debenture or warrant shall be the value under that sub-section.

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

Clause 29 seeks to amend section 54EC of the Income-tax Act which provides that the capital gain is not to be charged on investment in certain bonds.

The capital gain arising from the transfer of a long-term capital asset is exempt from tax if such capital gain is invested in a long-term specified asset, being any bond redeemable after three years, issued on or after 1st April, 2000 by the National Bank for Agriculture and Rural Development or the National Highways Authority of India.

It is proposed to substitute item (b) of the *Explanation* below sub-section (3) of the said section to extend the benefit of exemption under the said section to the bonds of the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956, if the capital gain arising from the transfer of a long-term capital asset is invested in a long-term specified asset, being any bond redeemable after three years, issued on or after 1st April, 2001, by the said Corporation.

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

Clause 30 seeks to insert section 54ED in the Income-tax Act to provide that capital gain on transfer of certain listed securities or units shall not be charged in certain cases.

Sub-section (1) of the proposed new section seeks to provide that the capital gain arising from transfer of a long-term capital asset, being listed securities or unit of a mutual fund or of the Unit Trust of India shall be exempt from tax if such capital gain is invested in equity shares forming part of an eligible issue of capital, offered for subscription to the public. If part of the capital gain is so invested in acquiring the said equity shares, proportionate exemption will be available.

Explanation to the proposed sub-section (1) defines the expressions "eligible issue of capital", "listed securities" and "unit" for the purposes of the said sub-section.

Sub-section (2) of the proposed new section seeks to provide that the exemption allowed under sub-section (1) will be subject to the condition that the said equity shares are held for a minimum period of one year, failing which the exemption allowed on the basis of such investment will be disallowed and the amount so disallowed will be deemed to be the income chargeable to tax under the head "Capital gains" of the previous year in which such equity shares are sold or otherwise transferred.

Sub-section (3) of the proposed new section seeks to provide that where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.

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

Clause 31 seeks to amend section 54H of the Income-tax Act relating to extension of time for acquiring new asset or depositing or investing amount of capital gain.

Under the existing provisions contained in section 54H, where the transfer of original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of acquiring the new asset by the assessee referred to in sections 54, 54B, 54D, 54EA, 54EB and 54F or, as the case may be, the period available to the assessee under the said sections, for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of transfer, shall be reckoned from the date of receipt of such compensation. Section 54EC was inserted by the Finance Act, 2000 to provide for exemption from tax on long-term capital gains on investments in select bonds, directed exclusively at agricultural and rural finance and highway infrastructure. Sections 54EA and 54EB were omitted by the said Act.

It is proposed to omit reference to sections 54EA and 54EB and insert reference to section 54EC in section 54H. The proposed amendment is of consequential nature.

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

Clause 32 seeks to amend section 55 of the Income-tax Act relating to meaning of the expressions "adjusted", "cost of improvement" and "cost of acquisition".

Under the existing provision contained in clause (a) of sub-section (2), the cost of acquisition in relation to a capital asset, being goodwill of a business or a right to manufacture, produce or process any article or thing, tenancy rights, stage carriage permits or loom hours, shall be taken to be the purchase price in case the

asset is purchased by the assessee from a previous owner and in any other case such cost shall be taken to be *nil*.

It is proposed to amend clause (a) of sub-section (2) to provide that the cost of acquisition in relation to a trade mark or brand name associated with a business shall also be taken to be the purchase price in case the asset is purchased from a previous owner and *nil* in any other case.

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

Clause 33 seeks to amend section 72A of the Income-tax Act relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

Under the existing provision contained in sub-section (1), the set-off and carry forward of loss and allowance for depreciation under the Income-tax Act is allowed in the case of an amalgamation of a company owning an industrial undertaking or a ship with another company.

It is proposed to amend sub-section (7) to define the expression "industrial undertaking" so as to mean any undertaking engaged in the manufacture or processing of goods or the manufacture of computer software or the business of generation or distribution of electricity or any other form of power or mining or the construction of ships, aircrafts or rail systems.

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

Clause 34 seeks to amend section 80CCC of the Income-tax Act, relating to deduction in respect of contribution to certain pension funds.

Under the existing provision contained in sub-section (1), an individual is eligible for deduction of any amount paid or deposited by him in an annuity plan of the Life Insurance Corporation of India for receiving pension from a fund set up by the said Corporation, referred to in clause (23AAB) of section 10. The deduction shall be restricted to ten thousand rupees.

The proposed amendment seeks to provide that any amount paid or deposited for keeping in force any annuity plan of any other insurer shall also be eligible for deduction.

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

Clause 35 seeks to amend section 80D of the Income-tax Act, relating to deduction in respect of medical insurance premia.

Under the existing provision contained in the said section, deduction of a sum not exceeding fifteen thousand rupees paid to effect or keep in force an insurance on the health of the assessee or his wife or her husband, or dependant parent or any member of his family who is a senior citizen, is allowed if such insurance is in accordance with a scheme framed in this behalf by the General Insurance Corporation of India and approved by the Central Government in this behalf.

It is proposed to substitute the proviso to sub-section (2) of the said section to provide that the amount paid under any scheme of any other insurer which is approved by the Insurance Regulatory and Development Authority shall also be eligible for deduction.

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

Clause 36 seeks to amend section 80DD of the Income-tax Act, relating to deduction in respect of maintenance including medical treatment of handicapped dependant.

The existing provision contained in the said section provides for a deduction in respect of maintenance including medical treatment of handicapped dependant provided such amount is deposited in a scheme framed in this behalf by the Life Insurance Corporation of India or the Unit Trust of India.

The proposed amendment seeks to provide that the amount deposited in any scheme of any other insurer who is approved by the Insurance Regulatory and Development Authority shall also be eligible for deduction.

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

Clause 37 seeks to amend section 80G of the Income-tax Act, relating to deduction in respect of donations to certain funds, charitable institutions, etc.

Under the existing provisions, an assessee is allowed a deduction from his total income in respect of donations made by him. In respect of donations to certain funds, hundred per cent. deduction is allowed.

It is proposed by clauses (a) and (b) to provide hundred per cent. deduction in respect of donations made to the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities constituted by the Central Government under sub-section (1) of section 3 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, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Clause 38 seeks to amend section 80GG of the Income-tax Act relating to deductions in respect of rents paid.

Under the existing provision contained in the said section, in computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, a deduction is allowable in respect of expenditure incurred by him towards payment of rent in respect of any residential accommodation occupied by him to the extent of the limits specified in the said section. However, such deduction is not allowable if any residential accommodation is owned, *inter alia*, by the assessee at the place where he ordinarily resides, etc., or is owned by the assessee at any other place being accommodation in the occupation of the assessee, the value of which is to be determined under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23.

Clause 14 of the Bill seeks to substitute section 23 by a new section. It is, accordingly, proposed to amend section 80GG to substitute reference of new section 23. The proposed amendment is of consequential nature.

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

Clause 39 seeks to amend section 80HHE of the Income-tax Act relating to deduction in respect of profits from export of computer software, etc.

It is proposed to insert an *Explanation* after sub-section (1) of the said section so as to clarify that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.

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

Clause 40 seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Under the existing provision contained in sub-section (1), the deduction of hundred per cent. of profits and gains for the first five assessment years and thereafter twenty-five per cent. is allowed.

Sub-clause (a) proposes to substitute the said sub-section (1) so as to provide a deduction of hundred per cent. of profits and gains for ten consecutive assessment years for the undertakings referred in the said sub-section.

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

Under the existing provision contained in the proviso to sub-section (2), an assessee at his option can claim deduction for any ten consecutive assessment years out of twenty years beginning from the year in which the undertaking or the enterprise is engaged in a highway project including housing or other activities being integral part of the highway project.

Sub-clause (b) proposes to substitute the said proviso to provide that where the assessee develops, or operates and maintains or develops, operates and maintains any infrastructure facility being (a) a road including toll road, a bridge or a rail system; (b) a highway project including housing or other activities being integral part of the highway project; and (c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system, he may at his option claim deduction for any ten consecutive assessment years out of twenty years beginning from the year in which the undertaking or the enterprise is engaged in the said infrastructure facility. For infrastructure facility being port, airport, inland waterway or inland port, ten year tax holiday may be availed in a block of fifteen years.

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

Sub-clause (c) proposes to insert new sub-section (2A) to provide that an undertaking providing telecommunication services, specified in clause (ii) of sub-section (4) shall be allowed hundred per cent. deduction of the profits and gains of the eligible business for the first five assessment years commencing at any time during the periods as specified in sub-section (2) and thereafter, thirty per cent. of such profits and gains for further five assessment years.

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

Sub-clause (d) proposes, *inter alia*, to amend sub-section (3) by substituting the word "undertaking" for the words "industrial undertaking".

It is also proposed to substitute item (b) of sub-clause (i) of sub-section (4) to do away with the condition that the infrastructure facility shall be transferred to the Central Government, State Government, local authority or such other statutory body as is specified under the existing provisions.

This sub-clause also proposes to substitute the *Explanation* of infrastructure facility to mean (a) a road including toll road, a bridge or a rail system; (b) a highway project including housing or other activities being integral part of the highway project; (c) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system; and (d) port, airport, inland waterways or inland port.

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

Under the existing provision contained in clause (ii) in sub-section (4), any undertaking which has started or starts providing telecommunication services whether basic or cellular, including radio paging, domestic satellite service, network of trunking, and electronic data interchange services at any time on or after 1st April, 1995, but before 31st March, 2000, is allowed deduction. It is proposed to substitute the said clause (ii) so as to include "broadband network" and "internet services" for the purposes of eligibility for deduction and also extend the said time limit up to the 31st March, 2003.

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

Under the existing provision contained in clause (iii) of sub-section (4), deduction is available to an undertaking which develops, develops and operates or maintains and operates an industrial park notified by the Central Government. It is proposed to include special economic zone to provide the same benefits as are available to such industrial park. It is further proposed to extend the period available to 31st March, 2006.

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

Sub-clause (e) also proposes to amend clause (iv) by substituting the word "undertaking" for the words "industrial undertaking". It is further proposed to extend the period available for the undertaking engaged in generation, generation and distribution, laying a network of transmission or distribution lines from the 31st March, 2003 to the 31st March, 2006.

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

Sub-clause (f) seeks to amend sub-section (7) by substituting the word "undertaking" for the words "industrial undertaking".

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

Sub-clause (g) seeks to amend sub-section (8) to include "services" for the purposes of the sub-section.

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

Sub-clause (h) seeks to amend sub-section (9) by substituting the word "undertaking" for the words "industrial undertaking".

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

Clause 41 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 (11A) in sub-section (1) of the said section. The amendment is of consequential nature.

Sub-clause (b) seeks to insert a new sub-section (11A) in the said section so as to 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) of the profits and gains derived from the operation of such business in a manner that the total period of deduction does not exceed ten consecutive assessment years and subject to fulfillment of the condition that it begins to operate such business on or after 1st April, 2001.

Sub-clause (c) seeks to insert a new sub-clause (iv) in clause (c) of sub-section (14) to define the "initial assessment year" in relation to the integrated business of handling, storage and transportation of foodgrains.

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

Clause 42 seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

It is proposed to reduce the deduction allowed to an assessee in computing his total income from twelve thousand rupees to nine thousand rupees. It is also proposed to omit the proviso below clause (x) which allows additional deduction of three thousand rupees received as interest on Government securities.

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

Clause 43 seeks to amend section 88 of the Income-tax Act, relating to rebate on life insurance premia, contribution to provident fund, etc.

Under the existing provision of section 88 of the Income-tax Act, a person is allowed tax rebate of twenty per cent. on the investments made by him in a specified security up to the specified limit. Proviso to sub-section (1) of section 88 gives the benefit of higher rebate of twenty-five per cent. in the case of sportsman, play-wright, author, etc.

Sub-clause (a) seeks to provide that in the case of an individual having income chargeable under the head "Salaries" which does not exceed one lakh rupees before allowing deduction under section 16 and which is not less than ninety per cent. of his gross total income, the rate of rebate under section 88 shall be thirty per cent. instead of twenty per cent.

The existing provision contained in clause (xiiia) of sub-section (2) provides for tax rebate in respect of any sum paid or deposited to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation of India as the Central Government may, by notification in the Official Gazette, specify.

Sub-clause (b) seeks to provide that the annuity plan of any other insurer approved by the Insurance Regulatory and Development Authority shall also be eligible for tax rebate.

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

Clause 44 seeks to substitute section 92 of the Income-tax Act, relating to income from transactions with non-residents, how computed in certain cases.

It is proposed to substitute the said section by new sections 92, 92A, 92B, 92C, 92D, 92E and 92F relating to computation of income from international transactions having regard to the arm's length price, meaning of associated enterprise, meaning of international transaction, computation of arm's length price, maintenance of information and documents by persons entering into international transactions, furnishing of a report from an accountant by persons entering into international transaction and definitions of certain expressions occurring in the new sections.

It is proposed to substitute section 92 by a new section to provide that any income arising from an international transaction shall be computed having regard to arm's length price. It further provides that the cost or expenses allocated or apportioned between two or more associated enterprises shall be at arm's length price.

The proposed new sections 92A and 92B provide meanings of the expressions "associated enterprise" and "international transaction" with reference to which the income is to be computed under the new section 92.

The proposed new section 92C provides for computation of arm's length price. The section provides that the arm's length price in relation to an international transaction shall be determined by (a) comparable uncontrolled price method; or (b) resale price method; or (c) cost plus method; or (d) profit split method; or (e) transactional net margin method; or (f) any other method which may be prescribed by the Central Board of Direct Taxes. One of these methods shall be the most appropriate method which shall be applied for computation of arm's length price in the manner as may be specified by the rules to be made by the Central Board of Direct Taxes in this behalf. In a case where more than one price can be determined by the most appropriate method, in such case the arm's length price shall be the arithmetical mean of such two or more prices. The new section further provides that where during the course of any proceeding for the assessment of income the Assessing Officer is, on the basis of material or information or document in his possession, of the opinion that the price charged in the international transaction has not been determined in accordance with sub-sections (1) and (2) or information and documents relating to the international transaction have not been kept and maintained by the assessee in accordance with the provisions contained in sub-section (1) of section 92D, and the rules made in this behalf or the information or data used in computation of the arm's length price is not reliable or correct or the assessee has failed to furnish, within the specified time, any information or document which he was required to furnish by a notice issued under sub-section (3) of section 92D, the Assessing Officer may proceed to determine, after giving an opportunity of being heard to the assessee, the arm's length price in relation to the said transaction in accordance with sub-sections (1) and (2) of this section, on the basis of such material or information or documents available with him.

The new section 92D seeks to provide that every person who has entered into an international transaction shall keep and maintain such information and documents as may be specified by rules made by the Central Board of Direct Taxes. The Central Board of Direct Taxes may also specify by the rules the period for which the information and documents are required to be retained. During the course of any proceedings under the Act, an Assessing Officer or Commissioner (Appeals) may require any person who has entered into an international transaction to furnish any of the information and documents specified under the rules within a period of thirty days from the date of receipt of a notice issued in this regard, and such period may be extended by a further period not exceeding thirty days.

The new section 92E seeks to provide that every person who has entered into an international transaction during a previous year shall obtain a report of an accountant and furnish such report on or before the specified date in the prescribed form and manner.

The new section 92F defines the expressions "accountant", "arm's length price", "enterprise", "specified date" and "transaction" used in the proposed new sections 92, 92A, 92B, 92C, 92D and 92E.

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

Clause 45 seeks to amend section 94 of the Income-tax Act, relating to avoidance of tax by certain transactions in securities.

Under the existing provision contained in the said section, transactions of sale and purchase of securities which result in the interest or dividend in respect of such securities being received by a person not being the owner of the securities, are to be ignored and the interest or dividend from such securities is required to be included in the total income of the owner.

Sub-clause (a) seeks to insert a new sub-section (7) in the said section so as to provide that where any person buys or acquires securities or unit within a period of three months prior to the record

date fixed for declaration of dividend or distribution of income in respect of the securities or unit, and sells or transfers the same within a period of three months after such record date, and the dividend or income received or receivable is exempt, then, the loss, if any, arising from such purchase or sale shall be ignored to the extent such loss does not exceed the amount of such dividend or interest, in the computation of the income, chargeable to tax, of such person.

Sub-Clause (b) seeks to insert new expressions "record date" and "unit" as clauses (aa) and (d) in the *Explanation*.

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

Clause 46 seeks to amend section 115AB of the Income-tax Act relating to tax on income from units purchased in foreign currency or capital gains arising from their transfer.

Explanation (a) to section 115AB defines "overseas financial organisation" to mean any fund, institution, association or body, whether incorporated or not, established under the laws of a country outside India, which has entered into an arrangement for investment in India with any public sector bank or public financial institution or a mutual fund specified under clause (23D) of section 10 and such arrangement is approved by the Central Government for this purpose.

It is proposed to amend the said *Explanation* to provide that the Securities and Exchange Board of India shall be the authority to grant approval in respect of the above-mentioned arrangement instead of the Central Government.

This amendment will take effect from 1st June, 2001.

Clause 47 seeks to substitute section 115AC of the Income-tax Act relating to tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Sub-section (1) of the proposed new section seeks to provide that in the case of an assessee who is a non-resident assessee, the income-tax payable shall be the aggregate of—

(i) ten per cent. of the income by way of interest in respect of bonds of an Indian company issued in accordance with such scheme as the Central Government may, by notification in the Official Gazette, specify in this behalf, and on bonds of public sector company sold by the Government and purchased by him in foreign currency, if any;

(ii) ten per cent. of the income by way of dividends (other than dividends referred to in section 115-O) in respect of Global Depository Receipts of an Indian company—

(a) issued in accordance with a scheme notified by the Central Government in the Official Gazette against the initial issue of underlying shares of an Indian company and purchased by the non-resident in foreign exchange through an approved intermediary; or

(b) issued against the shares of a public sector company sold by the Government through an approved intermediary; or

(c) re-issued against the existing underlying shares of an Indian company in accordance with such scheme as the Central Government may notify in the Official Gazette, and purchased by the non-resident in foreign exchange through an approved intermediary; or

(d) issued against the shares of a listed Indian company on the disinvestments by such company of its shareholding in its listed subsidiary company, in accordance with such scheme as the Central Government may notify in the Official Gazette, and purchased by the non-resident in foreign exchange through an approved intermediary,

if any;

(iii) ten per cent. in case of long-term capital gains arising from the transfer of the aforesaid bonds and Global Depository Receipts, if any, and

(iv) the amount of income-tax on the total income as reduced by the income from the said bonds and Global Depository Receipts.

Sub-section (2) of the proposed new section seeks to provide that in the case of the aforesaid non-resident assessee, no deduction shall be allowed under any provisions of this Act, where the gross total income consists only of income from aforesaid bonds or Global Depository Receipts. However, where the gross total income includes income from aforesaid bonds or Global Depository Receipts, the deduction under any provisions of the Act shall be allowed as if the gross total income does not include the income from the aforesaid bonds or Global Depository Receipts.

Sub-section (3) of the proposed new section provides that the first and second provisos of section 48 relating to the computation of capital gains shall not apply in case of transfer of aforesaid bonds and Global Depository Receipts of the Indian company purchased by the non-resident assessee in foreign currency.

Sub-section (4) of the proposed new section provides that a non-resident shall not be required to furnish his return of income under section 139(1) if his total income consists only of income referred to in clauses (a), (b) and (c) of sub-section (1) and tax has been deducted at source as per the provisions of Chapter XVII-B from such income.

Sub-section (5) of the proposed new section provides that where an assessee acquires bonds or Global Depository Receipts, as the case may be, in a resulting or amalgamated company by virtue of his holding Global Depository Receipts or bonds in the amalgamating or demerged company in accordance with the provisions of sub-section (1), the provisions of the said sub-section shall apply to such bonds or Global Depository Receipts.

The *Explanation* to the new section defines the expressions "approved intermediary" and "Global Depository Receipts".

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

Clause 48 seeks to amend section 115ACA of the Income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

Under the existing provision contained in section 115ACA, in the case of an assessee who is a resident and employee of an Indian company engaged in information technology software and information technology services, income by way of interest or dividend (other than dividends referred to in section 115-O) and long-term capital gains arising from bonds or shares of an Indian company issued in accordance with an Employees' Stock Option Scheme as the Central Government may specify by notification in the Official Gazette, and purchased by the resident individual employee in foreign exchange is taxed at ten per cent.

It is proposed to amend section 115ACA so as to extend the concessional tax rate on income by way of interest or dividend (other than dividends referred to in section 115-O) and long-term capital gains to employee of a subsidiary company, whether domestic or foreign, of an Indian company engaged in specified knowledge-based industry or service on shares issued by such an Indian company in accordance with notified stock option scheme and purchased by the resident individual employee in foreign currency.

It is also proposed to define the term "specified knowledge-based industry or service" so as to include within its ambit, entertainment service, pharmaceuticals, bio-technology, and any other industry or service as may be notified by the Central

Government in addition to the existing sectors information technology software and information technology services.

It is also proposed to define the term "subsidiary" used in the proposed new section.

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

Clause 49 seeks to amend section 115BB of the Income-tax Act relating to tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature whatsoever.

Under the existing provisions, any income by way of winnings from any lottery or crossword puzzle or race including horse race (not being income from the activity of owning and maintaining race horses) or card game and other game of any sort or from gambling or betting of any form or nature whatsoever, is chargeable to tax at the rate of forty per cent. under clause (i) of section 115BB.

It is proposed to amend the said clause so as to provide that such winnings shall be taxed at the rate of thirty per cent. as against the existing rate of forty per cent.

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

Clause 50 seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

Under the existing provision contained in sub-section (1) of the said section, any amount declared, distributed or paid by way of dividends (whether interim or otherwise) by a domestic company shall be charged to additional income-tax at a flat rate of twenty per cent. in addition to the normal income-tax chargeable in respect of the total income of the company.

It is proposed to reduce the said rate of additional income-tax from twenty per cent. to ten per cent.

This amendment will take effect from 1st June, 2001.

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

Under the existing provision, the principal officer of a domestic company and the company are liable to pay simple interest at the rate of one and one-half per cent. for every month or part thereof if he or it fails to pay the whole or any part of the tax on distributed profits in accordance with the provisions contained in section 115-O.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Clause 52 seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit holders.

Under the existing provision contained in sub-sections (1) and (2) of the said section, any amount of income distributed by the Unit Trust of India or a Mutual Fund to its unit holders shall be chargeable to income-tax at a flat rate of twenty per cent. to be payable by the Unit Trust of India or a Mutual Fund, as the case may be.

It is proposed to amend the said sub-sections (1) and (2) of the aforesaid section so as to reduce the said rate of income-tax from the existing twenty per cent. to ten per cent.

This amendment will take effect from 1st June, 2001.

Clause 53 seeks to amend section 115S of the Income-tax Act relating to interest payable for non-payment of tax.

Under the existing provision, the person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, is liable to pay simple interest at the rate of one and one-half per cent. for every month or part thereof if he or it fails to pay the tax in accordance with the provision contained in section 115R.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Clause 54 seeks to amend section 139 of the Income-tax Act relating to return of income.

Under the existing provision contained in sub-section (1), every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income tax, is required to file a return of such income on or before the due date in the prescribed form and manner.

It is proposed to provide that every person, being a company, shall file a return of its income on or before the due date whether or not its total income during the previous year is chargeable to income-tax.

Under the existing provision contained in the first proviso to sub-section (1), a person not furnishing a return under the said sub-section and residing in such area as may be specified by the Central Board of Direct Taxes and who at any time during the previous year fulfils any one of the six conditions specified in that proviso, is also required to furnish a return of his income during the previous year, on or before the due date in the prescribed form and manner.

It is proposed to retain the criteria mentioned in the first proviso to sub-section (1).

Under the existing provision contained in *Explanation 1* to sub-section (1), the due date is specified to be the 30th November of the assessment year in the case of the assessee being a company, and where the assessee is a person other than a company, the due date is specified to be (a) the 31st October of the assessment year in a case where accounts of the assessee are required to be audited or where a report of an accountant is required to be furnished; (b) the 31st August of the assessment year in a case where the total income includes income from business or profession, not being a case falling under (a) above; and (c) the 30th June of the assessment year in any other case.

It is proposed to revise the due dates for filing returns by different classes of assesseees and to provide that in the case of a company, the 31st October of the assessment year shall be the due date for filing the return. In the case of a person other than a company, referred to in the first proviso to sub-section (1), the 31st October of the assessment year shall be the due date for filing the return. In the case of any other assessee, the 31st July of the assessment year shall be the due date for filing the return.

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

Clause 55 seeks to amend section 139A of the Income-tax Act relating to permanent account number.

Under the existing provision contained in sub-section (5), every person shall quote his permanent account number in all his returns to, or correspondence with, any income-tax authority, in all challans for the payment of any sum due under this Act and in all documents pertaining to such transactions entered into by him as may be prescribed by the Central Board of Direct Taxes in the interests of the revenue.

It is proposed to insert a new sub-section (5A) so as to provide that every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVIIIB shall intimate his permanent account number to the person responsible for deducting such tax under that Chapter. This requirement shall not apply to a non-resident referred to in section 115AC or section 115BBA and to a non-resident Indian referred to in section 115G, for whom it is not necessary to furnish a return under sub-section (1) of section 139.

It is also proposed to insert a new sub-section (5B) so as to provide that where any sum or income or amount has been paid after deducting tax under Chapter XVIIIB, every person deducting tax under that Chapter shall quote the permanent account number of the person, to whom such sum or income or amount has been paid by him, in a statement furnished in accordance with the provisions of sub-section (2C) of section 192, in all certificates furnished in accordance with the provision of section 203, and in all returns prepared and delivered or caused to be delivered in accordance with the provision of section 206.

It is proposed to insert two provisos to provide that the Central Government, however, may have the power to notify separately the dates from which these provisions shall apply in respect of any class or classes of persons and that the proposed sub-sections (5A) and (5B) shall not apply in case of a person whose total income is not chargeable to income-tax or who is not required to obtain permanent account number under any provision of this Act if such person furnishes to the person responsible for deducting tax a declaration referred to in section 197A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year to which such income relates will be nil.

It is also proposed to insert a new sub-section (5C) so as to provide that every buyer referred to in section 206C shall intimate his permanent account number to the seller referred to in that section.

It is also proposed to insert a new sub-section (5D) so as to provide that every seller collecting tax in accordance with the provisions of section 206C shall quote the permanent account number of every buyer, referred to in that section, in all certificates furnished in accordance with the provisions of sub-section (5) of section 206C and in all returns prepared and delivered or caused to be delivered in accordance with the provision of sub-section (5A) or sub-section (5B) of section 206C to an income-tax authority.

These amendments will take effect from 1st June, 2001.

Clause 56 seeks to amend section 140A of the Income-tax Act relating to self-assessment.

It is proposed to insert new sub-section (1A) in the said section to provide that interest payable under section 234A shall be computed on the amount of tax on the total income as declared in the return as reduced by the advance tax, if any, paid and any tax deducted or collected at source.

It is further proposed to insert new sub-section (1B) in the said section to provide that interest payable under section 234B shall be computed on the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax.

It is also proposed to insert an *Explanation* to new sub-section (1B) so as to clarify that for the purposes of computing the interest payable under section 234B as required under section 140A, "assessed tax" shall mean tax on the total income as declared in the return as reduced by the amount of tax deducted or collected at source, in accordance with the provisions of Chapter XVII, on any income which is subject to such deduction or collection and which is taken into account in computing such total income.

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

Clause 57 seeks to amend section 143 of the Income-tax Act relating to assessment.

Sub-section (1) of the said section, *inter alia*, provides that an intimation shall be sent to the assessee in cases where any tax or interest is found to be payable by him, or a refund is due to him, on the basis of the return filed by him. However, under the existing provision contained in the second proviso to sub-section (1), no such intimation shall be sent after the expiry of two years from the end of the assessment year in which the income was first assessable.

It is proposed to amend the second proviso to sub-section (1) to provide that no such intimation shall be sent after the expiry of one year from the end of the financial year in which the return of income is made. The time-limit of two years, however, will continue to apply in respect of returns already furnished for the assessment year 1999-2000.

This amendment will take effect from 1st June, 2001.

Clause 58 seeks to amend section 149 of the Income-tax Act relating to time-limit for issue of notice under section 148.

Under the existing provision contained in sub-section (1), a notice under section 148 can be issued within a period of four, seven or ten years from the end of the relevant assessment year. An assessment which has already been completed may be reopened by issue of notice under the said sub-section up to the period of four years from the end of relevant assessment year. For any period beyond four years but up to seven years, such notice may be issued when the amount of escaped income is not less than rupees fifty thousand but does not exceed rupees one lakh. Where the amount of escaped income is likely to be rupees one lakh or more, a notice may be issued up to ten years from the end of the relevant assessment year.

It is proposed to amend sub-section (1) to provide that the notice under section 148 can be issued only within four years from the end of the relevant assessment year or within six years from the end of the relevant assessment year in cases where the amount of income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees one lakh or more for that year.

This amendment will take effect from 1st June, 2001.

Clause 59 seeks to amend section 153 of the Income-tax Act relating to time-limit for completion of assessments and reassessments.

Under the existing provision contained in sub-section (2), no order of assessment or reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served. Further, sub-section (2A) provides that an order of fresh assessment under section 146, or in pursuance of an order, under section 250, section 254, section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 146 cancelling the assessment is passed by the Assessing Officer or the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner.

It is proposed to amend sub-section (2) to provide that no order of assessment or reassessment or recomputation shall be made under section 147 after the expiry of one year from the end of the financial year in which the notice under section 148 was served. However, where the notice under section 148 has been served on or after 1st April, 1999 but before 1st April, 2000, such assessment, reassessment or recomputation may be made at any time up to 31st March, 2002.

It is further proposed to substitute sub-section (2A) to provide that an order of fresh assessment in pursuance of an order under section 250, section 254, section 263 or section 264, setting aside or canceling an assessment, may be made at any time before the expiry of one year from the end of the financial year in which the order under section 250 or section 254 is received by the Chief Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Chief Commissioner or Commissioner. However, where any such order has been received or has been passed, as the case may be, on or after the 1st April, 1999 but before the 1st April, 2000, an order of fresh assessment may be made at any time up to the 31st March, 2002.

It is also proposed to omit clause (i) of sub-section (3), which is of consequential nature.

These amendments will take effect from 1st June, 2001.

Clause 60 seeks to amend section 154 of the Income-tax Act relating to rectification of a mistake.

Under the existing provision, no amendment of any order passed by the income-tax authority or any intimation under sub-section (1) of section 143 can be made after the expiry of four years from the end of the financial year in which the order sought to be amended was passed.

It is proposed to insert a new sub-section (8) to provide that where an application for amendment under this section is made by the assessee on or after 1st June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order within six months from the end of the month in which the application is received by it, either making the amendment or refusing to allow the claim.

This amendment will take effect from 1st June, 2001.

Clause 61 seeks to amend section 158B of the Income-tax Act relating to definitions.

Under the existing provision contained in clause (a) of the said section, the expression "block period" means the previous years relevant to ten assessment years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A, and includes, in the previous year in which such search was conducted or requisition was made, the period up to the date of commencement of such search or, as the case may be, the date of such requisition.

It is proposed to substitute the said clause (a) so as to provide that the expression "block period" shall mean the previous years relevant to six assessment years preceding the previous year in which the search was conducted or any requisition was made. In cases where search was conducted or requisition was made before the 1st June, 2001, the block period would continue to be previous years relevant to ten assessment years as per the existing provisions.

This amendment will take effect from 1st June, 2001.

Clause 62 seeks to amend section 158BFA of the Income-tax Act relating to levy of interest and penalty in certain cases.

Under the existing provision contained in sub-section (1) of the said section, the assessee is liable to pay simple interest at the rate of two per cent. for every month or part of a month on the tax on undisclosed income determined under clause (c) of section 158BC for defaults in furnishing the return of total income including undisclosed income for the block period.

It is proposed to amend the said sub-section so as to reduce the rate of interest from two per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Clause 63 seeks to insert a new sub-section (2C) in section 192 of the Income-tax Act relating to salary.

The proposed amendment seeks to provide that any person responsible for paying salary shall furnish to the person who

receives salary a statement giving particulars of perquisites or profits in lieu of salary provided to him in the prescribed form.

This amendment will take effect from 1st June, 2001.

Clause 64 seeks to amend section 194A of the Income-tax Act relating to deduction of income-tax at source from interest other than interest on securities.

The existing clause (i) of sub-section (3) of the said section provides that the deduction of income-tax at source under sub-section (1) shall not be made in cases where the amount of income by way of interest does not exceed five thousand rupees. The proviso below the said clause provides that in the cases of time deposits with a banking company or with a co-operative society engaged in carrying on the business of banking or deposit with a housing finance company, the said limit for deduction of income-tax shall be ten thousand rupees.

The proposed amendment seeks to provide that the limit for tax deduction at source for the purpose of the aforesaid section shall be two thousand five hundred rupees.

This amendment will take effect from 1st June, 2001.

Clause 65 seeks to amend section 194B of the Income-tax Act relating to winnings from lottery or crossword puzzle.

Under the existing provision, the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding five thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

It is proposed to provide for deduction of income-tax at source at the rates in force also on winnings from card game and other game of any sort.

This amendment will take effect from 1st June, 2001.

Clause 66 seeks to insert a new section 194H in the Income-tax Act relating to commission or brokerage.

Under the proposed new section 194H, the person responsible for paying any income by way of commission or brokerage for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing (not being securities), shall deduct income-tax thereon at the rate of ten per cent. However, no such deduction shall be made where the amount of payment or the aggregate amount of payments, in a financial year, does not exceed two thousand five hundred rupees. The new section will not apply when payments are made by individuals or Hindu undivided families. The expressions "commission or brokerage", "professional services" and "securities" are being defined in the *Explanation* to the proposed section.

This amendment will take effect from 1st June, 2001.

Clause 67 seeks to amend section 196C of the Income-tax Act relating to income from foreign currency bonds or shares of Indian company.

Under the existing provisions contained in section 196C, the person responsible for making any payment to a non-resident by way of interest or dividend in respect of bonds or shares referred to in section 115AC or by way of long-term capital gains arising from transfer of such bonds or shares, is required to deduct tax at the rate of ten per cent.

It is proposed to substitute section 115AC *vide* clause 47 of the Bill. As a consequence, it is proposed to substitute the word "shares" occurring at both the places in section 196C, with the words "Global Depository Receipts".

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

Clause 68 seeks to amend section 201 of the Income-tax Act relating to consequences of failure to deduct or pay the tax.

Under the existing provisions contained in sub-section (1) of the said section, the person, the principal officer and the company, referred to in that sub-section, is deemed to be an assessee in default if he does not deduct or after deducting fails to pay the tax as required by or under the Act. Sub-section (1A) of that section provides that such person or such principal officer or such company shall be liable to pay simple interest at the rate of eighteen per cent. per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.

It is proposed to clarify that provisions of sub-sections (1) and (1A) shall apply whether such person or such principal officer or such company fails to deduct the whole or any part of the tax.

This amendment will take effect retrospectively from 1st April, 1962 and will, accordingly, apply in relation to the assessment year 1962-63 and subsequent years.

It is further proposed to reduce the said rate of interest from eighteen per cent. to fifteen per cent. per annum in sub-section (1A).

This amendment will take effect from 1st June, 2001.

Clause 69 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.

Under the existing provision contained in sub-section (7) of the said section, if the seller does not collect the tax or after collecting the tax fails to pay it as required under the said section, he shall be liable to pay simple interest at the rate of two per cent. per month or part thereof on the amount of such tax.

It is proposed to amend the said sub-section (7) so as to reduce the rate of interest from two per cent. to one and one-fourth per cent. per month or part thereof, on the amount of tax payable by the seller under that sub-section.

This amendment will take effect from 1st June, 2001.

Clause 70 seeks to amend section 220 of the Income-tax Act as to when the tax is payable and when an assessee is deemed to be in default.

Under the existing provision contained in sub-section (2) of the said section, if the amount specified in any notice of demand under section 156 is not paid within thirty days of the service of the notice, the assessee is liable to pay simple interest at the rate of one and one-half per cent. for every month or part of a month comprising the periods specified in that section.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof.

This amendment will take effect from 1st June, 2001.

Clause 71 seeks to omit section 230A of the Income-tax Act relating to restrictions on registration of transfers of immovable property in certain cases.

Under the existing provision of the said section, any document purporting to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property valued at more than five lakh rupees shall not be registered under the Registration Act, 1908, unless the Assessing Officer certifies that such person has either paid or made satisfactory provision for payment of all existing tax liabilities or that the registration of the document will not prejudicially affect the recovery of any existing tax liability.

With a view to simplifying the procedures, it is proposed to omit the said section.

This amendment will take effect from 1st June, 2001.

Clause 72 seeks to amend section 234A of the Income-tax Act relating to payment of interest for defaults in furnishing return of income.

Under the existing provision contained in sub-sections (1) and (3) of section 234A, the assessee is liable to pay simple interest at the rate of one and one-half per cent. for every month or part of a month for default in furnishing the return of income for the period specified in the said section.

It is proposed to amend sub-sections (1) and (3) of the said section to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

It is further proposed to omit *Explanation 4* to sub-section (1) of the said section which is of consequential nature.

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

Clause 73 seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

Under the existing provision, the assessee is liable to pay simple interest at the rate of one and one-half per cent. for every month or part of a month for default in payment of advance tax for the period specified in the said section.

It is proposed to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

It is further proposed to substitute *Explanation 1* to sub-section (1) of the said section, which is of consequential nature.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to the assessment year 1989-90 and subsequent years.

Clause 74 seeks to amend section 234C of the Income-tax Act relating to payment of interest for deferment of advance tax.

Under the existing provision, the assessee is liable to pay simple interest at the rate of one and one-half per cent. for every month or part of a month for deferment of advance tax on the amount of the shortfall specified in the said section.

The proposed amendment seeks to reduce the rate of interest from one and one-half per cent. to one and one-fourth per cent. for every month or part thereof, as the case may be.

This amendment will take effect from 1st June, 2001.

Clause 75 seeks to omit section 241 of the Income-tax Act relating to power to withhold refund in certain cases.

Under the existing provision, the Assessing Officer may, with the previous approval of the Chief Commissioner or Commissioner, withhold the refund of any amount due to the assessee till such time as the Chief Commissioner or Commissioner determines, under the circumstances specified in the said section if the grant of refund is likely to adversely affect the revenue.

It is proposed to omit the said section to withdraw the powers conferred upon the Assessing Officer to withhold the refund.

This amendment will take effect from 1st June, 2001.

Clause 76 seeks to amend section 244A of the Income-tax Act relating to interest on refunds.

Under the existing provision contained in sub-section (1), where refund of any amount becomes due to the assessee under the Income-tax Act, the assessee is entitled to receive, in addition to the said amount, simple interest thereon at the rate of one per cent. for every month or part of a month comprised in the period of delay specified in the said section.

It is proposed to amend the said sub-section so as to reduce the rate of interest from one per cent. to three-fourth per cent. for every month or part of a month, as the case may be.

This amendment will take effect from 1st June, 2001.

Clause 77 seeks to amend section 251 of the Income-tax Act relating to powers of the Commissioner (Appeals).

Under the existing provisions contained in sub-section (1), where an appeal is filed before the Commissioner (Appeals), against an order of assessment, the Commissioner (Appeals) may confirm, reduce, enhance or annul the assessment; or he may set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment in accordance with the directions given by him and after making such further enquiry as may be necessary.

With a view to help bringing an early finalisation to the assessment and to avoid prolonging the process of litigation, it is proposed to amend clause (a) of the aforesaid section so as to provide that, where an appeal is filed before the Commissioner (Appeals), against an order of assessment, the Commissioner (Appeals) may not set aside the assessment or refer the case back to the Assessing Officer for making fresh assessment.

This amendment will take effect from 1st June, 2001.

Clause 78 seeks to amend section 254 of the Income-tax Act relating to orders of the Appellate Tribunal.

Under the existing provision contained in sub-section (2A) of the said section, the Appellate Tribunal, where it is possible, may hear and decide an appeal filed by the assessee under sub-section (1) of section 253 within a period of four years from the end of the financial year in which such appeal is filed.

It is proposed to provide that where, in an appeal filed by the assessee, the Appellate Tribunal passes an order granting stay, the Tribunal shall hear and decide such appeal within a period of one hundred and eighty days from the date of passing such order granting stay, failing which the stay granted shall stand vacated on the expiry of the aforesaid period.

This amendment will take effect from 1st June, 2001.

Clause 79 seeks to amend section 264 of the Income-tax Act relating to revision of other orders.

Under the existing provision contained in the said section, the Commissioner may, either of his own motion or on an application by the assessee for revision, revise any order passed by an authority subordinate to him. Sub-section (5) of the said section provides that every application by an assessee for revision under this section shall be accompanied by a fee of twenty-five rupees.

It is proposed to amend the said sub-section to enhance the fee from twenty-five rupees to five hundred rupees.

This amendment will take effect from 1st June, 2001.

Clause 80 seeks to amend section 271 of the Income-tax Act relating to failure to furnish returns, comply with notices, concealment of income, etc.

Under the existing provision contained in sub-section (1), if the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under the Income-tax Act, is satisfied that any person has failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or fails to comply with a direction issued under sub-section (2A) of section 142 of the said Act, he may direct that such person shall pay by way of penalty, in addition to any tax payable by him, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.

It is proposed to amend clause (ii) of sub-section (1) so as to provide for a fixed amount of penalty of ten thousand rupees for each such failure.

This amendment will take effect from 1st June, 2001.

Clause 44 of the Bill proposes to substitute section 92 by a new section 92 and insert new sections 92A, 92B, 92C, 92D, 92E and 92F relating to computation of income arising from an international transaction.

It is proposed to insert a new *Explanation 7* to sub-section (1) of section 271 to provide that where in the case of an assessee who has entered into an international transaction defined in section 92B, any amount is added or disallowed in computing the total income under sub-section (4) of section 92C, then, the amount so added or disallowed shall be deemed to represent income in respect of which particulars have been concealed or inaccurate particulars have been furnished. However, the provisions of this *Explanation* shall not apply where the assessee proves to the satisfaction of the Assessing Officer or the Commissioner (Appeals) that the price charged or paid in such transaction has been determined in accordance with section 92C in good faith and with due diligence.

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

Clause 81 seeks to amend section 271A of the Income-tax Act relating to failure to keep, maintain or retain books of account, documents, etc.

Under the existing provision, if any person fails to keep and maintain in respect of any previous year such books of account and other documents as required by section 44AA or the rules made thereunder or to retain such books of account and other documents for the period specified in the said rules, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees.

It is proposed to provide for the levy of a fixed amount of penalty of twenty-five thousand rupees instead of a penalty of a sum which shall not be less than two thousand rupees but may extend to one hundred thousand rupees.

This amendment will take effect from 1st June, 2001.

Clause 82 seeks to insert a new section 271AA in the Income-tax Act relating to penalty for failure to keep and maintain information and documents, in respect of each international transaction.

The new section seeks to provide that if any person who has entered into an international transaction as defined in section 92B fails to keep and maintain any such information and documents as required by sub-section (1) or sub-section (2) of section 92D, the Assessing Officer or Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of the international transaction entered into by such person.

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

Clause 83 seeks to insert a new section 271BA in the Income-tax Act relating to penalty for failure to furnish a report from an accountant under section 92E.

The new section seeks to provide that if any person fails to furnish a report from an accountant as required by section 92E, the Assessing Officer may direct that such person shall pay by way of penalty, a sum of one hundred thousand rupees.

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

Clause 84 seeks to amend section 271F of the Income-tax Act relating to penalty for failure to furnish return of income.

Under the existing provision, if a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return before the end of the relevant assessment year, he shall be liable to pay, by way of penalty, a sum of one thousand rupees.

Further, if a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section

139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees.

It is proposed to enhance the said penalties from one thousand rupees to five thousand rupees and from five hundred rupees to five thousand rupees, respectively.

These amendments will take effect from 1st June, 2001.

Clause 85 seeks to insert a new section 271G in the Income-tax Act relating to penalty for failure to furnish certain information or document, under section 92D.

The new section seeks to provide that if any person who has entered into an international transaction fails to furnish any such information or document under sub-section (3) of section 92D, the Assessing Officer or the Commissioner (Appeals) may direct that such person shall pay, by way of penalty, a sum equal to two per cent. of the value of the international transaction, for each such failure.

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

Clause 86 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.

Under the existing provision contained in sub-section (1), if a person fails to comply with any of the requirements specified therein, he is liable to pay by way of penalty a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

It is proposed to amend the said sub-section (1) so as to provide for a fixed amount of penalty of ten thousand rupees for each such default or failure.

This amendment will take effect from 1st June, 2001.

It is further proposed to insert a new clause (i) in sub-section (2) so as to provide penalty for failure to furnish a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to an employee.

This amendment will take effect from 1st April, 2002.

Clause 87 seeks to amend section 272BB of the Income-tax Act relating to penalty for failure to comply with the provisions of section 203A.

Under the existing provision contained in sub-section (1), if a person fails to comply with the provision of section 203A, he shall, on an order passed by the Assessing Officer, pay, by way of penalty, a sum which may extend to five thousand rupees.

It is proposed to amend the said sub-section to enhance the penalty and to provide for levy of a fixed amount of penalty of a sum of ten thousand rupees.

This amendment will take effect from 1st June, 2001.

Clause 88 seeks to amend section 273B of the Income-tax Act relating to penalty not to be imposed in certain cases.

The existing provision of the said section provides that no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in certain sections specified in the said section, if he proves that there was reasonable cause for such failure.

Clauses 82, 83 and 85 of the Bill seek to insert section 271AA, section 271BA and section 271G in the Income-tax Act, relating to penalties for failure, on the part of a person who has entered into an international transaction defined in the proposed new section 92B, to keep and maintain such information and document as may be prescribed, or to furnish a report from an accountant, or to furnish information or documents required by the Assessing Officer.

It is proposed to amend section 273B to provide that no penalty shall be imposable on the person or the assessee, as the case may be, for any failure referred to in sections 271AA, 271BA and section 271G, if he proves that there was reasonable cause for such failure. The proposed amendment is of consequential nature.

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

Clause 89 seeks to amend rule 68A of the Second Schedule to the Income-tax Act relating to acceptance of property in satisfaction of amount due from the defaulter.

Under the existing provision contained in sub-rule (3) of the said rule, where the price of the property agreed upon between the Assessing Officer and the defaulter under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Assessing Officer to the defaulter within a period of three months from the date of delivery of possession of the property to the Assessing Officer and where the Assessing Officer fails to pay such excess within the period aforesaid, the Central Government is required to pay simple interest at the rate of twelve per cent. per annum to the defaulter on such amount for the period of delay.

It is proposed to amend sub-rule (3) so as to reduce the rate of interest which is payable by the Central Government under that sub-rule from twelve per cent. to nine per cent. per annum.

This amendment will take effect from 1st June, 2001.