

UNION BUDGET 2011-12

## XII TUESDAY 1 MARCH 2011

The existing provisions contained in clause (a) of sub-section (2AA) of the aforesaid section provide for a weighted deduction to the extent of one and three-fourth times the sum paid to a National Laboratory or a University or an Indian Institute of Technology or a specified person for the purpose of an approved scientific research

If the start part of a transfer Leorence of the programme. It is proposed to amend the said clause (a) so as to enhance the weighted deduction to two times the sum paid. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to assessment year 2012-2013 and subsequent years. Clause 6 of the Bill seeks to amend section 35AD of the Income-tax Act relating to deduction in respect of expenditure on specified business. The existing provisions contained in sub-section (5) of the aforesaid section provide for the date of commencement of operations of the specified businesses referred to in whe section (2) of the said section for the nurnoses of availing the deduction. Further, the existing provisions of clause (c) of sub-section (8) of the aforesaid section

The amendments proposed to the aforesaid section seek to include two new businesses as "specified business" along with their dates of commencement and also to omit the word "new" from the existing definition of "specified business" in respect of new hotel and new hospital. Sub-clause (a) of this clause seeks to insert a new clause (*ad*) in the said sub-section (*5*) so as to provide that the date of commencement of operations shall be on or after the 1st day of April, 2011 where a business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

If further seeks to insert a new clause (*ae*) in the said sub-section (5) to specify that the date of commencement of operations shall be on or after the 1st day of April, 2011 in a new plant or in a newly installed capacity in an existing plant for production of fertiliser. These amendments will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. Sub-clause (b) of this clause seeks to omit the word "mew" from the expressions "new hotel" and "new hospital" in sub-clauses (*iv*) and (*v*) of clause (c) of sub-section (8) from the definition of "specified business". These amendments will take effect retrospectively from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2012-2012 and subsequent years. Sub-clause (b) of the specified business".

State Bank of India

Sub-clause (b) further seeks to insert a new sub-clause (viii) in the said clause (c) of the aforesaid sub-section (8) so as to include within the scope of "specified business", the business of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed. It also seeks to insert a new sub-clause (viii) in the said clause (c) of the aforesaid sub-section (8) so as to include production of fertilizer in India as a "specified busines".

nes

These amendments will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years.

Clause 7 of the Bill seeks to amend section 36 of the Income-tax Act relating to other deductions. The existing provisions of sub-section (1) of the aforesaid section provide for allowing certain deductions in computing the income under the head profits and gains of business or profession. It is proposed to insert a new clause (iva) in the said sub-section so as to provide that any sum paid by the assesse as an employer by way of contribution towards a pension scheme as referred to in section 80CCD on account of an employee to the extent it does not exceed ten per cent. of the salary of the employee in the previous year challenge of the deduction.

shall be allowed as a deduction.

shall be allowed as a deduction. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. *Clause 8* of the Bill seeks to amend section 80CCE of the Income-tax Act relating to the limit on deductions under sections 80C, 80CCC and 80CCD. The existing provisions contained in the aforesaid section 80CCE provide that the aggregate amount of deductions under section 80C, section 80CCC and section 80CCD shall not exceed one lakh rupees. It is proposed to amend the aforesaid section 80CCE so as to provide that contribution made by the Central Government or any other employer to a pension scheme under sub-section (2) of section 80CCD shall not be included in the limit of deduction of one lakh rupees provided under section 80CCE. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. *Clause* 9 of the Bill seeks to amend section 80CCF of the Income tax Act relating to deduction in respect of subscription to long-term infrastructure bonds. Under the existing provisions contained in section 80CCF deduction is allowed to the extent of such amount which does not exceed twenty-thousand rupees, paid or deposited during the previous year relevant to the assessment year beginning on the 1st day of April, 2011 as subscription to long-term infrastructure bonds. It is proposed to amend the said section so as to provide the same deduction for the amount paid or deposited during the previous year relevant to the assessment year beginning on the 1st day of April, 2012 as very relevant to the assessment year beginning on the 1st day of April, 2012. beginning on the 1st day of April, 2012.

beginning on the 1st day of April, 2012. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013. *Clause 10* of the Bill seeks to amend section 80-IA of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enter-prises engaged in infrastructure development, etc. Under the existing provisions contained in clause (iv) of sub-section (4) of the aforesaid section, a deduction is allowed to an undertaking which,— (a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and end-ing on 31st March, 2011; (b) starts transmission or distribution by laying a network of new transmission or distribution files at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2011; or (c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2011. It is proposed to amend the said clause so as to extend the time limit from 31st March, 2011 to 31st March, 2012. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. *Clause 11* of the Bill seeks to amend section 80-IB of the Income-tax Act, relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

other than infrastructure development undertakings.

other than infrastructure development undertakings. Sub-section (9) of the said section provides that the amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils certain conditions stipulated therein. Clause (ii) of the said sub-section requires that such undertaking is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997. It is proposed to amend the said clause so as to insert a proviso therein which provides that the provisions of said clause (ii) shall not apply to blocks licensed under a contract awarded after the 31st day of March, 2011 under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated the 10th February, 1999 or in pursuance of any law for the time being in force or by the Charla or a State Government in any other manner: This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. *Clause 12* seeks to amend section 92C of the Income-tax Act, relating to computation of arm's length price. Under the existing provisions contained in sub-section (2) of the aforesaid section, where more than one price is determined by the most appropriate method, then the arm's length price shall be taken to be arithmetical mean of such price. Further, the second proviso to the said sub-section provides that if the variation between the arm's length price as determined and price at which the international transaction has actually been undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken by the reference. international transaction has actually been undertaken shall be deemed to be the arm's length price. It is proposed to amend the second proviso to said sub-section (2) so as to provide that the allowable variation will be such percentage as may be notified by the Central

Government in this behalf. This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years. *Clause* 13 of the Bill seeks to amend section 92CA of the Income-tax Act relating to reference to Transfer Pricing Officer. Under the existing provisions contained in sub-section (1) of the aforesaid section, where an assesse has entered into an international transaction in any previous

year, and the Assessing Officer considers it necessary, he may, with the previous approval of the Commissioner, refer the computation of the arm's length price in relation to the international transaction under section 92C, to the Transfer Pricing Officer. Sub-section (2) of the aforesaid section, *inter alia*, provides that the Transfer Pricing Officer, for the purpose of determining the arm's length price in respect of inter-national transactions referred to him by the Assessing Officer shall serve a notice on the assesse requiring him to produce evidence in support of computation of the

arm's length price of such transactions. It is proposed to insert a new sub-section (2A) so as to enable the Transfer Pricing Officer to take into account any other international transaction which comes to his

notice subsection (2) of the force and the sub-section (2) so as to enable the Transfer Pricing Onficer to take into account any other international transaction which course of the proceeding before him as if such transaction is an international transaction are forced on the provisions of Chapter X of the Incometax Act shall apply accordingly. Sub-section (7) of the aforesaid section provides that for the purposes of determining arm's length price, the Transfer Pricing Officer shall have the powers as provided under sub-section (1) of section 131 and clause (6) of section 133. It is proposed to amend the said sub-section (7) so as to enable the Transfer Pricing Officer to exercise the power of survey conferred upon an income-tax authority under activity in the said sub-section (7) so as to enable the Transfer Pricing Officer to exercise the power of survey conferred upon an income-tax authority

under section 133A of the Act.

These amendments will take effect from 1st June, 2011. *Clause 14* of the Bill seeks to insert a new section 94A in the Income-tax Act relating to special measures in respect of transactions with persons located in a notified jurisdictional area.

It is proposed to enable the Central Government to notify any country or territory outside India, having regard to the lack of effective exchange of information by it

It is proposed to enable the Central Government to notify any country or territory outside India, having regard to the lack of effective exchange of information by it with India, as notified jurisdictional area. It is further proposed to provide that if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 92A, and that transaction shall be deemed to be associated enterprises within the meaning of section 92A, and that transaction shall be deemed to be associated enterprises within the meaning of section 92A, and that transaction shall be deemed to be an international transaction within the meaning of section 92B and, accordingly, the provisions of sections 92, 92A, 92B, 92C [except the second proviso to sub-section (2)], 92CA, 92CB, 92D, 92E and 92F shall apply to such transaction. It is also provide that notwithstanding anything contained in the Income-tax Act, no deduction in respect of any payment made to any financial institution located in the notified jurisdictional area shall be allowed unless the assesse furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution and no deduction in respect of any other expenditure or allowance income-tax information provide the damerging from the transaction with a prescon located in a participal backloud under any to the transaction with a prescon located in a participal backloud under any to the expenditure or allowance income-tax authorise the damerging from the transaction with a prescon located in a participal backloud under any to prescon of the Act unless the assessed form authorise is a participal backloud under any to the scheme assessed in a notified to a prescible adamerging from the transaction with a prescon located in a particip

(including the depreciation) arising from the transaction with a person located in a notified territory shall be allowed under any provision of the Act unless the assessee maintains such other documents and furnishes the information as may be prescribed. It is also proposed to provide that if any sum is received from a person located in the notified jurisdictional area, then, the onus is on the assessee to satisfactorily explain the source of such movements and furnishes the person or in the hands of the beneficial owner, and in case of his failure to do so, the amount shall be deemed to be the income of the assessee notwithstanding anything to the contrary contained in the Act.

It is also proposed to provide that any payment made to a person located in the notified jurisdictional area shall be liable to the highest of the rates of tax deduction specified therein

It is also proposed to define the expressions "person located in a notified jurisdictional area", "permanent establishment" and "transaction" for the purposes of the

section. These amendments will take effect from 1st June, 2011. *Clause 15* of the Bill seeks to amend section 115A of the Income-tax Act, relating to tax on dividends, royalty and technical service fees in case of foreign companies. Under the existing provisions contained in sub-section (1) of the aforesaid section, the rates at which income-tax shall be payable is prescribed, where the total income of a non-resident (not being a company) or a foreign company. includes any income by way of dividends (other than dividends referred to in section 115-O); or interest received from the Government or an Indian concern on monies borrowed or debt incurred by the Government or the Indian concern in foreign currency; or income received in respect of units, purchased in foreign currency; or a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India. It is proposed to amend sub-clause (ii) of clause (a) of sub-section (1) of the aforesaid section so as to provide that the rates at which income-tax shall be payable, where the total income of a non-resident (not being a company) or a foreign company, includes any income by way of interest received from Government or an Indian concern on foreign company, includes any income by way of interest received from Government or an Indian concern in foreign company, includes any income by way of interest received from Government or an Indian concern in foreign company, includes any income by way of interest received from Government or an Indian concern in foreign company includes any income by way of interest received from an Indian dot found for dot found formed in the interest received from an indian concern in foreign company includes any income by way of interest received from an indian concern on the Indian concern in foreign currency in the interest received from an indian concern in foreign currency in the interest received from an indian concern in foreign currency in the interest received from an indian concern in foreign currency in the i

monies borrowed or debt incurred by the Government or the Indian concern in foreign currency, not being the interest received from an infrastructure debt fund referred to in clause (47) of section 10.

It is further proposed to insert a new sub-clause (iia) in clause (a) of sub-section (1) of the aforesaid section so as to provide that the rates at which income-tax shall be payable, where the total income of a non-resident (not being a company) or a foreign company, includes any income by way of interest received from an infrastructure

It is further proposed to insert a new clause (ia) after clause (i) in sub-section (2) of the aforesaid section to provide that any income distributed to any other person by a It is the project of the project of the project of the class (i) and the class (iii) of sub-section (2) of the aforesant section (5) for the class (i) of the provision of pro

加加口

suit in respect of discovery and inspection, enforcing the attendance of any person, including any officer of a banking company and examining him on oath, compelling

Suit in respect of discovery and inspection, enforcing the authorities of any person, including any oncer of a balancing company and examining min of each, competing production of books of account and other documents and issuing commissions. It is proposed to insert a new sub-section (2) in the aforesaid section to provide that for the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90.4, it is hall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as notified by the Board in this behalf, to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority. It is further proposed to amend sub-section (3), so as to empower the aforesaid authority as notified by the Board, to impound and retain any books of account and ther documents authorit it is new reductible Act.

other documents produced before it in any proceeding under the Act. These amendments will take effect from 1st June, 2011. Clause 22 of the Bill seeks to amend section 133 of the Income-tax Act relating to power to call for information. Under the existing provisions contained in section 133, the income-tax authorities referred to in that section have been empowered to call for information which is use-

ful for or relevant to, any proceeding under the Act. It is proposed to insert a new proviso after the second proviso to the aforesaid section so as to provide that for the purposes of an agreement referred to in section 90 or

It is proposed to insert a new proviso after the second proviso to the atoresaid section so as to provide that for the purposes of an agreement referred to in section 90 or section 90.A, an income-tax authority notified under sub-section (2) of section 131 may exercise all the powers conferred under section 133, notwithstanding that no proceedings are pending before it or any other income-tax authority. This amendment will take effect from 1st June, 2011. *Clause* 23 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income. Under the existing provisions contained in clause (a) of *Explanation* 2 to sub-section (1) of the said section, the due date for filing return of income, in the case of a company; or a person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force; or a section 90, or a person (other than a company) whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force; or a September of the assessment year.

September of the assessment year. Section 92E of the Income-tax Act contains provisions for furnishing a report from an accountant by a person entering into international transactions. It is proposed to amend sub-clause (i) of clause (a) to the said *Explanation* 2 and to insert a new clause (aa) after the said clause (a) as as to provide that for filing a return of income in case of an assessee being a company, which is required to furnish a report referred to in the said section 92E, the due date shall be the 30th day of November of the assessment year.

This amendment will take effect retrospectively from 1st April, 2011. Under the existing provisions contained in sub-section (1) of the aforesaid section, every person, if his total income or the total income of any other person in respect of which he is assessable under the Income-tax Act during the previous year exceeds the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person during the previous year. It is proposed to insert a new sub-section (1C) in the aforesaid section so as to empower the Central Government to exempt by notification in the Official Gazette any classe or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification. This amendment will take effect from 1st. June 2011

This amendment will take effect from 1st June, 2011. Under the existing provisions contained in sub-section (4C) of section 139, every entity referred to therein shall, if the total income in respect of such entity (without giving effect to the provisions of section 10) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year. It is proposed to amend the aforesaid sub-section to insert therein new clauses (g) and (h) in order to require that any body or authority or Board or Trust or Commission referred to in clause (46) of section 10 and infrastructure debt fund referred to in clause (47) of

section 10, respectively, shall also furnish a return of income.

Section 10, respectively, shall also turn for moments a return for moment. This amendment will take effect from 1st June, 2011. *Clause 24* of the Bill seeks to amend section 143 of the Income-tax Act relating to assessment. Under the existing provisions contained in sub-section (1B) of the aforesaid section, the Central Government may, save as otherwise expressly provided, for the pur-pose of giving effect to the scheme made under sub-section (1A) of that section, by notification in the Official Gazette, direct that any of the provisions of the Income-tax Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification, so, howev-er, that no direction shall be issued after the 31st day of March, 2011. It is meaned and section (1B) of the afferencial carcing the avoid the solid time limit to the 31st day of March, 2019.

It is proposed to amend sub-section (IB) of the aforesaid section to extend the said time limit to the 31st day of March, 2012. This amendment will take effect retrospectively from 1st April, 2011. *Clause 25 of the Bill seeks to amend section 153 of the Income-tax Act relating to time limit for completion of assessments and* 

re-assessments

re-assessments. Under the existing provisions contained in *Explanation 1* to the said section, certain periods specified therein are to be excluded while computing the period of limita-tion laid down in sub-sections (1), (2) and (2A) of the said section for completion of assessments and re-assessments. It is proposed to insert a new clause (viii) in *Explanation 1* to the said section so as to provide that the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which he informa-tion so requested is received by the Commissioner or a period of six months, whichever is less, shall also be excluded. This amendment will take effect from 1st June, 2011. *Clause 26* of the Bill seeks to amend section for completion of assessment under section 153A. Under the existing provisions contained in the *Explanation* to section 153B, certain periods specified therein are to be excluded while computing the period of limita-tion laid down in sub-section (1) of the said section for completion of assessment under section 153A. It is proposed to insert a new clause (viii) in the *Explanation* to the said section 153B so as to provide that the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which he informa-tion so requested is received by the Commissioner or a period of six months, whichever is less, shall also be excluded. This amendment will take effect from 1st June, 2011. *Clause 27* of the Bill seeks to insert a new section 194LB in the Income-tax Act relating to income by way of interest from an infrastructure debt fund.

This anterdament will deve effect in on its Joine 2011. Clause 27 of the Bill seeks to insert a new section 194LB in the Income-tax Act relating to income by way of interest from an infrastructure debt fund.

The proposed new section seeks to provide that where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause (47) of section 10, the person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier; deduct income tax thereon at the rate of five per

cent. This amendment will take effect from 1st June, 2011. *Clause 28* of the Bill seeks to amend section 245C of the Income-tax Act relating to application for settlement of cases.

The existing provisions contained in the proviso to sub-section (1) of the aforesaid section provide that, no application shall be made before the Settlement Commis-sion unless the proceedings under section 153A or under section 153C have been initiated against the applicant and the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees and in other cases if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

It is proposed to insert a new clause (ia) in the proviso to sub-section (1) of the aforesaid section. It provides that no application shall be made unless, in a case where the application is related to the person referred to in clause (i) who has filed an application [referred as "specified person"]; and the proceedings for assessment or re-assessment for any of the assessment years referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153A or section 153B in case of the application section application amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

It is further proposed to insert an Explanation after the said proviso defining the expressions "applicant in relation to the specified person" and "substantial interest for the purposes of the new clause (ia).

This amendment will take effect from 1st June, 2011

Clause 29 of the Bill seeks to amend section 245D of the Income-tax Act relating to procedure on receipt of an application under section 245C. The existing provisions contained in sub-section (4) of the aforesaid section 245D provide that the Settlement Commission may pass orders on the matters covered by the applications received by it. It is proposed to insert a new sub-section (6B) so as to provides that the Settlement Commission may, at any time within six months. from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4). If further provides that an amendment which has the effect of modifying the liability of the applicant, shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Commis-eiron of the intertories to do so and hese allowed the combinement on community of heiror head

Somer of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.
This amendment will take effect from 1st June, 2011.
Clause 30 of the Bill seeks to omit section 282B of the Income-tax Act relating to allotment of Document Identification Number.
Under the existing provisions contained in the said section 282B, every income-tax authority shall, on or after the 1st day of July, 2011, allot a computer generated Document Identification Number.
under the existing provisions contained in the said section 282B, every income-tax authority shall, on or after the 1st day of July, 2011, allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.
It is merecord to comit the ofference and thereon.

It is proposed to omit the aforesaid section. This amendment will take effect retrospectively from 1st April, 2011. *Clause 31* of the Bill seeks to insert a new section 285 [in place of said section which was omitted by the Finance Act, 1987] in the Income-tax Act relating to the submis-sion of statement by a non-resident having liaison office. The proposed new section provides that every person, being a non-resident having liaison office in India, set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the According officient priving inviting in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed. This amendment will take effect from 1st June, 2011.

*Clause 32* of the Bill seeks to amend section 296 of the Income-tax Act relating to rules and certain notifications to be placed before Parliament. As proposed, clause 23 of the Bill seeks to insert sub-section (IC) in section 139 of the Income-tax Act so as to empower the Central Government to exempt, by notifica-tion, any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification. It is proposed to amend section 296 of the Income tax Act so as to provide that every notification issued under sub-section (IC) of section 139 shall be laid before Parliam

This amendment will take effect from 1st June, 2011. *Clause 33* of the Bill seeks to amend Part A of the Fourth Schedule to the Income-tax Act, relating to recognised provident funds. Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or Commissioner may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under rule 4 in Part A of the said Schedule and the conditions, which the Board may specify by rules.

debt fund referred to in clause (47) of

section 10. It is also proposed to insert a new item (BA) after item (B) of clause (a) of sub-section (1) of the aforesaid section to provide that the tax shall be payable at the rate of five per cent. on any interest income received by a non-resident from an infrastructure debt fund referred to in clause (47) of section 10. These amendments will take effect from 1st June, 2011.

Clause for the Bill seeks to insert a new social 15BBD in the Income tax Act relating to tax on certain dividends received from foreign companies. Under the existing provisions of the Income tax Act, dividend received from foreign companies is taxable in the hands of the recipient at his applicable marginal rate of tax. Therefore, in case of companies who receive foreign dividend, such dividend is taxable at the rate of thirty per cent. plus applicable surcharge and cess.

Sub-section (1) of the aforesaid new section provides that no deduction in respect of any expenditure or allowance shall be allowed to the assesse under any provision of the anomaly for the assesse would have been chargeable had its total income to any any of the assesses would be be assessed as the rate of the anomaly for the assesses would have been chargeable had its total income to any any of the assesses would have been chargeable had its total income to any any of the assesses would have been chargeable had its total income be anount of foresaid income to any of dividends at the rate of any expenditure or allowance shall be allowed to the assesses would have been chargeable had its total income bear way of any expenditure or allowance shall be allowed to the assesse under any provision of the prome tay action provides that no deduction in respect of any expenditure or allowance shall be allowed to the assesse under any provision of the prome tay action of the assesses would have been chargeable had its total income bear values of the assesses would have been chargeable had its total income bear method bear assesses and any of dividends.

of the Income tax Act in computing its income by way of dividends. Sub-section (3) of the aforesaid new section seeks to define the expressions "dividends" and "subsidiary foreign company

This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013. *Clause 17* of the Bill seeks to amend section 115JB of the Income-tax Act relating to special provision for payment of tax by certain companies. The existing provisions contained in sub-section (1) of the aforesaid section provide that in case of a company, if the tax payable on the total income as computed under the Income-tax Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2011, is less than eighteen per cent. of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be eighteen per cent. of whether book profit. such book profit

It is proposed to amend sub-section (1) of the aforesaid section to provide that if the income-tax payable on the total income as computed under the Income-tax Act in spect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012 is less than eighteen and one-half per cent. of its book prof-such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be eighteen and one-half per cent. of such book profbook profit.

Sub-section (6) of section 115JB of the Income-tax Act was inserted in that section by way of a modification vide section 27 of the Special Economic Zones Act, 2005 read with the Second Schedule thereof

The existing provisions contained in the aforesaid sub-section (6) provide that the provisions of section 115JB shall not apply to the income accrued or arising on or after the 1stday of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may

It is proposed to insert a proviso to the said sub-section (6) so as to provide that the provisions of that sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012. These amendments will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-2013 and subsequent years.

Clause 18 of the Bill seeks to insert a new Chapter XII-BA [consisting of new sections 115JC, 115JE and 115JF] in the Income-tax Act containing special provi-sions relating to certain limited liability partnerships. Under the provisions of newly inserted section 115JC, where the regular income-tax payable for a previous year by any limited liability partnership is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such limited liability partnership and it shall be liable to pay income tax on such total income at the rate of eighteen and one-half per cent. For the purpose of the aforesaid provision, adjusted total income shall be the total income before giving effect to the newly inserted Chapter XII-BA as increased by the columniant alternate and one-half per cent.

deductions claimed under any section included in Chapter VI A under the heading "C. Deductions in respect of certain incomes" and deduction claimed under section

10AA. The proposed new section 115JD seeks to provide that the credit for tax paid by a limited liability partnership under section 115JC shall be the excess of the alternate minimum tax paid over the regular income-tax payable. This shall be allowed to be carried forward up to the tenth assessment year in which such tax credit becomes allowable and shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the alternate minimum tax to the extent of the excess of the regular income tax over the alternate minimum tax

The proposed new section 115JE seeks to define the average and the new provided in the newly inserted Chapter XII-BA, all other provisions of the Income-tax Act shall apply to a limited liability partnership. The proposed new section 115JF seeks to define the expressions "accountant", "alternate minimum tax", "limited liability partnership" and "regular income-tax" for the purposes of newly inserted Chapter XII-BA. These amendments will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

Clause 19 of the Bill seeks to amend section 115-O of the Income tax Act relating to tax on distributed profits of domestic companies. Sub-section (6) was inserted in the aforesaid section by way of a modification vide section 27 of the Special Economic Zones Act, 2005 read with the Second Schedule

Sub-section (b) was first tet in the addressed section by way of a mountation care section of all optional relations and section and the section of the section and the section of the section provide that notwithstanding anything contained in section 115-O, no tax on distributed profits shall be chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2005 out of its current income either in the hands of the Developer or enterprise and the section of the secti

The provide the section of the provide the section of the provide that the provisions of the said sub-section shall cease to have effect from the 1st day of June, 2011. Accordingly, tax on distributed profits shall be chargeable under this section on any amount declared, distributed or paid by way of dividends by the aforesaid undertak-ing or enterprise on or after the 1st day of June, 2011. This amendment will take effect from 1st June, 2011. *Clause* 20 of the Bill seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit holders.

Under the existing provisions contained in sub-section (2) of the aforesaid section name aforesaid section and among market mutual fund shall be liable to pay additional income-tax on such distributed income at the rate of twenty-five per cent. on income distributed by a money market mutual fund or a liquid fund; twelve and one-half per cent. on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund; twelve and one-half per cent. on income distributed to any other person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund; and twenty per cent. on income distributed to any other person being an individual or a money market mutual fund or a liquid fund; and twenty per cent. on income distributed to any other person being an individual or a money market mutual fund or a liquid fund; and twenty per cent. on income distributed to any other person being an envincement and environment of the specifical person being an individual or a liquid fund. It is proposed to amend clause (i) of sub-section (2) of the aforesaid section to specifically provide that additional income-tax at the rate of twenty-five per cent shall be wirked to any lixely under the specifical person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed to any other person being an environment income distributed tor any individu

leviable on any income distributed to an individual or a Hindu undivided family by a money market mutual fund or a liquid fund.

d the said tim mit to the 31st day of March, 2012 s proposed to ar proviso to sub-This amendment will take effect retrospectively from 1st January, 2011.

## Wealth-tax

The first proviso to sub-rule (1) of the said rule 3 provides that in a case where recognition has been accorded to any provident fund on or before the 31st day of March, 2006, the same shall be withdrawn, if such fund does not satisfy, on or before the 31st day of December, 2010, the conditions set out in clause (*ea*) of said rule 4, and any other conditions which the Board may, by rules, specify in this behalf.

Weath-tax Clause 34 of the Bill seeks to amend section 22D of the Wealth-tax Act, 1957 relating to procedure on receipt of the application under section 22C. The existing provisions contained in sub-section (4) of the aforesaid section 22D provide that the Settlement Commission may pass orders on the matters covered by the applications received by it.

It is proposed to insert a new sub-section (6B) in the said section so as to provide that the Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4). It further provides that an amendment which has the effect of modifying liability of the applicant, shall not be made under this sub-section unless the Settlement Com-

mission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being

This amendment will take effect from 1st June, 2011.

Clustoms Clause 35 of the Bill seeks to amend section 2 of the Customs Act relating to definitions. Clause (2) of the said section defines the expression "assessment" and the said

Clause 35 of the Bill seeks to amend section 2 of the Customs Act relating to deminition. Clause (2) of the Satu section demines the expression assessment and the satu definition is proposed to be re-defined so as to introduce therein "self-assessment" also. Clause 36 of the Bill seeks to amend section 3 of the Customs Act so as to omit the reference to the Deputy Commissioner in clause (e) thereof. Clause 37 of the Bill seeks to substitute a new section for section 17 of the Customs Act relating to assessment of duty to make the provisions consistent with the pro-posed scheme of "self-assessment". Clause 38 of the Bill seeks to amend section 18 of the Customs Act relating to provisional assessment of duty. In case an importer or exporter is unable to make self-assessment, he may request customs officer to assess the goods by following the procedure of provisional assessment. Clause 39 of the Bill seeks to amend section 19 of the Customs Act relating to determination of duty where goods consist of articles liable to different rates of duty so as to alime the same with the proposed scheme of self-assessment provided by section 17 of the aforesaid Act.

so that in the same with the proposed scheme of self-assessment provided by section 17 of the aforesaid Act. *Clause 40* of the Bill seeks to substitute sub-section (1) of section 27 of the Customs Act relating to claim for refund of duty or interest so as to provide for uniform limi-tation period of one year; as opposed to six months or one year for different classes of imports or exports. *Clause 40* of the Bill seeks to substitute a new section 28 of the Customs Act relating to recovery of duties not levied or short-levied or erroneously refunded so as to make the provisions more coherent and clear. *Clause 42* of the Bill seeks to substitute a new section 28AA for sections 28AA and 28AB of the Customs Act relating to interest on delayed payment of duty so as to when the merginiane coherent and clear.

*Clause* 42 of the Bill seeks to submit a new section 26AR for sections 26AR and 26AB of the Customs Act relating to interest on delayed payment of duty so as to provide that the Commissioner of Customs may, where it is not feasible to make an entry of goods on importation so as to provide for filing of entry electronically and also to provide that the Commissioner of Customs may, where it is not feasible to make an entry of goods for exportation so as to provide for filing of entry electronically and also to provide that the Commissioner of Customs may, where it is not feasible to make an entry of goods for exportation so as to provide for filing of entry electronically and also to provide that the Commissioner of Customs may, where it is not feasible to make an entry of goods for exportation so as to provide for filing of entry electronically and also to provide that the Commissioner of Customs may, where it is not feasible to make an entry electronically, allow an entry to be presented in any other manner. *Clause* 45 of the Bill seeks to amend section 75 of the Customs Act relating to entry of goods for exportation so as to provide for filing of entry electronically and also to provide that the Commissioner of Customs may, where it is not feasible to make an entry electronically, allow an entry to be presented in any other manner. *Clause* 45 of the Bill seeks to amend section 75 of the Customs Act so as to empower the Central Government to provide for the circumstances or conditions under which the morenter of automet white help more the composed on the customs down by the outport.

*Clause* 48 of the Bill seeks to amend section 75 of the Customs Act so also beingower the central Government to provide for the Customistances of conductors under which the amount of drawback of customs duty shall not be recovered, even if the sale proceeds are not realised by the exporter. *Clause* 46 of the Bill seeks to amend section 110A of the Customs Act relating to provisional release of goods, documents and things seized pending adjudication so as to empower the adjudicating authority to allow release of seized goods instead of the Commissioner of Customs, as at present. *Clause* 47 of the Bill seeks to amend section 124 of the Customs Act relating to issue of show cause notice before confiscation of goods, etc., so as to provide for issuance of notice with the prior approval of the officer of customs not below the rank of an Assistant Commissioner of Customs instead of the Deputy Commissioner of Customs as at present. This amendment will align with the relevant provisions of the Central Excise laws.

Clause 48 of the Bill seeks to insert a new section 131D in the Customs Act relating to filing of appeal by Commissioner of Customs in certain cases. The proposed section seeks to provide that the Central Board of Excise and Customs may, from time to time, issue orders, instructions or directions to Commissioner of Customs fixing such monetary limit as it may deem fit for the purpose of regulating filing of appeal, application, revision or reference by Commissioner of Customs under the provisions of Chapter XV. It is the provisions of Chapter XV.

It is further provisions of Chapter AV. It is further proposed to provide that where, in pursuance of the orders or instructions or directions, issued under sub-section (1), the Commissioner of Customs has not filed any appeal application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Commissioner of

Customs from filing appeal, application, revision or reference in any other case involving the same or similar issues or reference in any other case involving the same or similar issues or flaw. It is also proposed to provide that notwithstanding that no appeal, application, revision or reference has been filed by Commissioner of Customs pursuant to the orders or instructions or directions issued under sub-section (*I*), no person, being a party in appeal, application, revision or reference shall contend that the Commissioner of Customs has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference. It is also proposed to provide that the Appellate Tribunal or Court hearing such appeal, application, revision or reference shall have regard to the orders or instructions or directions issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs for the orders or instructions or directions issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the circumstances under which appeal, application, revision or reference was not filed by the Commissioner of Customs issued under sub-section (*I*) and the cincumstances under which appeal, application, revi

toms

It is also proposed to provide that every order or instruction or direction issued by the Central Board of Excise and Customs on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing of appeal, application, revision or reference shall be deemed to have been issued under sub-section (1), and the provisions of sub-sections (2), (3) and (4) shall apply accordingly. This amendment will take effect retrospectively from the 20th day of October, 2010.

Clause 49 of the Bill seeks to insert a new section 142A relating to liability under Act to be first charge so as to provide that notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty penalty, interest, or any other sum payable by an assessee or any other person under this Act, shall, save for the provisions contained in section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Security interest Act, 2002 be the first charge on the property of the assessee or the person as the case may be

Clause 50 of the Bill seeks to amend section 150 of the Customs Act relating to procedure for sale of goods and application of sale proceeds so as to insert a proviso in

sub-section (2) to provide that in case of goods remaining un-cleared and subsequently sold in auction and where the owner of the imported goods cannot be paid, the bal-ance of sale proceeds shall be paid to the Central Government. *Clause 51* of the Bill seeks to amend section 151A of the Customs Act relating to instructions to officers of customs so as to empower the Board to issue order, instruc-tion or direction for implementation of any other provision of the Act or of any other law in so far as they relate to any prohibition, restriction or procedure for import or export of goods.

Clause 52 of the Bill seeks to amend section 157 of the Customs Act relating to general power to make regulations by inserting a new clause (d) in sub-section (2) so as to empower the Board to specify the manner of conducting audit of assessment including at the premises of the importer or exporter.

Clause 53 of the Bill seeks to amend certain notifications issued under sub-section (1) of section 25 of the Customs Act, 1962 so as to allow benefits of reward schemes

