

FINANCE ACT, 2012⁺

[ACT NO. 23 OF 2012]

An Act to give effect to the financial proposals of the Central Government for the financial year 2012-2013.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Finance Act, 2012.

(2) Save as otherwise provided in this Act, sections 2 to 119 shall be deemed to have come into force on the 1st day of April, 2012.

CHAPTER II RATES OF INCOME-TAX

Income-tax.

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2012, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh eighty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh eighty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh eighty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted:

Provided also that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (IV) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh eighty thousand rupees", the words "five lakh rupees" had been substituted.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115E or 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

- (a) in the case of a domestic company, at the rate of five per cent of such income-tax where the total income exceeds one crore rupees;
- (b) in the case of every company, other than a domestic company, at the rate of two per cent of such income-tax where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income-tax shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of five per cent of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 194LB, 194LC, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two per cent of such tax, where the income or the

aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two per cent of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115BBD, 115BBE, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every domestic company, at the rate of five per cent of such "advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two per cent of such "advance tax" where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in

addition to total income and the total income exceeds two lakh rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first two lakh rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and
- (b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—
 - (i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;
 - (ii) the net agricultural income shall be increased by a sum of two lakh rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;
 - (iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh rupees", the words "two lakh fifty thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "two lakh rupees", the words "five lakh rupees" had been substituted.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be

called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

- (a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2012, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;
- (b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);
- (c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;
- (d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

CHAPTER III **DIRECT TAXES** *Income-tax*

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

- (i) in clause (14), at the end, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—
*'Explanation.—*For the removal of doubts, it is hereby clarified that "property" includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever;'
- (ii) in clause (16), after the words, "Commissioner of Income-tax", the words "or a Director of Income-tax" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988;
- (iii) in clause (19AA), in sub-clause (iv), for the words "proportionate basis", the words "proportionate basis except where the resulting company itself is a shareholder of the demerged company" shall be substituted with effect from the 1st day of April, 2013;
- (iv) in clause (24), after sub-clause (xv), the following sub-clause shall be inserted with effect from the 1st day of April, 2013, namely:—
"(xvi) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in clause (viib) of sub-section (2) of section 56;"
- (v) in clause (47), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

'Explanation 2.—For the removal of doubts, it is hereby clarified that "transfer" includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India;'

Amendment of section 9.

4. In section 9 of the Income-tax Act, in sub-section (1),—

- (a) in clause (i), after *Explanation 3*, the following *Explanations* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

'Explanation 4.—For the removal of doubts, it is hereby clarified that the expression "through" shall mean and include and shall be deemed to have always meant and included "by means of", "in consequence of" or "by reason of".

Explanation 5.—For the removal of doubts, it is hereby clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.'

- (b) in clause (vi), after *Explanation 3*, the following *Explanations* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1976, namely:—

'Explanation 4.—For the removal of doubts, it is hereby clarified that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Explanation 5.—For the removal of doubts, it is hereby clarified that the royalty includes and has always included consideration in respect of any right, property or information, whether or not—

- (a) the possession or control of such right, property or information is with the payer;
- (b) such right, property or information is used directly by the payer;
- (c) the location of such right, property or information is in India.

Explanation 6.—For the removal of doubts, it is hereby clarified that the expression "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret;'

Amendment of section 10.

5. In section 10 of the Income-tax Act,—

- (A) in clause (10D), with effect from the 1st day of April, 2013,—
(i) in sub-clause (c),—

- (I) after the words, figures and letters "the 1st day of April, 2003", the words, figures and letters "but on or before the 31st day of March, 2012" shall be inserted;
- (II) for the word "assured:", the words "assured; or" shall be substituted;
- (ii) after sub-clause (c) and before the first proviso, the following sub-clause shall be inserted, namely:—
 - "(d) any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent of the actual capital sum assured:";
- (iii) in the first proviso, for the words "this sub-clause", the words, brackets and letters "sub-clauses (c) and (d)" shall be substituted;
- (iv) in the second proviso, for the words "this sub-clause", the word, brackets and letter "sub-clause (c)" shall be substituted;
- (v) the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted, namely:—
 - '*Explanation 2.*—For the purposes of sub-clause (d), the expression "actual capital sum assured" shall have the meaning assigned to it in the *Explanation* to sub-section (3A) of section 80C;';
- (B) after clause (23BBG), the following clause shall be inserted with effect from the 1st day of April, 2013, namely:—
 - "(23BBH) any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);";
- (C) in clause (23C), after the sixteenth proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2009, namely:—
 - "**Provided also** that the income of a trust or institution referred to in sub-clause (iv) or sub-clause (v) shall be included in its total income of the previous year if the provisions of the first proviso to clause (15) of section 2 become applicable to such trust or institution in the said previous year, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded;";
- (D) in clause (23FB), in *Explanation 1*, for clause (c), the following clause shall be substituted with effect from the 1st day of April, 2013, namely:—
 - '(c) "venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);';
- (E) after clause (47), the following clause shall be inserted with effect from the 1st day of April, 2012, namely:—
 - "(48) any income received in India in Indian currency by a foreign company on account of sale of crude oil to any person in India:
Provided that—

- (i) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;
- (ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf; and
- (iii) the foreign company is not engaged in any activity, other than receipt of such income, in India."

Amendment of section 13.

6. In section 13 of the Income-tax Act, after sub-section (7) and before *Explanation 1*, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2009, namely:—

"(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said previous year."

Amendment of section 32.

7. In section 32 of the Income-tax Act, in sub-section (1), in clause (iia), after the words "any article or thing", the words "or in the business of generation or generation and distribution of power" shall be inserted with effect from the 1st day of April, 2013.

Amendment of section 35.

8. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (5), for the words, figures and letters "the 31st day of March, 2012", the words, figures and letters "the 31st day of March, 2017" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 35AD.

9. In section 35AD of the Income-tax Act,—

- (a) after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(1A) Where the specified business is of the nature referred to in sub-clause (i) or sub-clause (ii) or sub-clause (v) or sub-clause (vii) or sub-clause (viii) of clause (c) of sub-section (8) and has commenced its operations on or after the 1st day of April, 2012, the deduction under sub-section (1) shall be allowed of an amount equal to one and one-half times of the expenditure referred to therein.";

- (b) in sub-section (5), with effect from the 1st day of April, 2013,—

- (A) in clause (ae), the word "and" shall be omitted;

- (B) after clause (ae), the following clauses shall be inserted, namely:—

- "(af) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

- (ag) on or after the 1st day of April, 2012, where the specified business is in the nature of bee-keeping and production of honey and beeswax;

- (ah) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating a warehousing facility for storage of sugar; and";

- (C) in clause (b), for the words, brackets and letters "clause (a), clause (aa), clause (ab) and clause (ac)", the words "any of the above clauses" shall be substituted;

- (c) after sub-section (6), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2011, namely:—

"(6A) Where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business referred to in sub-clause (iv) of clause (c) of sub-section (8).";

- (d) in sub-section (8), in clause (c), after sub-clause (viii), the following sub-clauses shall be inserted with effect from the 1st day of April, 2013, namely:—

"(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(x) bee-keeping and production of honey and beeswax;

(xi) setting up and operating a warehousing facility for storage of sugar;"

Insertion of new sections 35CCC and 35CCD.

10. After section 35CCB of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of April, 2013, namely:—

35CCC. Expenditure on agricultural extension project.—(1) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.

35CCD. Expenditure on skill development project.—(1) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year."

Amendment of section 40.

11. In section 40 of the Income-tax Act, in clause (a), in sub-clause (ia), after the proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2013, namely:—

"**Provided further** that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the purpose of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso."

Amendment of section 40A.

12. In section 40A of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2013,—

(i) in clause (a), the following proviso shall be inserted, namely:—

"**Provided** that no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F.";

(ii) in clause (b), in sub-clause (iv), after the words "or any relative of such director, partner or member", the words "or any other company carrying on business or profession in which the first mentioned company has substantial interest" shall be inserted.

Amendment of section 44AB.

13. In section 44AB of the Income-tax Act,—

(i) in clause (a), for the words "sixty lakh rupees", the words "one crore rupees" shall be substituted with effect from the 1st day of April, 2013;

(ii) in clause (b), for the words "fifteen lakh rupees", the words "twenty-five lakh rupees" shall be substituted with effect from the 1st day of April, 2013;

(iii) in the *Explanation*, in clause (ii), for the words, figures and letters "the 30th day of September of the assessment year", the words, brackets and figures "the due date for furnishing the return of income under sub-section (1) of section 139" shall be substituted.

Amendment of section 44AD.

14. In section 44AD of the Income-tax Act,—

(a) after sub-section (5), and before the *Explanation*, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2011, namely:—

"(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;

(ii) a person earning income in the nature of commission or brokerage; or

(iii) a person carrying on any agency business.";

(b) in the *Explanation*, in clause (b), in sub-clause (ii), for the words "sixty lakh rupees", the words "one crore rupees" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 47.

15. In section 47 of the Income-tax Act, in clause (vii), in sub-clause (a), for the words "amalgamated company, and", the words "amalgamated company except where the shareholder itself is the amalgamated company, and" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 49.

16. In section 49 of the Income-tax Act, in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letter "clause (xiii**b**) of section 47", the words, brackets, figures and letter "clause (xiii) or clause (xiii**b**) or clause (xiv) of section 47" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1999.

Insertion of new section 50D.

17. After section 50C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

"50D. Fair market value deemed to be full value of consideration in certain cases.— Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer."

Amendment of section 54B.

18. In section 54B of the Income-tax Act, in sub-section (1), for the words "the assessee or a parent of his", the words "the assessee being an individual or his parent, or a Hindu undivided family" shall be substituted with effect from the 1st day of April, 2013.

Insertion of new section 54GB.

19. After section 54GA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

'54GB. Capital gain on transfer of residential property not to be charged in certain cases.—(1) Where,—

- (i) the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee); and
- (ii) the assessee, before the due date of furnishing of return of income under sub-section (1) of section 139, utilises the net consideration for subscription in the equity shares of an eligible company (herein referred to as the company); and
- (iii) the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset,

then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer takes place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

- (a) if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year; or
- (b) if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.

(2) The amount of the net consideration, which has been received by the company for issue of shares to the assessee, to the extent it is not utilised by the company for the purchase of the new asset before the due date of furnishing of the return of income by the assessee under section 139, shall be deposited by the company, before the said due date in an account in any such bank or institution as may be specified and shall be utilised in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

(3) For the purposes of sub-section (1), the amount, if any, already utilised by the company for the purchase of the new asset together with the amount deposited under sub-section (2) shall be deemed to be the cost of the new asset:

Provided that if the amount so deposited is not utilised, wholly or partly, for the purchase of the new asset within the period specified in sub-section (1), then,—

- (i) the amount by which—

- (a) the amount of capital gain arising from the transfer of the residential property not charged under section 45 on the basis of the cost of the new asset as provided in sub-section (1), exceeds—
 - (b) the amount that would not have been so charged had the amount actually utilised for the purchase of the new asset within the period specified in sub-section (1) been the cost of the new asset,shall be charged under section 45 as income of the assessee for the previous year in which the period of one year from the date of the subscription in equity shares by the assessee expires; and
 - (ii) the company shall be entitled to withdraw such amount in accordance with the scheme.
- (4) If the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (1) shall be deemed to be the income of the assessee chargeable under the head "Capital gains" of the previous year in which such equity shares or such new asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.
- (5) The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.
- (6) For the purposes of this section,—
- (a) "eligible assessee" means an individual or a Hindu undivided family;
 - (b) "eligible company" means a company which fulfils the following conditions, namely:—
 - (i) it is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (1) of section 139 by the assessee;
 - (ii) it is engaged in the business of manufacture of an article or a thing;
 - (iii) it is a company in which the assessee has more than fifty per cent share capital or more than fifty per cent voting rights after the subscription in shares by the assessee; and
 - (iv) it is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006);
 - (c) "net consideration" shall have the meaning assigned to it in the *Explanation* to section 54F;
 - (d) "new asset" means new plant and machinery but does not include—
 - (i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;
 - (ii) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house;
 - (iii) any office appliances including computers or computer software;
 - (iv) any vehicle; or

- (v) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.'

Amendment of section 55A.

20. In section 55A of the Income-tax Act, in clause (a), for the words "is less than its fair market value", the words "is at variance with its fair market value" shall be substituted with effect from the 1st day of July, 2012.

Amendment of section 56.

21. In section 56 of the Income-tax Act, in sub-section (2),—

- (A) in clause (vii), in the *Explanation*, for clause (e), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009, namely:—

'(e) "relative" means,—

- (i) in case of an individual—

- (A) spouse of the individual;
- (B) brother or sister of the individual;
- (C) brother or sister of the spouse of the individual;
- (D) brother or sister of either of the parents of the individual;
- (E) any lineal ascendant or descendant of the individual;
- (F) any lineal ascendant or descendant of the spouse of the individual;
- (G) spouse of the person referred to in items (B) to (F); and

- (ii) in case of a Hindu undivided family, any member thereof;'

- (B) after clause (viia), the following shall be inserted with effect from the 1st day of April, 2013, namely:—

'(viib) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Provided that this clause shall not apply where the consideration for issue of shares is received—

- (i) by a venture capital undertaking from a venture capital company or a venture capital fund; or
- (ii) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Explanation.—For the purposes of this clause,—

- (a) the fair market value of the shares shall be the value—

- (i) as may be determined in accordance with such method as may be prescribed; or
- (ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,

whichever is higher;

- (b) "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (a), clause (b) and clause (c) of *Explanation 1* to clause (23FB) of section 10;'.¹

Amendment of section 68.

22. In section 68 of the Income-tax Act, the following provisos shall be inserted with effect from the 1st day of April, 2013, namely:—

"**Provided** that where the assessee is a company, (not being a company in which the public are substantially interested) and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—

- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10."

Amendment of section 80A.

23. In section 80A of the Income-tax Act, in sub-section (6), in the *Explanation*, after clause (ii), the following clause shall be inserted with effect from the 1st day of April, 2013, namely:—

"(iii) in relation to any goods or services sold, supplied or acquired means the arm's length price as defined in clause (ii) of section 92F of such goods or services, if it is a specified domestic transaction referred to in section 92BA."

Amendment of section 80C.

24. In section 80C of the Income-tax Act, with effect from the 1st day of April, 2013,—

- (i) in sub-section (3), for the words "insurance policy other than a contract for a deferred annuity", the words, figures and letters "insurance policy, other than a contract for a deferred annuity, issued on or before the 31st day of March, 2012," shall be substituted;

- (ii) after sub-section (3), the following shall be inserted, namely:—

'(3A) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, issued on or after the 1st day of April, 2012 as is not in excess of ten per cent of the actual capital sum assured.

Explanation.—For the purposes of this sub-section, "actual capital sum assured" in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account—

- (i) the value of any premium agreed to be returned; or
- (ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.'

Insertion of new section 80CCG.

25. After section 80CCF of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

"80CCG. *Deduction in respect of investment made under an equity savings scheme.*—(1) Where an assessee, being a resident individual, has, in a previous year, acquired listed equity shares in accordance with a scheme, as may be notified by the Central Government in this behalf, he shall, subject to the provisions of sub-section (3), be allowed a deduction, in the computation of his total income of the assessment year relevant to such previous year, of fifty per cent of the amount invested in such equity shares to the extent such deduction does not exceed twenty-five thousand rupees.

(2) Where an assessee has claimed and allowed a deduction under this section for any assessment year in respect of any amount, he shall not be allowed any deduction under this section for any subsequent assessment year.

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

- (i) the gross total income of the assessee for the relevant assessment year shall not exceed ten lakh rupees;
- (ii) the assessee is a new retail investor as may be specified under the scheme referred to in sub-section (1);
- (iii) the investment is made in such listed equity shares as may be specified under the scheme referred to in sub-section (1);
- (iv) the investment is locked-in for a period of three years from the date of acquisition in accordance with the scheme referred to in sub-section (1); and
- (v) such other condition as may be prescribed.

(4) If the assessee, in any previous year, fails to comply with any condition specified in sub-section (3), the deduction originally allowed shall be deemed to be the income of the assessee of such previous year and shall be liable to tax for the assessment year relevant to such previous year."

Amendment of section 80D.

26. In section 80D of the Income-tax Act, with effect from the 1st day of April, 2013,—

(a) in sub-section (1), for the words ", other than cash," the words, brackets, figure and letter "as specified in sub-section (2B)," shall be substituted;

(b) in sub-section (2),—

(A) in clause (a), after the words "the Central Government Health Scheme", the words "or any payment made on account of preventive health check-up of the assessee or his family" shall be inserted;

(B) in clause (b), after the words "parents of the assessee", the words "or any payment made on account of preventive health check-up of the parent or parents of the assessee" shall be inserted;

(c) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) Where the amounts referred to in clauses (a) and (b) of sub-section (2) are paid on account of preventive health check-up, the deduction for such amounts shall be allowed to the extent it does not exceed in the aggregate five thousand rupees.

(2B) For the purposes of deduction under sub-section (1), payment shall be made by—

- (i) any mode, including cash, in respect of any sum paid on account of preventive health check-up;
- (ii) any mode other than cash in all other cases not falling under clause (i).";

(d) in sub-section (4), in the *Explanation*, for the words "sixty-five years", the words "sixty years" shall be substituted.

Amendment of section 80DDB.

27. In section 80DDB of the Income-tax Act, in the *Explanation*, in clause (iv), for the words "sixty-five years", the words "sixty years" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 80G.

28. In section 80G of the Income-tax Act, after sub-section (5C), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(5D) No deduction shall be allowed under this section in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash."

Amendment of section 80GGA.

29. In section 80GGA of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(2A) No deduction shall be allowed under this section in respect of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash."

Amendment of section 80-IA.

30. In section 80-IA of the Income-tax Act, with effect from the 1st day of April, 2013,—

(a) in sub-section (4), in clause (iv), for the words, figures and letters "the 31st day of March, 2012", wherever they occur, the words, figures and letters "the 31st day of March, 2013" shall respectively be substituted;

(b) in sub-section (8), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*'Explanation—*For the purposes of this sub-section, "market value", in relation to any goods or services, means—

(i) the price that such goods or services would ordinarily fetch in the open market;
or

(ii) the arm's length price as defined in clause (ii) of section 92F, where the transfer of such goods or services is a specified domestic transaction referred to in section 92BA.';

(c) in sub-section (10), the following proviso shall be inserted, namely:—

"**Provided** that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F."

Insertion of new Part.

31. In Chapter VI-A of the Income-tax Act, after Part C, the following Part shall be inserted with effect from the 1st day of April, 2013, namely:—

'CA.— Deductions in respect of other incomes

80TTA. Deduction in respect of interest on deposits in savings account.—(1) Where the gross total income of an assessee, being an individual or a Hindu undivided family, includes any income by way of interest on deposits (not being time deposits) in a savings account with—

(a) a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act);

- (b) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- (c) a Post Office as defined in clause (k) of section 2 of the Indian Post Office Act, 1898 (6 of 1898),

there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee a deduction as specified hereunder, namely:—

- (i) in a case where the amount of such income does not exceed in the aggregate ten thousand rupees, the whole of such amount; and
- (ii) in any other case, ten thousand rupees.

(2) Where the income referred to in this section is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

Explanation.—For the purposes of this section, "time deposits" means the deposits repayable on expiry of fixed periods.'

Amendment of section 90.

32. In section 90 of the Income-tax Act,—

- (a) after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee, even if such provisions are not beneficial to him.";

- (b) after sub-section (3) and before *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(4) An assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate, containing such particulars as may be prescribed, of his being a resident in any country outside India or specified territory outside India, as the case may be, is obtained by him from the Government of that country or specified territory.";

- (c) after *Explanation 2*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 2009, namely:—

"*Explanation 3.*—For the removal of doubts, it is hereby declared that where any term is used in any agreement entered into under sub-section (1) and not defined under the said agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and the notification issued thereunder being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force.";

Amendment of section 90A.

33. In section 90A of the Income-tax Act,—

- (a) after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(2A) Notwithstanding anything contained in sub-section (2), the provisions of Chapter X-A of the Act shall apply to the assessee, even if such provisions are not beneficial to him.";

- (b) after sub-section (3) and before *Explanation 1*, the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—

"(4) An assessee, not being a resident, to whom the agreement referred to in sub-section (1) applies, shall not be entitled to claim any relief under such agreement unless a certificate, containing such particulars as may be prescribed, of his being a resident in any specified territory outside India, is obtained by him from the Government of that specified territory.";

- (c) after *Explanation 2*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2006, namely:—

"*Explanation 3.*—For the removal of doubts, it is hereby declared that where any term is used in any agreement entered into under sub-section (1) and not defined under the said agreement or the Act, but is assigned a meaning to it in the notification issued under sub-section (3) and the notification issued thereunder being in force, then, the meaning assigned to such term shall be deemed to have effect from the date on which the said agreement came into force."

Amendment of section 92.

34. In section 92 of the Income-tax Act, with effect from the 1st day of April, 2013,—

- (a) in sub-section (2), for the words "international transaction", the words "international transaction or specified domestic transaction" shall be substituted;

- (b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Any allowance for an expenditure or interest or allocation of any cost or expense or any income in relation to the specified domestic transaction shall be computed having regard to the arm's length price.";

- (c) in sub-section (3),—

- (i) for the words "international transaction", the words "international transaction or specified domestic transaction" shall be substituted;
- (ii) for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-section (1) or sub-section (2A)" shall be substituted;
- (iii) for the words "that sub-section", the words, brackets, figures and letter "sub-section (1) or sub-section (2A)" shall be substituted;
- (iv) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted.

Amendment of section 92B.

35. In section 92B of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

'*Explanation.*—For the removal of doubts, it is hereby clarified that—

- (i) the expression "international transaction" shall include—

- (a) the purchase, sale, transfer, lease or use of tangible property including building, transportation vehicle, machinery, equipment, tools, plant, furniture, commodity or any other article, product or thing;

- (b) the purchase, sale, transfer, lease or use of intangible property, including the transfer of ownership or the provision of use of rights regarding land use,

copyrights, patents, trademarks, licences, franchises, customer list, marketing channel, brand, commercial secret, know-how, industrial property right, exterior design or practical and new design or any other business or commercial rights of similar nature;

- (c) capital financing, including any type of long-term or short-term borrowing, lending or guarantee, purchase or sale of marketable securities or any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;
- (d) provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;
- (e) a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

(ii) the expression "intangible property" shall include—

- (a) marketing related intangible assets, such as, trademarks, trade names, brand names, logos;
- (b) technology related intangible assets, such as, process patents, patent applications, technical documentation such as laboratory notebooks, technical know-how;
- (c) artistic related intangible assets, such as, literary works and copyrights, musical compositions, copyrights, maps, engravings;
- (d) data processing related intangible assets, such as, proprietary computer software, software copyrights, automated databases, and integrated circuit masks and masters;
- (e) engineering related intangible assets, such as, industrial design, product patents, trade secrets, engineering drawing and schematics, blueprints, proprietary documentation;
- (f) customer related intangible assets, such as, customer lists, customer contracts, customer relationship, open purchase orders;
- (g) contract related intangible assets, such as, favourable supplier, contracts, licence agreements, franchise agreements, non-compete agreements;
- (h) human capital related intangible assets, such as, trained and organised work force, employment agreements, union contracts;
- (i) location related intangible assets, such as, leasehold interest, mineral exploitation rights, easements, air rights, water rights;
- (j) goodwill related intangible assets, such as, institutional goodwill, professional practice goodwill, personal goodwill of professional, celebrity goodwill, general business going concern value;
- (k) methods, programmes, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data;
- (l) any other similar item that derives its value from its intellectual content rather than its physical attributes.¹

Insertion of new section 92BA.

36. After section 92B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

'92BA. *Meaning of specified domestic transaction.*—For the purposes of this section and sections 92, 92C, 92D and 92E, "specified domestic transaction" in case of an assessee means any of the following transactions, not being an international transaction, namely:—

- (i) any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A;
- (ii) any transaction referred to in section 80A;
- (iii) any transfer of goods or services referred to in sub-section (8) of section 80-IA;
- (iv) any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;
- (v) any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or
- (vi) any other transaction as may be prescribed,

and where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.'

Amendment of section 92C.

37. In section 92C of the Income-tax Act,—

(a) in sub-section (2),—

- (i) in the second proviso, for the words "does not exceed such percentage of latter as may be notified", the words "does not exceed such percentage not exceeding three per cent of the latter, as may be notified" shall be substituted with effect from the 1st day of April, 2013;

- (ii) after the second proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 2009, namely:—

"*Explanation.*—For the removal of doubts, it is hereby clarified that the provisions of the second proviso shall also be applicable to all assessment or reassessment proceedings pending before an Assessing Officer as on the 1st day of October, 2009.";

- (b) after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

"(2A) Where the first proviso to sub-section (2) as it stood before its amendment by the Finance (No. 2) Act, 2009 (33 of 2009), is applicable in respect of an international transaction for an assessment year and the variation between the arithmetical mean referred to in the said proviso and the price at which such transaction has actually been undertaken exceeds five per cent of the arithmetical mean, then, the assessee shall not be entitled to exercise the option as referred to in the said proviso.";

- (c) after sub-section (2A) as so inserted, the following sub-section shall be inserted with effect from the 1st day of July, 2012, namely:—

"(2B) Nothing contained in sub-section (2A) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154 for any assessment year the proceedings of which have been completed before the 1st day of October, 2009."

Amendment of Chapter X.

38. In sections 92C, 92D and section 92E of Chapter X of the Income-tax Act, for the words "international transaction" wherever they occur, the words "international transaction or specified domestic transaction" shall respectively be substituted with effect from the 1st day of April, 2013.

Amendment of section 92CA.

39. In section 92CA of the Income-tax Act,—

- (a) in sub-sections (1), (2) and (3), for the words "international transaction", wherever they occur, the words "international transaction or specified domestic transaction" shall respectively be substituted with effect from the 1st day of April, 2013;
- (b) after sub-section (2A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002, namely:—

"(2B) Where in respect of an international transaction, the assessee has not furnished the report under section 92E and such transaction comes to the notice of the Transfer Pricing Officer during the course of the proceeding before him, the provisions of this Chapter shall apply as if such transaction is an international transaction referred to him under sub-section (1)."
- (c) after sub-section (2B), as so inserted, the following sub-section shall be inserted with effect from the 1st day of July, 2012, namely:—

"(2C) Nothing contained in sub-section (2B) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year, proceedings for which have been completed before the 1st day of July, 2012."

Insertion of new sections 92CC and 92CD.

40. After section 92CB of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of July, 2012, namely:—

'92CC. *Advance pricing agreement.*—(1) The Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person, determining the arm's length price or specifying the manner in which arm's length price is to be determined, in relation to an international transaction to be entered into by that person.

(2) The manner of determination of arm's length price referred to in sub-section (1), may include the methods referred to in sub-section (1) of section 92C or any other method, with such adjustments or variations, as may be necessary or expedient so to do.

(3) Notwithstanding anything contained in section 92C or section 92CA, the arm's length price of any international transaction, in respect of which the advance pricing agreement has been entered into, shall be determined in accordance with the advance pricing agreement so entered.

(4) The agreement referred to in sub-section (1) shall be valid for such period not exceeding five consecutive previous years as may be specified in the agreement.

(5) The advance pricing agreement entered into shall be binding—

- (a) on the person in whose case, and in respect of the transaction in relation to which, the agreement has been entered into; and

- (b) on the Commissioner, and the income-tax authorities subordinate to him, in respect of the said person and the said transaction.
- (6) The agreement referred to in sub-section (1) shall not be binding if there is a change in law or facts having bearing on the agreement so entered.
- (7) The Board may, with the approval of the Central Government, by an order, declare an agreement to be void *ab initio*, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts.
- (8) Upon declaring the agreement void *ab initio*,—
- (a) all the provisions of the Act shall apply to the person as if such agreement had never been entered into; and
 - (b) notwithstanding anything contained in the Act, for the purpose of computing any period of limitation under this Act, the period beginning with the date of such agreement and ending on the date of order under sub-section (7) shall be excluded:
Provided that where immediately after the exclusion of the aforesaid period, the period of limitation, referred to in any provision of this Act, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.
- (9) The Board may, for the purposes of this section, prescribe a scheme specifying therein the manner, form, procedure and any other matter generally in respect of the advance pricing agreement.
- (10) Where an application is made by a person for entering into an agreement referred to in sub-section (1), the proceeding shall be deemed to be pending in the case of the person for the purposes of the Act.
- 92CD. *Effect to advance pricing agreement.*—(1) Notwithstanding anything to the contrary contained in section 139, where any person has entered into an agreement and prior to the date of entering into the agreement, any return of income has been furnished under the provisions of section 139 for any assessment year relevant to a previous year to which such agreement applies, such person shall furnish, within a period of three months from the end of the month in which the said agreement was entered into, a modified return in accordance with and limited to the agreement.
- (2) Save as otherwise provided in this section, all other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 139.
- (3) If the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the agreement applies have been completed before the expiry of period allowed for furnishing of modified return under sub-section (1), the Assessing Officer shall, in a case where modified return is filed in accordance with the provisions of sub-section (1), proceed to assess or reassess or recompute the total income of the relevant assessment year having regard to and in accordance with the agreement.
- (4) Where the assessment or reassessment proceedings for an assessment year relevant to the previous year to which the agreement applies are pending on the date of filing of modified return in accordance with the provisions of sub-section (1), the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so furnished.

(5) Notwithstanding anything contained in section 153 or section 153B or section 144C,—

- (a) the order of assessment, reassessment or recomputation of total income under sub-section (3) shall be passed within a period of one year from the end of the financial year in which the modified return under sub-section (1) is furnished;
 - (b) the period of limitation as provided in section 153 or section 153B or section 144C for completion of pending assessment or reassessment proceedings referred to in sub-section (4) shall be extended by a period of twelve months.
- (6) For the purposes of this section,—
- (i) "agreement" means an agreement referred to in sub-section (1) of section 92CC;
 - (ii) the assessment or reassessment proceedings for an assessment year shall be deemed to have been completed where—
 - (a) an assessment or reassessment order has been passed; or
 - (b) no notice has been issued under sub-section (2) of section 143 till the expiry of the limitation period provided under the said section.'

Insertion of new Chapter X-A.

41. After Chapter X of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2014, namely:—

'CHAPTER X-A

GENERAL ANTI-AVOIDANCE RULE

95. *Applicability of General Anti-Avoidance Rule.*—Notwithstanding anything contained in the Act, an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement and the consequence in relation to tax arising therefrom may be determined subject to the provisions of this Chapter.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of this Chapter may be applied to any step in, or a part of, the arrangement as they are applicable to the arrangement.

96. *Impermissible avoidance arrangement.*—(1) An impermissible avoidance arrangement means an arrangement, the main purpose or one of the main purposes of which is to obtain a tax benefit and it—

- (a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;
- (b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;
- (c) lacks commercial substance or is deemed to lack commercial substance under section 97, in whole or in part; or
- (d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for *bona fide* purposes.

(2) An arrangement shall be presumed to have been entered into, or carried out, for the main purpose of obtaining a tax benefit, if the main purpose of a step in, or a part of, the arrangement is to obtain a tax benefit, notwithstanding the fact that the main purpose of the whole arrangement is not to obtain a tax benefit.

97. *Arrangement to lack commercial substance.*—(1) An arrangement shall be deemed to lack commercial substance if—

- (a) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or

- (b) it involves or includes—
 - (i) round trip financing;
 - (ii) an accommodating party;
 - (iii) elements that have effect of offsetting or cancelling each other; or
 - (iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of funds which is the subject matter of such transaction; or
 - (c) it involves the location of an asset or of a transaction or of the place of residence of any party which is without any substantial commercial purpose other than obtaining a tax benefit (but for the provisions of this Chapter) for a party.
- (2) For the purposes of sub-section (1), round trip financing includes any arrangement in which, through a series of transactions—
- (a) funds are transferred among the parties to the arrangement; and
 - (b) such transactions do not have any substantial commercial purpose other than obtaining the tax benefit (but for the provisions of this Chapter),
- without having any regard to—
- (A) whether or not the funds involved in the round trip financing can be traced to any funds transferred to, or received by, any party in connection with the arrangement;
 - (B) the time, or sequence, in which the funds involved in the round trip financing are transferred or received; or
 - (C) the means by, or manner in, or mode through, which funds involved in the round trip financing are transferred or received.
- (3) For the purposes of this Chapter, a party to an arrangement shall be an accommodating party, if the main purpose of the direct or indirect participation of that party in the arrangement, in whole or in part, is to obtain, directly or indirectly, a tax benefit (but for the provisions of this Chapter) for the assessee whether or not the party is a connected person in relation to any party to the arrangement.
- (4) The following shall not be taken into account while determining whether an arrangement lacks commercial substance or not, namely:—
- (i) the period or time for which the arrangement (including operations therein) exists;
 - (ii) the fact of payment of taxes, directly or indirectly, under the arrangement;
 - (iii) the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement.

98. *Consequence of impermissible avoidance arrangement.*—(1) If an arrangement is declared to be an impermissible avoidance arrangement, then the consequences, in relation to tax, of the arrangement, including denial of tax benefit or a benefit under a tax treaty, shall be determined, in such manner as is deemed appropriate, in the circumstances of the case, including by way of but not limited to the following, namely:—

- (a) disregarding, combining or recharacterising any step in, or a part or whole of, the impermissible avoidance arrangement;
- (b) treating the impermissible avoidance arrangement as if it had not been entered into or carried out;

- (c) disregarding any accommodating party or treating any accommodating party and any other party as one and the same person;
 - (d) deeming persons who are connected persons in relation to each other to be one and the same person for the purposes of determining tax treatment of any amount;
 - (e) reallocating amongst the parties to the arrangement—
 - (i) any accrual, or receipt, of a capital or revenue nature; or
 - (ii) any expenditure, deduction, relief or rebate;
 - (f) treating—
 - (i) the place of residence of any party to the arrangement; or
 - (ii) the *situs* of an asset or of a transaction, at a place other than the place of residence, location of the asset or location of the transaction as provided under the arrangement; or
 - (g) considering or looking through any arrangement by disregarding any corporate structure.
- (2) For the purposes of sub-section (1),—
- (i) any equity may be treated as debt or *vice versa*;
 - (ii) any accrual, or receipt, of a capital nature may be treated as of revenue nature or *vice versa*; or
 - (iii) any expenditure, deduction, relief or rebate may be recharacterised.
99. *Treatment of connected person and accommodating party.*—For the purposes of this Chapter, in determining whether a tax benefit exists—
- (i) the parties who are connected persons in relation to each other may be treated as one and the same person;
 - (ii) any accommodating party may be disregarded;
 - (iii) such accommodating party and any other party may be treated as one and the same person;
 - (iv) the arrangement may be considered or looked through by disregarding any corporate structure.
100. *Application of Chapter.*—The provisions of this Chapter shall apply in addition to, or in lieu of, any other basis for determination of tax liability.
101. *Framing of guidelines.*—The provisions of this Chapter shall be applied in accordance with such guidelines and subject to such conditions and the manner as may be prescribed.
102. *Definitions.*—In this Chapter, unless the context otherwise requires,—
- (1) "arrangement" means any step in, or a part or whole of, any transaction, operation, scheme, agreement or understanding, whether enforceable or not, and includes the alienation of any property in such transaction, operation, scheme, agreement or understanding;
 - (2) "asset" includes property, or right, of any kind;
 - (3) "associated person", in relation to a person, means—
 - (a) any relative of the person, if the person is an individual;
 - (b) any director of the company or any relative of such director, if the person is a company;
 - (c) any partner or member of a firm or association of persons or body of individuals or any relative of such partner or member if the person is a firm or association of persons or body of individuals;

- (d) any member of the Hindu undivided family or any relative of such member, if the person is a Hindu undivided family;
- (e) any individual who has a substantial interest in the business of the person or any relative of such individual;
- (f) a company, firm or an association of persons or a body of individuals, whether incorporated or not, or a Hindu undivided family having a substantial interest in the business of the person or any director, partner, or member of the company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member;
- (g) a company, firm or association of persons or body of individuals, whether incorporated or not, or a Hindu undivided family, whose director, partner, or member have a substantial interest in the business of the person, or family or any relative of such director, partner or member;
- (h) any other person who carries on a business, if—
 - (i) the person being an individual, or any relative of such person, has a substantial interest in the business of that other person; or
 - (ii) the person being a company, firm, association of persons, body of individuals, whether incorporated or not, or a Hindu undivided family, or any director, partner or member of such company, firm or association of persons or body of individuals or family, or any relative of such director, partner or member, has a substantial interest in the business of that other person;
- (4) "benefit" includes a payment of any kind whether in tangible or intangible form;
- (5) "connected person" means any person who is connected directly or indirectly to another person and includes associated person;
- (6) "fund" includes—
 - (a) any cash;
 - (b) cash equivalents; and
 - (c) any right, or obligation, to receive, or pay, the cash or cash equivalent;
- (7) "party" means any person including a permanent establishment which participates or takes part in an arrangement;
- (8) "relative" shall have the meaning assigned to it in the *Explanation* to clause (vi) of sub-section (2) of section 56;
- (9) a person shall be deemed to have a substantial interest in the business, if—
 - (a) in a case where the business is carried on by a company, such person is, at any time during the financial year, the beneficial owner of equity shares carrying twenty per cent or more, of the voting power; or
 - (b) in any other case, such person is, at any time during the financial year, beneficially entitled to twenty per cent or more, of the profits of such business;
- (10) "step" includes a measure or an action, particularly one of a series taken in order to deal with or achieve a particular thing or object in the arrangement;
- (11) "tax benefit" means—
 - (a) a reduction or avoidance or deferral of tax or other amount payable under this Act; or
 - (b) an increase in a refund of tax or other amount under this Act; or

- (c) a reduction or avoidance or deferral of tax or other amount that would be payable under this Act, as a result of a tax treaty; or
- (d) an increase in a refund of tax or other amount under this Act as a result of a tax treaty; or
- (e) a reduction in total income including increase in loss, in the relevant previous year or any other previous year.

(12) "tax treaty" means an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A.¹

Amendment of section 111A.

42. In section 111A of the Income-tax Act, in sub-section (1), in the proviso, for the words "ten per cent", the words "fifteen per cent" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2009.

Amendment of section 112.

43. In section 112 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2013,—

- (A) in clause (c), for sub-clause (ii), the following sub-clauses shall be substituted, namely:—
 - "(ii) the amount of income-tax calculated on long-term capital gains [except where such gain arises from transfer of capital asset referred to in sub-clause (iii)] at the rate of twenty per cent; and
 - (iii) the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities, calculated at the rate of ten per cent on the capital gains in respect of such asset as computed without giving effect to the first and second proviso to section 48.";
- (B) in the *Explanation*, for clause (a), the following clauses shall be substituted, namely:—
 - '(a) the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (32 of 1956);
 - (aa) "listed securities" means the securities which are listed on any recognised stock exchange in India ;
 - (ab) "unlisted securities" means securities other than listed securities;'

Amendment of section 115A.

44. In section 115A of the Income-tax Act, with effect from the 1st day of July, 2012, in sub-section (1), in clause (a),—

- (a) in sub-clause (ii), for the word, brackets, figures and letter "clause (iia)", the words, brackets, figures and letters "sub-clause (iia) or sub-clause (iiaa)" shall be substituted;
- (b) after sub-clause (iia), the following sub-clause shall be inserted, namely:—
 - "(iiaa) interest of the nature and extent referred to in section 194LC; or";
- (c) in item (BA), after the word, brackets, figures and letter "sub-clause (iia)", the words, brackets, figures and letters "or sub-clause (iiaa)" shall be inserted;
- (d) in item (D), after the word, brackets, figures and letter "sub-clause (iia)", the word, brackets, figures and letters ", sub-clause (iiaa)" shall be inserted.

Amendment of section 115BBA.

45. In section 115BBA of the Income-tax Act, with effect from the 1st day of April, 2013,—

- (a) in sub-section (1),—
 - (i) in clause (b), the word "; or" shall be inserted at the end;
 - (ii) after clause (b), and before the words "the income-tax payable by the assessee", the following clause shall be inserted, namely:—

- "(c) being an entertainer, who is not a citizen of India and is a non-resident, includes any income received or receivable from his performance in India,";
- (iii) for the words, brackets and letters "clause (a) or clause (b)", wherever they occur, the words, brackets and letters "clause (a) or clause (b) or clause (c)" shall respectively be substituted;
- (iv) in clause (i), after the words "the income-tax payable by the assessee shall be the aggregate of—", for the words "ten per cent", the words "twenty per cent" shall be substituted;
- (b) in sub-section (2), in clause (a), for the words, brackets and letters "clause (a) or clause (b)", the words, brackets and letters "clause (a) or clause (b) or clause (c)" shall be substituted.

Amendment of section 115BBD.

46. In section 115BBD of the Income-tax Act, in sub-section (1), after the words, figures and letters "the 1st day of April, 2012", the words, figures and letters "or beginning on the 1st day of April, 2013" shall be inserted with effect from the 1st day of April, 2013.

Insertion of new section 115BBE.

47. After section 115BBD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

"115BBE. Tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.—(1) Where the total income of an assessee includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, the income-tax payable shall be the aggregate of—

- (a) the amount of income-tax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of thirty per cent; and
- (b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) of sub-section (1)."

Amendment of section 115JB.

48. In section 115JB of the Income-tax Act,—

(A) in sub-section (2), with effect from the 1st day of April, 2013,—

- (i) for the portion beginning with the words "Every assessee," and ending with the words and figures "the Companies Act, 1956 (1 of 1956):", the following shall be substituted, namely:—

"Every assessee,—

- (a) being a company, other than a company referred to in clause (b), shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of Part II of Schedule VI to the Companies Act, 1956 (1 of 1956); or
- (b) being a company, to which the proviso to sub-section (2) of section 211 of the Companies Act, 1956 (1 of 1956) is applicable, shall, for the purposes of this section, prepare its profit and loss account for the relevant

previous year in accordance with the provisions of the Act governing such company:";

- (ii) in *Explanation 1*, after clause (i), for the words, brackets and letters "if any amount referred to in clauses (a) to (i) is debited to the profit and loss account, and as reduced by,—", the following shall be substituted, namely:—

"(j) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset,

if any amount referred to in clauses (a) to (i) is debited to the profit and loss account or if any amount referred to in clause (j) is not credited to the profit and loss account, and as reduced by,—".

- (iii) after *Explanation 2*, the following *Explanation* shall be inserted, namely:—

"*Explanation 3*.— For the removal of doubts, it is hereby clarified that for the purposes of this section, the assessee, being a company to which the proviso to sub-section (2) of section 211 of the Companies Act, 1956 (1 of 1956) is applicable, has, for an assessment year commencing on or before the 1st day of April, 2012, an option to prepare its profit and loss account for the relevant previous year either in accordance with the provisions of Part II and Part III of Schedule VI to the Companies Act, 1956 (1 of 1956) or in accordance with the provisions of the Act governing such company.";

- (B) after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from 1st day of April, 2001, namely:—

"(5A) The provisions of this section shall not apply to any income accruing or arising to a company from life insurance business referred to in section 115B."

Amendment of Chapter XII-BA.

49. In Chapter XII-BA of the Income-tax Act, in the heading, for the words "LIMITED LIABILITY PARTNERSHIPS", the words "PERSONS OTHER THAN A COMPANY" shall be substituted with effect from the 1st day of April, 2013.

Substitution of new section for section 115JC.

50. For section 115JC of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2013, namely:—

'115JC. *Special provisions for payment of tax by certain persons other than a company.*—(1) Notwithstanding anything contained in this Act, where the regular income-tax payable for a previous year by a person, other than a company, 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 that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

(2) Adjusted total income referred to in sub-section (1) shall be the total income before giving effect to this Chapter as increased by—

- (i) deductions claimed, if any, under any section (other than section 80P) included in Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*"; and

- (ii) deduction claimed, if any, under section 10AA.

(3) Every person to whom this section applies shall obtain a report, in such form as may be prescribed, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this

Chapter and furnish such report on or before the due date of furnishing of return of income under sub-section (1) of section 139.'

Amendment of section 115JD.

51. In section 115JD of the Income-tax Act, in sub-section (1), for the words, figures and letters "a limited liability partnership under section 115JC shall be allowed to it", the words, figures and letters "a person under section 115JC shall be allowed to him" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 115JE.

52. In section 115JE of the Income-tax Act, for the words "a limited liability partnership", the words "a person" shall be substituted with effect from the 1st day of April, 2013.

Insertion of new section 115JEE.

53. After section 115JE of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2013, namely:—

'115JEE. Application of this Chapter to certain persons.—(1) The provisions of this Chapter shall apply to a person who has claimed any deduction under—

(a) any section (other than section 80P) included in Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*"; or

(b) section 10AA.

(2) The provisions of this Chapter shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2, if the adjusted total income of such person does not exceed twenty lakh rupees.'

Amendment of section 115JF.

54. In section 115JF of the Income-tax Act, with effect from the 1st day of April, 2013,—

(i) clause (c) shall be omitted;

(ii) in clause (d), for the words "a limited liability partnership on its total income", the words "a person on his total income" shall be substituted.

Insertion of new Chapter XII-BB.

55. After Chapter XII-BA, the following Chapter shall be inserted with effect from the 1st day of April, 2013, namely:—

"CHAPTER XII-BB

SPECIAL PROVISIONS RELATING TO CONVERSION OF INDIAN BRANCH OF A FOREIGN BANK INTO A SUBSIDIARY COMPANY

115JG. Conversion of an Indian branch of Foreign Company into subsidiary Indian company.—(1) Where a foreign company is engaged in the business of banking in India through its branch situate in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank of India, then, notwithstanding anything contained in the Act and subject to the conditions as may be notified by the Central Government in this behalf,—

(i) the capital gains arising from such conversion shall not be chargeable to tax in the assessment year relevant to the previous year in which such conversion takes place;

(ii) the provisions of this Act relating to treatment of unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income

in the case of the foreign company and the Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification.

(2) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1), all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without any benefit, exemption or relief under sub-section (1).

(3) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company in accordance with the provisions of sub-section (1) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (1), then,—

- (i) such benefit, exemption or relief shall be deemed to have been wrongly allowed;
- (ii) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment; and
- (iii) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the failure to comply with the condition referred to in sub-section (1) takes place.

(4) Every notification issued under this section shall be laid before each House of Parliament;".

Amendment of section 115-O.

56. In section 115-O of the Income-tax Act, in sub-section (1A), in clause (i), with effect from the 1st day of July, 2012,—

- (i) in sub-clause (a), the word "and" shall be inserted at the end;
- (ii) in sub-clause (b), for the words "paid tax under this section on such dividend; and", the words "paid the tax which is payable under this section on such dividend:" shall be substituted;
- (iii) sub-clause (c) shall be omitted.

Amendment of section 115U.

57. In section 115U of the Income-tax Act,—

- (i) with effect from the 1st day of April, 2013,—
 - (a) in sub-section (1), for the words "income received", at both the places where they occur, the words "income accruing or arising to or received" shall respectively be substituted;
 - (b) in sub-section (2),—
 - (i) for the words "The person responsible for making", the words "The person responsible for crediting or making" shall be substituted;
 - (ii) for the words "to the person receiving such income", the words "to the person who is liable to tax in respect of such income" shall be substituted;
 - (iii) for the words "income paid", the words "income paid or credited" shall be substituted;
 - (c) in sub-section (3),—

- (i) for the words "income paid", the words "income paid or credited" shall be substituted;
- (ii) for the words "the person receiving such income as it had been", the words, brackets and figure "the person referred to in sub-section (1) as it had been" shall be substituted;
- (iii) for the words "had accrued", the words "had accrued or arisen" shall be substituted;
- (d) after sub-section (4), the following sub-section shall be inserted, namely:—
 "(5) The income accruing or arising to or received by the venture capital company or venture capital fund, during a previous year, from investments made in venture capital undertaking if not paid or credited to the person referred to in sub-section (1), shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.";

- (ii) the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted with effect from the 1st day of July, 2012, namely:—

"Explanation 2.—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the venture capital company or the venture capital fund."

Amendment of section 115VG.

58. In section 115VG of the Income-tax Act, in sub-section (3), for the Table, the following Table shall be substituted with effect from the 1st day of April, 2013, namely:—

"TABLE

<i>Qualifying ship having net tonnage</i>	<i>Amount of daily tonnage income</i>
<i>(1)</i>	<i>(2)</i>
up to 1,000	Rs. 70 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs. 700 <i>plus</i> Rs. 53 for each 100 tons exceeding 1,000
exceeding 10,000 but not more than 25,000	Rs. 5,470 <i>plus</i> Rs. 42 for each 100 tons exceeding 10,000
exceeding 25,000	Rs. 11,770 <i>plus</i> Rs. 29 for each 100 tons exceeding 25,000

Amendment of section 139.

59. In section 139 of the Income-tax Act, in sub-section (1),—

- (a) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who during the previous year has any asset (including any financial interest in any entity) located outside India or signing authority in any account located outside India, shall furnish, on or before the due date, a return

in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.";

(b) in *Explanation 2*,—

(i) in clause (a),—

(A) after the words "the assessee", the words, brackets and letters "other than an assessee referred to in clause (aa)" shall be inserted;

(B) in sub-clause (i), the words, brackets and letters "other than a company referred to in clause (aa)" shall be omitted;

(ii) in clause (aa), for the words "being a company, which", the word "who" shall be substituted.

Amendment of section 140A.

60. In section 140A of the Income-tax Act, with effect from the 1st day of April, 2013,—

(i) in sub-section (1), in clause (v), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted;

(ii) in sub-section (1A), in clause (i), in sub-clause (e), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted;

(iii) in sub-section (1B), in the *Explanation*, in clause (iv), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted.

Amendment of section 143.

61. In section 143 of the Income-tax Act,—

(a) after sub-section (1C), the following sub-section shall be inserted with effect from the 1st day of July, 2012, namely:—

"(1D) Notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2).";

(b) in sub-section (3), after the second proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2009, namely:—

"**Provided also** that notwithstanding anything contained in the first and the second proviso, no effect shall be given by the Assessing Officer to the provisions of clause (23C) of section 10 in the case of a trust or institution for a previous year, if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in such previous year, whether or not the approval granted to such trust or institution or notification issued in respect of such trust or institution has been withdrawn or rescinded.".

Insertion of new section 144BA.

62. After section 144B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2014, namely:—

"144BA. *Reference to Commissioner in certain cases.*—(1) If, the Assessing Officer, at any stage of the assessment or reassessment proceedings before him having regard to the material and evidence available, considers that it is necessary to declare an arrangement as an impermissible avoidance arrangement and to determine the consequence of such an arrangement within the meaning of Chapter X-A, then, he may make a reference to the Commissioner in this regard.

(2) The Commissioner shall, on receipt of a reference under sub-section (1), if he is of the opinion that the provisions of Chapter X-A are required to be invoked, issue a notice to the assessee, setting out the reasons and basis of such an opinion, for

submitting objections, if any, and providing an opportunity of being heard to the assessee within such period, not exceeding sixty days, as may be specified in the notice.

(3) If the assessee does not furnish any objection to the notice within the time specified in the notice issued under sub-section (2), the Commissioner shall issue such directions as it deems fit in respect of declaration of the arrangement to be an impermissible avoidance arrangement.

(4) In case the assessee objects to the proposed action, and the Commissioner, after hearing the assessee in the matter, is not satisfied by the explanation of the assessee, then, he shall make a reference in the matter to the Approving Panel for the purpose of declaration of the arrangement as an impermissible avoidance arrangement.

(5) If the Commissioner is satisfied, after having heard the assessee that the provisions of Chapter X-A are not to be invoked, he shall by an order in writing communicate the same to the Assessing Officer with a copy to the assessee.

(6) The Approving Panel, on receipt of reference from the Commissioner under sub-section (4) shall issue such directions, as it deems fit, in respect of the declaration of the arrangement as an impermissible avoidance arrangement in accordance with the provisions of Chapter X-A including specifying the previous year or years to which such declaration of an arrangement as an impermissible avoidance arrangement shall apply.

(7) No direction under sub-section (6) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, as the case may be.

(8) The Approving Panel may, before issuing any direction under sub-section (6),—

(i) if it is of the opinion that any further inquiry in the matter is necessary, direct the Commissioner to make such further inquiry or cause to make such further inquiry to be made by any other income-tax authority and furnish a report containing the results of such inquiry to it; or

(ii) call for and examine such records related to the matter as it deems fit; or

(iii) require the assessee to furnish such document and evidence as it may so direct.

(9) If the members of the Approving Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction, issued by the Approving Panel under sub-section (6) or the Commissioner under sub-section (3), shall be binding on the Assessing Officer and the Assessing Officer on receipt of the directions shall proceed to complete the proceedings referred to in sub-section (1) in accordance with the directions and provisions of Chapter X-A.

(11) If any direction issued under sub-section (6) specifies that declaration of the arrangement as impermissible avoidance arrangement is applicable for any previous year to which the proceeding referred to in sub-section (1) pertains, then, the Assessing Officer while completing any assessment or reassessment proceedings of the assessment year relevant to such other previous year shall do so in accordance with such directions and the provisions of Chapter X-A and it shall not be necessary for him to seek fresh direction on the issue for the relevant assessment year.

(12) No order of assessment or reassessment shall be passed by the Assessing Officer without the prior approval of the Commissioner if any tax consequences have been

determined in the order under the provisions of Chapter X-A pursuant to a direction issued under sub-section (6) or sub-section (3) declaring the arrangement as impermissible avoidance arrangement.

(13) No direction under sub-section (6) shall be issued after a period of six months from the end of the month in which the reference under sub-section (4) was received by the Approving Panel.

(14) The Board shall, for the purposes of this section constitute an Approving Panel consisting of not less than three members, being—

- (i) income-tax authorities not below the rank of Commissioner; and
- (ii) an officer of the Indian Legal Service not below the rank of Joint Secretary to the Government of India.

(15) The Board may make rules for the purposes of the efficient functioning of the Approving Panel and expeditious disposal of the references received under sub-section (4)."

Amendment of section 144C.

63. In section 144C of the Income-tax Act,—

- (a) in sub-section (4), for the words and figures "in section 153", the words, figures and letter "in section 153 or section 153B" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009;
- (b) after sub-section (8), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2009, namely:—
"*Explanation.*—For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.";
- (c) in sub-section (13), for the words and figures "in section 153", the words, figures and letter "in section 153 or section 153B" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2009;
- (d) after sub-section (14), the following sub-section shall be inserted with effect from the 1st day of April, 2013, namely:—
"(14A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Commissioner under sub-section (12) of section 144BA."

Amendment of section 147.

64. In section 147 of the Income-tax Act, with effect from the 1st day of July, 2012—

- (i) after the first proviso, the following proviso shall be inserted, namely:—
"**Provided further** that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:";
- (ii) in the second proviso, for the words "Provided further", the words "Provided also" shall be substituted;
- (iii) in *Explanation 2*,—
 - (I) after clause (b), the following clause shall be inserted, namely:—

"(ba) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;"

(II) after clause (c), the following clause shall be inserted, namely:—

"(d) where a person is found to have any asset (including financial interest in any entity) located outside India.";

(iv) after *Explanation 3*, the following *Explanation* shall be inserted, namely:—

"*Explanation 4.*—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012."

Amendment of section 149.

65. In section 149 of the Income-tax Act, with effect from the 1st day of July, 2012,—

(A) in sub-section (1),—

(i) in clause (a), after the word, brackets and letter "clause (b)", the words, brackets and letter "or clause (c)" shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.";

(B) in sub-section (3), for the words "two years", the words "six years" shall be substituted;

(C) after sub-section (3), the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012."

Amendment of section 153.

66. In section 153 of the Income-tax Act,—

(A) with effect from the 1st day of July, 2012,—

(i) in sub-section (1),—

(a) in the first proviso, for the words, figures and letters "on the 1st day of April, 2004 or any subsequent assessment year", the words, figures and letters "on or after the 1st day of April, 2004 but before the 1st day of April, 2010" shall be substituted;

(b) in the second proviso, for the words, figures and letters "on the 1st day of April, 2005 or any subsequent assessment year", the words, figures and letters "on or after the 1st day of April, 2005 but before the 1st day of April, 2009" shall be substituted;

(c) after the second proviso, the following proviso shall be inserted, namely:—

'**Provided also** that in case the assessment year in which the income was first assessable is the assessment year commencing on the 1st day of April, 2009 or any subsequent assessment year and during the course of the proceeding for the assessment of total income, a reference under sub-section (1) of section 92CA—

(i) is made before the 1st day of July, 2012, but an order under sub-section (3) of that section has not been made before such date; or

(ii) is made on or after the 1st day of July, 2012,

the provisions of clause (a) shall, notwithstanding anything contained in the first proviso, have effect as if for the words "two years", the words "three years" had been substituted;';

(ii) in sub-section (2),—

(a) in the second proviso, after the words, figures and letters "on or after the 1st day of April, 2005", the words, figures and letters "but before the 1st day of April, 2011" shall be inserted;

(b) in the third proviso, after the words, figures and letters "the 1st day of April, 2006", the words, figures and letters "but before the 1st day of April, 2010" shall be inserted;

(c) after the third proviso, the following proviso shall be inserted, namely:—
'**Provided also** that where the notice under section 148 was served on or after the 1st day of April, 2010 and during the course of the proceedings for the assessment or reassessment or recomputation of total income, a reference under sub-section (1) of section 92CA—

(i) is made before the 1st day of July, 2012, but an order under sub-section (3) of that section has not been made before such date; or

(ii) is made on or after the 1st day of July, 2012,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "two years" had been substituted;';

(iii) in sub-section (2A),—

(a) in the second proviso, after the words, figures and letters "the 1st day of April, 2005", the words, figures and letters "but before the 1st day of April, 2011" shall be inserted;

(b) in the third proviso, after the words, figures and letters "the 1st day of April, 2006", the words, figures and letters "but before the 1st day of April, 2010" shall be inserted;

(c) after the third proviso, the following proviso shall be inserted, namely:—
'**Provided also** that where the order under 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 Commissioner on or after the 1st day of April, 2010, and during the course of the proceedings for the fresh assessment of total income, a reference under sub-section (1) of section 92CA—

(i) is made before the 1st day of July, 2012, but an order under sub-section (3) of section 92CA has not been made before such date; or

(ii) is made on or after the 1st day of July, 2012,

the provisions of this sub-section shall, notwithstanding anything contained in the second proviso, have effect as if for the words "one year", the words "two years" had been substituted;';

(B) in *Explanation 1*,—

(a) in clause (viii), for the words "six months", the words "one year" shall be substituted with effect from the 1st day of July, 2012;

(b) after clause (viii) and before the words "shall be excluded", the following clause shall be inserted with effect from the 1st day of April, 2013, namely:—

"(ix) the period commencing from the date on which a reference for declaration of an arrangement to be impermissible avoidance arrangement is received by the Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,".

Amendment of section 153A.

67. In section 153A of the Income-tax Act, in sub-section (1), after the second proviso, the following proviso shall be inserted with effect from the 1st day of July, 2012, namely:—

"Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made."

Amendment of section 153B.

68. In section 153B of the Income-tax Act,—

(I) in sub-section (1) with effect from the 1st day of July, 2012,—

(i) in the second proviso, for the words, figures and letters "on the 1st day of April, 2004 or any subsequent financial year", the words, figures and letters "on or after the 1st day of April, 2004 but before the 1st day of April, 2010" shall be substituted;

(ii) in the third proviso for the words, figures and letters "on the 1st day of April, 2005 or any subsequent financial year", the words, figures and letters "on or after the 1st day of April, 2005 but before the 1st day of April, 2009" shall be substituted;

(iii) after the third proviso, the following proviso shall be inserted, namely:—

'Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2009 or any subsequent financial year and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA—

(i) was made before the 1st day of July, 2012, but an order under sub-section (3) of section 92CA has not been made before such date; or

(ii) is made on or after the 1st day of July, 2012, the provisions of clause (a) or clause (b) of this sub-section, shall, notwithstanding anything contained in clause (i) of the second proviso, have effect as if for the words "two years", the words "three years" had been substituted.';

(iv) in the fourth proviso for the words, figures and letters "on the 1st day of April, 2005 or any subsequent financial year", the words, figures and letters "on or after the 1st day of April, 2005 but before the 1st day of April, 2009" shall be substituted;

(v) after the fourth proviso, the following proviso shall be inserted, namely:—

"Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during

the financial year commencing on the 1st day of April, 2009 or any subsequent financial year and during the course of proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA—

(i) was made before the 1st day of July, 2012 but an order under sub-section (3) of section 92CA has not been made before such date; or

(ii) is made on or after the 1st day of July, 2012,

the period of limitation for making the assessment or reassessment in case of such other person shall, notwithstanding anything contained in clause (ii) of the second proviso, be the period of thirty-six months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twenty-four months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.";

(II) in the *Explanation*,—

(a) in clause (viii), for the words "six months", the words "one year" shall be substituted with effect from the 1st day of July, 2012;

(b) after clause (viii) and before the words "shall be excluded", the following clause shall be inserted with effect from the 1st day of April, 2013, namely:—

"(ix) the period commencing from the date on which a reference for declaration of an arrangement to be impermissible avoidance arrangement is received by the Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,".

Amendment of section 153C.

69. In section 153C of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of July, 2012, namely:—

"**Provided further** that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made except in cases where any assessment or reassessment has abated.".

Amendment of section 154.

70. In section 154 of the Income-tax Act, with effect from the 1st day of July, 2012,—

(a) in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

"(c) amend any intimation under sub-section (1) of section 200A.";

(b) in sub-section (2), in clause (b), for the words "by the assessee", the words "by the assessee or by the deductor," shall be substituted;

(c) in sub-section (3), for the words "the assessee", wherever they occur, the words "the assessee or the deductor" shall respectively be substituted;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor, the Assessing Officer shall make any refund which may be due to such assessee or the deductor.";

- (e) in sub-section (6), for the words "already made, the Assessing Officer shall serve on the assessee", the words "already made or otherwise increasing the liability of the assessee or the deductor, the Assessing Officer shall serve on the assessee or the deductor, as the case may be" shall be substituted;
- (f) in sub-section (8), for the words "by the assessee", the words "by the assessee or by the deductor" shall be substituted.

Amendment of section 156.

71. In section 156 of the Income-tax Act, for the proviso, the following proviso shall be substituted with effect from the 1st day of July, 2012, namely:—

"**Provided** that where any sum is determined to be payable by the assessee or by the deductor under sub-section (1) of section 143 or sub-section (1) of section 200A, the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section."

Amendment of section 193.

72. In section 193 of the Income-tax Act, in the proviso, for clause (v), the following clause shall be substituted with effect from the 1st day of July, 2012, namely:—

"(v) any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if—

- (a) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed five thousand rupees; and
- (b) such interest is paid by the company by an account payee cheque;"

Amendment of section 194E.

73. In section 194E of the Income-tax Act, with effect from the 1st day of July, 2012,—

- (a) after the words and brackets "is payable to a non-resident sportsman (including an athlete)", the words "or an entertainer," shall be inserted;
- (b) for the words "ten per cent", the words "twenty per cent" shall be substituted.

Amendment of section 194J.

74. In section 194J of the Income-tax Act, in sub-section (1), after clause (b), the following clause shall be inserted with effect from the 1st day of July, 2012, namely:—

"(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or".

Amendment of section 194LA.

75. In section 194LA of the Income-tax Act, in the proviso, for the words "one hundred thousand rupees", the words "two hundred thousand rupees" shall be substituted with effect from the 1st day of July, 2012.

Insertion of new section 194LC.

76. After section 194LB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of July, 2012, namely:—

'194LC. *Income by way of interest from Indian company.*—(1) Where any income by way of interest referred to in sub-section (2) is payable to a non-resident, not being a company or to a foreign company by a specified company, the person responsible for

making the payment, shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct the income-tax thereon at the rate of five per cent.

(2) The interest referred to in sub-section (1) shall be the income by way of interest payable by the specified company,—

- (i) in respect of monies borrowed by it at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2015 in foreign currency, from a source outside India,—
 - (a) under a loan agreement; or
 - (b) by way of issue of long-term infrastructure bonds, as approved by the Central Government in this behalf; and
- (ii) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment.

Explanation.—For the purpose of this section—

- (a) "foreign currency" shall have the meaning assigned to it in clause (m) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999);
- (b) "specified company" means an Indian company.'

Amendment of section 195.

77. In section 195 of the Income-tax Act,—

(a) in sub-section (1),—

- (i) for the words "any interest", the words, brackets, figures and letters "any interest (not being interest referred to in section 194LB or section 194LC)" shall be substituted;

- (ii) the *Explanation* shall be numbered as *Explanation 1* thereof, and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"Explanation 2.—For the removal of doubts, it is hereby clarified that the obligation to comply with sub-section (1) and to make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident person has—

- (i) a residence or place of business or business connection in India; or
- (ii) any other presence in any manner whatsoever in India."

- (b) after sub-section (6), the following sub-section shall be inserted with effect from the 1st day of July, 2012, namely:—

"(7) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable."

Amendment of section 197A.

78. In section 197A of the Income-tax Act, with effect from the 1st day of July, 2012,—

- (a) in sub-section (1C), for the words "sixty-five years", the words "sixty years" shall be substituted;
- (b) after sub-section (1E), the following sub-section shall be inserted, namely:—
"(1F) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from such specified payment to such institution, association or body or class of institutions, associations or bodies as may be notified by the Central Government in the Official Gazette, in this behalf."

Amendment of section 201.

79. In section 201 of the Income-tax Act,—

(A) with effect from the 1st day of July, 2012,—

(i) in sub-section (1),—

(a) before the proviso, the following proviso shall be inserted, namely:—

"**Provided** that any person, including the principal officer of a company, who fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident shall not be deemed to be an assessee in default in respect of such tax if such resident—

- (i) has furnished his return of income under section 139;
- (ii) has taken into account such sum for computing income in such return of income; and
- (iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:";

(b) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(ii) after sub-section (1A), the following proviso shall be inserted, namely:—

"**Provided** that in case any person, including the principal officer of a company fails to deduct the whole or any part of the tax in accordance with the provisions of this Chapter on the sum paid to a resident or on the sum credited to the account of a resident but is not deemed to be an assessee in default under the first proviso of sub-section (1), the interest under clause (i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident.";

(B) in sub-section (3), in clause (ii), for the words "four years", the words "six years" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2010;

(C) after sub-section (4), the following *Explanation* shall be inserted with effect from the 1st day of July, 2012, namely:—

'Explanation.—For the purposes of this section, the expression "accountant" shall have the meaning assigned to it in the *Explanations* to sub-section (2) of section 288.'.

Amendment of section 204.

80. In section 204 of the Income-tax Act, after clause (iii) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of July, 2012, namely:—

"(iv) in the case of credit, or as the case may be, payment of any sum chargeable under the provisions of this Act made by or on behalf of the Central Government or the Government of a State, the drawing and disbursing officer or any other person, by whatever name called, responsible for crediting, or as the case may be, paying such sum."

Amendment of section 206C.

81. In section 206C of the Income-tax Act, with effect from the 1st day of July, 2012,—

(a) in sub-section (1), in the Table, after serial number (vi) and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

<i>Sl. No.</i>	<i>Nature of goods</i>	
(1)	(2)	
"(vii)	Minerals, being coal or lignite or iron ore	one

(b) in sub-section (1A), after the words "articles or things", the words "or for the purposes of generation of power" shall be inserted;

(c) after sub-section (1C), the following sub-section shall be inserted, namely:—

"(1D) Every person, being a seller, who receives any amount in cash as consideration for sale of bullion (excluding any coin or any other article weighing ten grams or less) or jewellery, shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent of sale consideration as income-tax, if such consideration,—

(i) for bullion, exceeds two hundred thousand rupees; or

(ii) for jewellery, exceeds five hundred thousand rupees.";

(d) in sub-section (2), after the words, brackets, figure and letter "or sub-section (1C)", the words, brackets, figure and letter "or sub-section (1D)" shall be inserted;

(e) in sub-section (3), after the words, brackets, figure and letter "or sub-section (1C)", the words, brackets, figure and letter "or sub-section (1D)" shall be inserted;

(f) in sub-section (6A),—

(A) before the proviso, the following proviso shall be inserted, namely:—

"**Provided** that any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, who fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee shall not be deemed to be an assessee in default in respect of such tax if such buyer or licensee or lessee—

(i) has furnished his return of income under section 139;

(ii) has taken into account such amount for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the person furnishes a certificate to this effect from an accountant in such form as may be prescribed:";

(B) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(g) in sub-section (7), the following proviso shall be inserted, namely:—

"Provided that in case any person, other than a person referred to in sub-section (1D), responsible for collecting tax in accordance with the provisions of this section, fails to collect the whole or any part of the tax on the amount received from a buyer or licensee or lessee or on the amount debited to the account of the buyer or licensee or lessee but is not deemed to be an assessee in default under the first proviso of sub-section (6A), the interest shall be payable from the date on which such tax was collectible to the date of furnishing of return of income by such buyer or licensee or lessee.";

(h) in sub-section (9), after the words, brackets, figure and letter "or sub-section (1C)" at both the places where they occur, the words, brackets, figure and letter "or sub-section (1D)" shall be inserted;

(i) in the *Explanation*, occurring at the end,—

(i) for clause (a), the following clauses shall be substituted, namely:—

'(a) "accountant" shall have the meaning assigned to it in the *Explanation* to sub-section (2) of section 288;

(aa) "buyer" with respect to—

(i) sub-section (1) means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (1) or the right to receive any such goods but does not include,—

(A) a public sector company, the Central Government, a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(B) a buyer in the retail sale of such goods purchased by him for personal consumption;

(ii) sub-section (1D) means a person who obtains in any sale, goods of the nature specified in the said sub-section;

(ab) "jewellery" shall have the meaning assigned to it in the *Explanation* to sub-clause (ii) of clause (14) of section 2.';

(ii) in clause (c), after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "or sub-section (1D)" shall be inserted.

Amendment of section 207.

82. Section 207 of the Income-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) The provisions of sub-section (1) shall not apply to an individual resident in India, who—

(a) does not have any income chargeable under the head "Profits and gains of business or profession"; and

(b) is of the age of sixty years or more at any time during the previous year."

Amendment of section 209.

83. In section 209 of the Income-tax Act, in sub-section (1), in clause (d), the following proviso shall be inserted, namely:—

"Provided that for computing liability for advance tax, income-tax calculated under clause (a) or clause (b) or clause (c) shall not, in each case, be reduced by the aforesaid amount of income-tax which would be deductible or collectible at source during the

said financial year under any provision of this Act from any income, if the person responsible for deducting tax has paid or credited such income without deduction of tax or it has been received or debited by the person responsible for collecting tax without collection of such tax."

Amendment of section 220.

84. In section 220 of the Income-tax Act, after sub-section (2A), the following sub-section shall be inserted, with effect from the 1st day of July, 2012, namely:—

"(2B) Notwithstanding anything contained in sub-section (2), where interest is charged under sub-section (1A) of section 201 on the amount of tax specified in the intimation issued under sub-section (1) of section 200A for any period, then, no interest shall be charged under sub-section (2) on the same amount for the same period."

Amendment of section 234A.

85. In section 234A of the Income-tax Act, in sub-section (1), in clause (vi), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted with effect from the 1st day of April, 2013.

Amendment of section 234B.

86. In section 234B of the Income-tax Act, in sub-section (1), in *Explanation 1*, in clause (v), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted with effect from the 1st day of April, 2013.

Amendment of section 234C.

87. In section 234C of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (v), after the word, figures and letters "section 115JAA", the words, figures and letters "or section 115JD" shall be inserted with effect from the 1st day of April, 2013.

Amendment of section 234D.

88. In section 234D of the Income-tax Act, the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

"*Explanation 2.*—For the removal of doubts, it is hereby declared that the provisions of this section shall also apply to an assessment year commencing before the 1st day of June, 2003 if the proceedings in respect of such assessment year is completed after the said date."

Insertion of new section 234E.

89. After section 234D of the Income-tax Act, the following sub-heading and section shall be inserted with effect from the 1st day of July, 2012, namely:—

"G.—Levy of fee in certain cases

234E. Fee for default in furnishing statements.—(1) Without prejudice to the provisions of the Act, where a person fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C, he shall be liable to pay, by way of fee, a sum of two hundred rupees for every day during which the failure continues.

(2) The amount of fee referred to in sub-section (1) shall not exceed the amount of tax deductible or collectible, as the case may be.

(3) The amount of fee referred to in sub-section (1) shall be paid before delivering or causing to be delivered a statement in accordance with sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012."

Amendment of section 245C.

90. In section 245C of the Income-tax Act, in sub-section (1), in the proviso, in the *Explanation*, in clause (b), for the words "at any time during the previous year", at both the places where they occur, the words "on the date of search" shall respectively be substituted with effect from the 1st day of July, 2012.

Amendment of section 245N.

91. In section 245N of the Income-tax Act, with effect from the 1st day of April, 2013,—

(I) in clause (a), after sub-clause (iii) and before the proviso, the following sub-clause shall be inserted, namely:—

"(iv) a determination or decision by the Authority whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not.";

(II) in clause (b),—

(i) in sub-clause (iii), for the word "and", occurring at the end, the word "or" shall be substituted;

(ii) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iiia) is referred to in sub-clause (iv) of clause (a); and".

Amendment of section 245Q.

92. In section 245Q of the Income-tax Act, in sub-section (2), for the words "two thousand five hundred rupees", the words "ten thousand rupees or such fee as may be prescribed in this behalf, whichever is higher" shall be substituted with effect from the 1st day of July, 2012.

Amendment of section 245R.

93. In section 245R of the Income-tax Act, in sub-section (2), in the first proviso, in clause (iii), after the word, figures and letter "section 245N", the words, brackets, figures and letters "or in the case of an applicant falling in sub-clause (iiia) of clause (b) of section 245N" shall be inserted with effect from the 1st day of April, 2013.

Amendment of section 246A.

94. In section 246A of the Income-tax Act, in sub-section (1),—

(i) for the words "Any assessee aggrieved", the words "Any assessee or any deductor aggrieved" shall be substituted with effect from the 1st day of July, 2012;

(ii) in clause (a),—

(I) for the words and figures "section 143, where the assessee objects", the words, figures, brackets and letter "section 143 or sub-section (1) of section 200A, where the assessee or the deductor objects" shall be substituted with effect from the 1st day of July, 2012;

(II) for the words "except an order passed in pursuance of directions of the Dispute Resolution Panel", the brackets, words, figures and letters "[except an order passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA]" shall be substituted with effect from the 1st day of April, 2013;

(iii) in clause (b), for the words "except an order passed in pursuance of directions of the Dispute Resolution Panel", the brackets, words, figures and letters "[except an order

passed in pursuance of directions of the Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA]" shall be substituted with effect from the 1st day of April, 2013;

(iv) in clause (ba),—

(I) for the words, figures and letter "under section 153A", the words, figures, letter and brackets "under section 153A [except an order passed in pursuance of directions of the Dispute Resolution Panel]" shall be substituted with effect from the 1st day of October, 2009;

(II) for the words "Dispute Resolution Panel", the words, brackets, figures and letters "Dispute Resolution Panel or an order referred to in sub-section (12) of section 144BA" shall be substituted with effect from the 1st day of April, 2013;

(v) after clause (ba), the following clause shall be inserted with effect from the 1st day of July, 2012, namely:—

"(bb) an order of assessment or reassessment under sub-section (3) of section 92CD;"

(vi) in clause (c), after the words "either of the said sections", the words, brackets, figures and letters "except where it is in respect of an order referred to in sub-section (12) of section 144BA" shall be inserted with effect from the 1st day of April, 2013;

(vii) in clause (J), in sub-clause (B), after the word, figures and letters "section 271AAA", the word, figures and letters ", section 271AAB" shall be inserted with effect from the 1st day of July, 2012.

Amendment of section 253.

95. In section 253 of the Income-tax Act,—

(A) in sub-section (1),—

(i) in clause (d), for the word and figures "section 147", the words, figures and letters "section 147 or section 153A or section 153C" shall be substituted with effect from the 1st day of October, 2009;

(ii) after clause (d), the following clause shall be inserted with effect from the 1st day of April, 2013, namely:—

"(e) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the Commissioner as referred to in sub-section (12) of section 144BA or an order passed under section 154 or section 155 in respect of such order;"

(B) with effect from the 1st day of July, 2012,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel under sub-section (5) of section 144C in respect of any objection filed on or after the 1st day of July, 2012, by the assessee under sub-section (2) of section 144C in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against the order.";

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel under sub-section (5) of section 144C.";

(iii) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The Assessing Officer or the assessee, as the case may be, on receipt of notice that an appeal against the order of the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) or the Assessing Officer in pursuance of the directions of the Dispute Resolution Panel has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof; within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Assessing Officer (in pursuance of the directions of the Dispute Resolution Panel) or Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3) or sub-section (3A).".

Amendment of section 254.

96. In section 254 of the Income-tax Act, in sub-section (2A), after the words, brackets and figures "under sub-section (1) or sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted with effect from the 1st day of July, 2012.

Amendment of section 271.

97. In section 271 of the Income-tax Act, in sub-section (1), in *Explanation 7*, for the words "international transaction", the words "international transaction or specified domestic transaction" shall be substituted with effect from the 1st day of April, 2013.

Substitution of new section for section 271AA.

98. For section 271AA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of July, 2012, namely:—

*"271AA. Penalty for failure to keep and maintain information and document, etc., in respect of certain transactions.—*Without prejudice to the provisions of section 271 or section 271BA, if any person in respect of an international transaction,—

- (i) fails to keep and maintain any such information and document as required by sub-section (1) or sub-section (2) of section 92D;
- (ii) fails to report such transaction which he is required to do so; or
- (iii) maintains or furnishes an incorrect information or document,

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 each international transaction entered into by such person."

Amendment of section 271AA.

99. In section 271AA of the Income-tax Act, as so substituted by section 98 of this Act, for the words "international transaction", the words "international transaction or specified domestic transaction" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 271AAA.

100. In section 271AAA of the Income-tax Act, in sub-section (1), after the words, figures and letters "on or after the 1st day of June, 2007", the words, figures and letters "but before the 1st day of July, 2012" shall be inserted.

Insertion of new section 271AAB.

101. After section 271AAA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of July, 2012, namely:—

'271AAB. Penalty where search has been initiated.—(1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a

case where search has been initiated under section 132 on or after the 1st day of July, 2012, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

- (a) a sum computed at the rate of ten per cent of the undisclosed income of the specified previous year, if such assessee—
 - (i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;
 - (ii) substantiates the manner in which the undisclosed income was derived; and
 - (iii) on or before the specified date—
 - (A) pays the tax, together with interest, if any, in respect of the undisclosed income; and
 - (B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;
- (b) a sum computed at the rate of twenty per cent of the undisclosed income of the specified previous year, if such assessee—
 - (i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and
 - (ii) on or before the specified date—
 - (A) declares such income in the return of income furnished for the specified previous year; and
 - (B) pays the tax, together with interest, if any, in respect of the undisclosed income;
- (c) a sum which shall not be less than thirty per cent but which shall not exceed ninety per cent of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b).

(2) No penalty under the provisions of clause (c) of sub-section (1) of section 271 shall be imposed upon the assessee in respect of the undisclosed income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.

Explanation.—For the purposes of this section,—

- (a) "specified date" means the due date of furnishing of return of income under sub-section (1) of section 139 or the date on which the period specified in the notice issued under section 153A for furnishing of return of income expires, as the case may be;
- (b) "specified previous year" means the previous year—
 - (i) which has ended before the date of search, but the date of furnishing the return of income under sub-section (1) of section 139 for such year has not expired before the date of search and the assessee has not furnished the return of income for the previous year before the date of search; or
 - (ii) in which search was conducted;
- (c) "undisclosed income" means—
 - (i) any income of the specified previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing

or any entry in the books of account or other documents or transactions found in the course of a search under section 132, which has—

- (A) not been recorded on or before the date of search in the books of account or other documents maintained in the normal course relating to such previous year; or
 - (B) otherwise not been disclosed to the Chief Commissioner or Commissioner before the date of search; or
- (ii) any income of the specified previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the specified previous year which is found to be false and would not have been found to be so had the search not been conducted.'

Amendment of section 271G.

102. In section 271G of the Income-tax Act, for the words "international transaction", at both the places where they occur, the words "international transaction or specified domestic transaction" shall respectively be substituted with effect from the 1st day of April, 2013.

Insertion of new section 271H.

103. After section 271G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of July, 2012, namely:—

"271H. *Penalty for failure to furnish statements, etc.*—(1) Without prejudice to the provisions of the Act, a person shall be liable to pay penalty, if, he—

- (a) fails to deliver or cause to be delivered a statement within the time prescribed in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C; or
- (b) furnishes incorrect information in the statement which is required to be delivered or cause to be delivered under sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C.

(2) The penalty referred to in sub-section (1) shall be a sum which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no penalty shall be levied for the failure referred to in clause (a) of sub-section (1), if the person proves that after paying tax deducted or collected along with the fee and interest, if any, to the credit of the Central Government, he had delivered or cause to be delivered the statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C before the expiry of a period of one year from the time prescribed for delivering or causing to be delivered such statement.

(4) The provisions of this section shall apply to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012."

Amendment of section 272A.

104. In section 272A of the Income-tax Act, in sub-section (2), after the proviso, the following proviso shall be inserted with effect from the 1st day of July, 2012, namely:—

"**Provided further** that no penalty shall be levied under this section for the failure referred to in clause (k), if such failure relates to a statement referred to in sub-section (3) of section 200 or the proviso to sub-section (3) of section 206C which is to be

delivered or caused to be delivered for tax deducted at source or tax collected at source, as the case may be, on or after the 1st day of July, 2012."

Amendment of section 273B.

105. In section 273B of the Income-tax Act, after the word, figures and letter "section 271G," the word, figures and letter "section 271H," shall be inserted with effect from the 1st day of July, 2012.

Amendment of section 276C.

106. In section 276C of the Income-tax Act, with effect from the 1st day of July, 2012,—

(i) in sub-section (1),—

(a) in clause (i), for the words "one hundred thousand rupees", the words "twenty-five hundred thousand rupees" shall be substituted;

(b) in clause (ii), for the words "three years", the words "two years" shall be substituted;

(ii) in sub-section (2), for the words "three years", the words "two years" shall be substituted.

Amendment of section 276CC.

107. In section 276CC of the Income-tax Act, with effect from the 1st day of July, 2012,—

(a) in clause (i), for the words "one hundred thousand rupees", the words "twenty-five hundred thousand rupees" shall be substituted;

(b) in clause (ii), for the words "three years", the words "two years" shall be substituted.

Amendment of section 277.

108. In section 277 of the Income-tax Act, with effect from the 1st day of July, 2012,—

(a) in clause (i), for the words "one hundred thousand rupees", the words "twenty-five hundred thousand rupees" shall be substituted;

(b) in clause (ii), for the words "three years", the words "two years" shall be substituted.

Amendment of section 277A.

109. In section 277A of the Income-tax Act, for the words "three years", the words "two years" shall be substituted with effect from the 1st day of July, 2012.

Amendment of section 278.

110. In section 278 of the Income-tax Act, with effect from the 1st day of July, 2012,—

(a) in clause (i), for the words "one hundred thousand rupees", the words "twenty-five hundred thousand rupees" shall be substituted;

(b) in clause (ii), for the words "three years", the words "two years" shall be substituted.

Insertion of new sections 280A, 280B, 280C and 280D.

111. In Chapter XXII of the Income-tax Act, after section 280, the following sections shall be inserted, with effect from the 1st day of July, 2012, namely:—

'280A. Special Courts.—(1) The Central Government, in consultation with the Chief Justice of the High Court, may, for trial of offences punishable under this Chapter, by notification, designate one or more courts of Magistrate of the first class as Special Court for such area or areas or for such cases or class or group of cases as may be specified in the notification.

*Explanation.—*In this sub-section, "High Court" means the High Court of the State in which a Magistrate of first class designated as Special Court was functioning immediately before such designation.

(2) While trying an offence under this Act, a Special Court shall also try an offence, other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial.

280B. *Offences triable by Special Court.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

- (a) the offences punishable under this Chapter shall be triable only by the Special Court, if so designated, for the area or areas or for cases or class or group of cases, as the case may be, in which the offence has been committed:

Provided that a court competent to try offences under section 292,—

- (i) which has been designated as a Special Court under this section, shall continue to try the offences before it or offences arising under this Act after such designation;
 - (ii) which has not been designated as a Special Court may continue to try such offence pending before it till its disposal;
- (b) a Special Court may, upon a complaint made by an authority authorised in this behalf under this Act take cognizance of the offence for which the accused is committed for trial.

280C. *Trial of offences as summons case.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court, shall try, an offence under this Chapter punishable with imprisonment not exceeding two years or with fine or with both, as a summons case, and the provisions of the Code of Criminal Procedure, 1973 as applicable in the case of trial of summons case, shall apply accordingly.

280D. *Application of Code of Criminal Procedure, 1973 to proceedings before Special Court.*—(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) (including the provisions as to bails or bonds), shall apply to the proceedings before a Special Court and the person conducting the prosecution before the Special Court, shall be deemed to be a Public Prosecutor:

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an advocate for not less than seven years, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974) and the provisions of that Code shall have effect accordingly.'

Insertion of new section 292CC.

112. After section 292C of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

"292CC. *Authorisation and assessment in case of search or requisition.*—(1) Notwithstanding anything contained in this Act,—

- (i) it shall not be necessary to issue an authorisation under section 132 or make a requisition under section 132A separately in the name of each person;
 - (ii) where an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.

(2) Notwithstanding that an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition."

Amendment of section 296.

113. In section 296 of the Income-tax Act, after the word and figures "section 139", the words, brackets, figures and letters "or third proviso to sub-section (1) of section 153A or second proviso to sub-section (1) of section 153C" shall be inserted with effect from the 1st day of July, 2012.

Amendment of Fourth Schedule.

114. In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first proviso, for the words, figures and letters "the 31st day of March, 2012", the words, figures and letters "the 31st day of March, 2013" shall be substituted with effect from the 1st day of April, 2012.

Wealth-tax

Amendment of section 2.

115. In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), in clause (ea), in sub-clause (i), in item (1), for the words "five lakh rupees", the words "ten lakh rupees" shall be substituted with effect from the 1st day of April, 2013.

Amendment of section 17.

116. In section 17 of the Wealth-tax Act, with effect from the 1st day of July, 2012,—

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted and shall be deemed to have been inserted, namely:—

"**Provided also** that nothing contained in the first proviso shall apply in a case where any net wealth in relation to any asset (including financial interest in any entity) located outside India chargeable to tax, has escaped assessment for any assessment year:";

(b) in sub-section (1A),—

(i) in clause (a), after the word, brackets and letter "clause (b)", the words, brackets and letter "or clause (c)" shall be inserted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the net wealth in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year.";

(iii) in the *Explanation*, after clause (b), the following clause shall be inserted, namely:—

"(c) where a person is found to have any asset (including financial interest in any entity) located outside India.";

(iv) the *Explanation* shall be numbered as *Explanation 1* thereof, and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted, namely:—

"*Explanation 2.*—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012."

Amendment of section 17A.

117. In section 17A of the Wealth-tax Act, with effect from the 1st day of July, 2012,—

- (i) in sub-section (1), in the second proviso, for the words, letters and figures "commencing on the 1st day of April, 2004 or any subsequent year", the words, letters and figures "commencing on or after the 1st day of April, 2004 but before the 1st day of April, 2010" shall be substituted;
- (ii) in sub-section (2), in the second proviso, for the words, letters and figures "after the 1st day of April, 2005", the words, letters and figures "after the 1st day of April, 2005 but before the 1st day of April, 2011" shall be substituted;
- (iii) in sub-section (3), in the second proviso, for the words, letters and figures "after the 1st day of April, 2005", the words, letters and figures "after the 1st day of April, 2005 but before the 1st day of April, 2011" shall be substituted.

Amendment of section 45.

118. In section 45 of the Wealth-tax Act, after clause (j), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1957, namely:—

"(k) the Reserve Bank of India incorporated under the Reserve Bank of India Act, 1934 (2 of 1934).".

Validation of demands, etc., under Income-tax Act, 1961 in certain cases.

119. Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal or any authority, all notices sent or purporting to have been sent, or taxes levied, demanded, assessed, imposed, collected or recovered or purporting to have been levied, demanded, assessed, imposed, collected or recovered under the provisions of Income-tax Act, 1961 (43 of 1961), in respect of income accruing or arising through or from the transfer of a capital asset situate in India in consequence of the transfer of a share or shares of a company registered or incorporated outside India or in consequence of an agreement, or otherwise, outside India, shall be deemed to have been validly made, and the notice, levy, demand, assessment, imposition, collection or recovery of tax shall be valid and shall be deemed always to have been valid and shall not be called in question on the ground that the tax was not chargeable or any ground including that it is a tax on capital gains arising out of transactions which have taken place outside India, and accordingly, any tax levied, demanded, assessed, imposed or deposited before the commencement of this Act and chargeable for a period prior to such commencement but not collected or recovered before such commencement, may be collected or recovered and appropriated in accordance with the provisions of the Income-tax Act, 1961 as amended by this Act, and the rules made thereunder and there shall be no liability or obligation to make any refund whatsoever.

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**CHAPTER VII
MISCELLANEOUS**

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Amendment of Act 23 of 2004.

153. In the Finance (No. 2) Act, 2004, with effect from the 1st day of July, 2012,—

(a) in section 97,—

(i) after clause (5), the following clauses shall be inserted, namely:—

'(5A) "initial public offer" has the meaning assigned to it in clause (p) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009

made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(5B) "lead merchant banker" means a merchant banker appointed as lead merchant banker in accordance with sub-regulation (1) of regulation 5 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(ii) in clause (13), after sub-clause (a), the following sub-clause shall be inserted, namely:—

"(aa) sale of unlisted equity shares by any holder of such shares under an offer for sale to the public included in an initial public offer and where such shares are subsequently listed on a recognised stock exchange; or";

(b) in section 98, in the Table,—

(i) against Sl. No. 1, under column (3) relating to rate, for the figures and words "0.125 per cent", the figures and words "0.1 per cent" shall be substituted;

(ii) against Sl. No. 2, under column (3) relating to rate, for the figures and words "0.125 per cent", the figures and words "0.1 per cent" shall be substituted;

(iii) after Sl. No. 5, and the entries relating thereto, the following Sl. No. entries shall be inserted, namely:—

1.	2.
"6.	Sale of unlisted equity shares under an offer for sale referred to in sub-clause (aa) of clause section 97.

(c) in section 100,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The lead merchant banker appointed by the company in respect of an initial public offer shall collect the securities transaction tax from every person who enters into a taxable securities transaction referred to in sub-clause (aa) of clause (13) of section 97 at the rate specified in section 98.";

(ii) in sub-section (3),—

(A) after the words, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

(B) after the words "Mutual Fund", the words "or the lead merchant banker in the case of an initial public offer" shall be inserted;

(iii) in sub-section (4), after the words, "Mutual Fund", the words "or the lead merchant banker in the case of an initial public offer" shall be inserted;

(d) in section 101, after the words "in the case of every Mutual Fund", the words "or the lead merchant banker in the case of an initial public offer" shall be inserted.

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THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II), (III) and (IV) of this Paragraph or Hindu undivided family or 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 this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,80,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 5,00,000 | 10 per cent of the amount by which the total income exceeds Rs. 1,80,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 32,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 92,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 8,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,90,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 5,00,000 | 10 per cent of the amount by which the total income exceeds Rs. 1,90,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 31,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 91,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 8,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 2,50,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | Rs. 25,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 8,00,000 | Rs. 85,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 8,00,000. |

(IV) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 5,00,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 8,00,000 | 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) where the total income exceeds Rs. 8,00,000 | Rs. 60,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 8,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent of the amount exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent
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Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent
----------------------------------	-------------

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	30 per cent
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II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or
- (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government	50 per cent;
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(ii) on the balance, if any, of the total income	40 per cent.
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Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

- (i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of five per cent of such income-tax;
- (ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two per cent of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

1. In the case of a person other than a company—

(a) where the person is resident in India—

- (i)** on income by way of interest other than "Interest on securities"
- (ii)** on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort
- (iii)** on income by way of winnings from horse races
- (iv)** on income by way of insurance commission
- (v)** on income by way of interest payable on—
 - (A)** any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;
 - (B)** any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;
 - (C)** any security of the Central or State Government
- (vi)** on any other income

(b) where the person is not resident in India—

(i) in the case of a non-resident Indian—

- (A)** on any investment income
- (B)** on income by way of long-term capital gains referred to in section 115E or sub-clause (iii) of clause (c) of sub-section (1) of section 112
- (C)** on income by way of short-term capital gains referred to in section 111A
- (D)** on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]
- (E)** on income by way of interest payable by Government or an Indian concern

on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)

(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

(J) on income by way of winnings from horse races

(K) on the whole of the other income

(ii) in the case of any other person—

(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)

(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(II) where the agreement is made on or after the 1st day of June, 2005

(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

(F) on income by way of winnings from horse races

(G) on income by way of short-term capital gains referred to in section 111A

(H) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112

(I) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]

(J) on the whole of the other income

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities"

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

(iii) on income by way of winnings from horse races

(iv) on any other income

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort

(ii) on income by way of winnings from horse races

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997

(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(C) where the agreement is made on or after the 1st day of June, 2005

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the

Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997

(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(D) where the agreement is made on or after the 1st day of June, 2005

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997

(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005

(D) where the agreement is made on or after the 1st day of June, 2005

(vii) on income by way of short-term capital gains referred to in section 111A

(viii) on income by way of long-term capital gains referred to in sub-clause (iii) of clause (c) of sub-section (1) of section 112

(ix) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]

(x) on any other income

Explanation.—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings respectively assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of item 2(b) of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two per cent of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBE or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or 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 this Part applies,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 2,00,000 | Nil; |
| (2) where the total income exceeds Rs. 2,00,000 but does not exceed Rs. 5,00,000 | 10 per cent of the amount by which the total income exceeds Rs. 2,00,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 30,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,30,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 10,00,000. |

(II) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 2,50,000 | Nil; |
| (2) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000 | 10 per cent of the amount by which the total income exceeds Rs. 2,50,000; |
| (3) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | Rs. 25,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (4) where the total income exceeds Rs. 10,00,000 | Rs. 1,25,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 10,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs. 5,00,000 | Nil; |
| (2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000 | 20 per cent of the amount by which the total income exceeds Rs. 5,00,000; |
| (3) where the total income exceeds Rs. 10,00,000 | Rs. 1,00,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 10,00,000. |

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent
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Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent
----------------------------------	-------------

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	30 per cent
--------------------------------------	-------------

II. In the case of a company other than a domestic company—

- (i) on so much of the total income as consists of,—
- | | |
|---|--|
| (a) royalties received from Government or an Indian concern in pursuance of an agreement made or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or | |
| (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, | |

and where such agreement has, in either case, been approved by the Central Government	50 per cent
---	-------------

(ii) on the balance, if any, of the total income	40 per cent
--	-------------

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

- (i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of five per cent of such income-tax;
- (ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two per cent of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[See section 2(13)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

- (a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee;
- (b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules,

1962, and sixty-five per cent of such income shall be regarded as the agricultural income of the assessee;

- (c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent or seventy-five per cent, as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2012, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,
- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the

assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,

- (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,
- (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011,
- (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011,
- (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011,
- (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2012.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2013, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

- (i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012,
- (ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012,

- (iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012,
 - (iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012,
 - (v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012,
 - (vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012,
 - (vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012,
 - (viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012,
- shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2013.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) or of the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or of the First Schedule to the Finance Act, 2010 (14 of 2010) or of the First Schedule to the Finance Act, 2011 (8 of 2011) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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