

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to insert a new sub-clause (viii) in clause (2) of section 17 of the Income-tax Act relating to definitions of "Salary", "perquisite" and "profits in lieu of salary". The amendment proposed by this clause confers power upon the Central Board of Direct Taxes to prescribe, by rules, the value of any other fringe benefit or amenity to be included in "Salary".

Clause 14 of the Bill seeks to substitute section 23 of the Income-tax Act relating to determination of annual value of house property. The Explanation to sub-section (1) of the proposed new section empowers the Central Board of Direct Taxes to prescribe, by rules, the conditions in which the amount of rent which the owner cannot realise shall not be included in the actual rent received or receivable.

Clause 23 of the Bill seeks to amend section 35 of the Income-tax Act relating to expenditure on scientific research. Sub-clause (a), which seeks to amend sub-section (2AA) of the said section, empowers the Central Board of Direct Taxes to specify, by rules, the authority which will approve the specified person and the scientific research programme.

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

Clause (m) of sub-section (2) of the proposed new section 92A empowers the Central Board of Direct Taxes to specify any relationship of mutual interest between two enterprises, the existence of which shall deem the enterprises to be associated enterprises.

Sub-section (1) of the proposed new section 92C empowers the Central Board of Direct Taxes to prescribe the factors having regard to which any of the methods specified in the sub-section shall be taken to be the most appropriate method for determination of the arm's length price in relation to an international transaction. Clause (f) of the said section also empowers the Central Board of Direct Taxes to prescribe any other method for determination of the said arm's length price.

Sub-section (2) of the proposed new section 92C empowers the Central Board of Direct Taxes to prescribe the manner in which the most appropriate method is to be applied for determination of the arm's length price in relation to an international transaction.

Sub-section (1) of the proposed new section 92D empowers the Central Board of Direct Taxes to prescribe the information and documents which a person, who has entered into an international transaction, is required to keep and maintain. Sub-section (2) empowers the Central Board of Direct Taxes to prescribe the period for which the information and documents referred to in sub-section (1) shall be kept and maintained.

The proposed new section 92E empowers the Central Board of Direct Taxes to prescribe, by rules, the form and the manner of verification of, and the particulars to be set forth in, the report to be furnished by a person who has entered into an international transaction during a previous year.

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

Clauses (a) and (b) of sub-section (1) of the proposed new section empower the Central Government to specify by notification in the Official Gazette, a scheme for issue of bonds and Global Depository Receipts by an Indian Company for purchase by non-residents in foreign currency.

The proposed new section also empowers the Central Government to specify by notification in the Official Gazette, the scheme under which "intermediary" may be approved.

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

The amendment proposed by clause (a) of sub-section (1) empowers the Central Government to specify, by notification in the Official Gazette, the Employees' Stock Option Scheme whereby an Indian company engaged in specified knowledge-based industry or service may issue Global Depository Receipts to a resident employee. The amendment proposed by the *Explanation* to sub-section (1) empowers the Central Government to specify, by notification in the Official Gazette, any other industry or service as specified knowledge based industry or service.

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

The proposed new sub-section (1) empowers the Central Board of Direct Taxes to prescribe, by rules, the form and manner of verification of, and the particulars to be set forth in, the return to be furnished by every person. The proposed proviso to the said sub-section empowers the Central Board of Direct Taxes to specify, by notification in the Official Gazette, the area in which the person, being a person other than a company, who is not required to furnish a return under this sub-section, resides and who on fulfilling at any time during the previous year any one of the six conditions specified in the said section, shall furnish a return of his income during the previous year on or before the due date in the form and manner prescribed as aforesaid.

The proposed second proviso of the proposed new sub-section (1) empowers the Central Government, to specify, by notification in the Official Gazette, the class or classes of persons to whom the provisions of the first proviso shall not apply.

*Explanation 3* to the said sub-section empowers the Central Board of Direct Taxes to specify, by notification in the Official Gazette, the neighbouring countries or such places of pilgrimage which are not included in "travel to any foreign country".

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

The first proviso to the proposed new sub-section (5B) empowers the Central Government, to specify, by notification in the Official Gazette, different dates from which the provisions of the said sub-section shall apply in respect of any class or classes of persons.

Clause 63 of the Bill seeks to amend section 192 of the Income-tax Act relating to "Salary".

The proposed new sub-section (2C) empowers the Central Board of Direct Taxes to prescribe the form and manner of furnishing a statement giving correct and complete particulars of perquisites or profits in lieu of salary and the value thereof which a person, responsible for paying any income-tax chargeable under the head "Salaries", shall furnish to the person to whom such payment is made.

Clause 99(a) of the Bill seeks to amend section 28AB of the Customs Act, 1962. The amendment proposed by this clause confers powers upon the Central Government to fix rate of interest at such rate not below eighteen per cent and not exceeding thirty six per cent. per annum on delayed refunds, by notification in the Official Gazette.

Clause 110(a) of the Bill seeks to amend section 3 of the Customs Tariff Act, 1975. The amendment proposed by this clause confers powers upon the Central Government to specify the rate of additional duty on imported alcoholic liquor having regard to the excise duty for the time being leviable on the like alcoholic liquor produced or manufactured in different States, and in case the like

alcoholic liquor is not produced or manufactured in any State, then, having regard of the excise duty leviable on the class or description of alcoholic liquor to which the imported alcoholic liquor belongs, by notification in the Official Gazette.

Clause 111(a) of the Bill seeks to amend section 8B of the Customs Tariff Act, 1975. The amendment proposed by this clause confers powers upon the Central Government to exempt the quantity of any article, when imported from any country or territory into India, by notification in the Official Gazette.

Clause 113(b) of the Bill seeks to amend the First Schedule to the Customs Tariff Act, 1975. This clause also confers powers upon the Central Government to appoint the date to bring into force the said amendment by notification in the Official Gazette.

Clause 119(a) of the Bill seeks to amend section 11 AB of the Central Excise Act, 1944. The amendment proposed by this clause confers powers upon the Central Government to fix rate of interest at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum on delayed refunds, by notification in the Official Gazette.

Clause 130 of Bill seeks to amend the Finance Act, 1994. Sub-clause (a) of the said clause proposes to substitute section 66 of the said Act. Sub-sections (1), (2), (3), (4) and (5) of the

proposed new section 66 empower the Central Government to make rules to provide the manner of collection of service-tax levied under those sub-sections. Sub-clause (e) of the said clause proposes to substitute new sections 70 and 71 of the Finance Act, 1994. The proposed section 70 empowers the Central Government to make rules to provide form and manner in which and the frequency at which a return shall be furnished under that section.

Clause 131 seeks to substitute the First Schedule to the Indian Post Office Act, 1898.

The proposed amendment empowers the Central Government to revise the rates for letters, post cards, printed post cards, competition post cards, book, pattern and sample packets, registered newspapers and parcels from a date to be notified in the Official Gazette after the Bill is passed and receives the assent of the President.

The matters in respect of which notifications may be issued or rules may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.