

CHAPTER III
DIRECT TAXES

40

Income-tax

Amendment
of section 2.

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

(a) in clause (15), after the words "medical relief," the words and brackets "preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest," shall be inserted;

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(b) after clause (22AA), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

'(22AAA) "electoral trust" means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government;'

(c) for clause (23), the following clause shall be substituted with effect from the 1st day of April, 2010, namely:—

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'(23) (i) "firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

9 of 1932.

6 of 2009.

(ii) "partner" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include,—

9 of 1932.

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(a) any person who, being a minor, has been admitted to the benefits of partnership; and

(b) a partner of a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

6 of 2009.

(iii) "partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;'

9 of 1932.

6 of 2009.

(d) in clause (24), in sub-clause (iia), after the word and figures "section 10", the words "or by an electoral trust" shall be inserted with effect from the 1st day of April, 2010;

(e) after clause (29B), the following clause shall be inserted, namely:—

'(29BA) "manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing,—

5 (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;';

(f) in clause (48),—

10 (i) in sub-clauses (a) and (b), after the words "public sector company", the words "or scheduled bank" shall respectively be inserted;

(ii) after clause (c), the following *Explanation* shall be inserted, namely:—

'*Explanation.*— For the purposes of this clause, the expression "scheduled bank" shall have the meaning assigned to it in clause (ii) of the *Explanation* to sub-clause (c) of clause (vii) of sub-section (1) of section 36.'

15 **4.** In section 10 of the Income-tax Act,—

Amendment of section 10.

(a) in clause (10C), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

20 "Provided also that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year.";

(b) in clause (23C), in the fourteenth proviso, for the words "made at any time during the financial year immediately preceding the assessment year", the words, figures and letters "made on or before the 30th day of September of the relevant assessment year" shall be substituted;

25 (c) in clause (23D), in the *Explanation*, in clause (a), after the words, brackets and figures "Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980", the words "and a bank included in the category 'other public sector banks' by the Reserve Bank of India" shall be inserted with effect from the 1st day of April, 2010;

40 of 1980.

(d) after clause (43), the following clause shall be inserted, namely:—

30 "(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882.".

2 of 1882.

35 **5.** In section 10A of the Income-tax Act, in sub-section (1), in the fourth proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted. Amendment of section 10A.

6. In section 10AA of the Income-tax Act, in sub-section (7), for the words "by the assessee" occurring at the end, the words "by the undertaking" shall be substituted with effect from the 1st day of April, 2010. Amendment of section 10AA.

40 **7.** In section 10B of the Income-tax Act, in sub-section (1), in the third proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted. Amendment of section 10B.

8. After section 13A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

Insertion of new section 13B.

45 "13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

Special provisions relating to voluntary contributions received by electoral trust.

43 of 1951.

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

50 (b) such electoral trust functions in accordance with the rules made by the Central Government.".

9. In section 17 of the Income-tax Act, in clause (2), for sub-clause (vi), the following sub-clauses shall be substituted with effect from the 1st day of April, 2010, namely:— Amendment of section 17.

'(vi) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

Explanation.— For the purposes of this sub-clause,—

(a) "specified security" means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme; 5 42 of 1956.

(b) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from the assessee in respect of such security or shares; 10

(d) "fair market value" means the value determined in accordance with the method as may be prescribed; 15

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees;

(viii) the value of any other fringe benefit or amenity as may be prescribed:'. 20

Amendment of section 28. **10.** In section 28 of the Income-tax Act, after clause (vi), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:-

"(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD;". 25

Amendment of section 32. **11.** In section 32 of the Income-tax Act, in sub-section (1), in *Explanation 3*, for the words 'the expressions "assets" and "block of assets"', the words 'the expression "assets"' shall be substituted with effect from the 1st day of April, 2010.

Amendment of section 35. **12.** In section 35 of the Income-tax Act, in sub-section (2AB), in clause (1), for the words "the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board", the words "any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule" shall be substituted with effect from the 1st day of April, 2010. 30

Insertion of new section 35AD. **13.** After section 35AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:— 35

'35AD. (1) An assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him.

(2) This section applies to the specified business which fulfils all the following conditions, namely:— 40

(i) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(ii) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(iii) where the business is of the nature referred to in sub-clause (iii) of clause (c) of sub-section (8), such business,— 45

(a) is owned by a company formed and registered in India under the Companies Act, 1956 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act; 1 of 1956.

(b) has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in the Official Gazette in this behalf; 50 19 of 2006.

(c) has made not less than one-third of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person; and

(d) fulfils any other condition as may be prescribed.

(3) The assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VIA under the heading "C.— Deductions in respect of certain incomes". 55

(4) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year.

5 (5) The provisions of this section shall apply to the specified business referred to in sub-section (2) if it commences its operations,—

(a) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network; and

(b) on or after the 1st day of April, 2009, in all other cases not falling under clause (a).

10 (6) The assessee carrying on the business of the nature referred to in clause (a) of sub-section (5) shall be allowed, in addition to deduction under sub-section (1), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

15 (a) the business referred to in clause (a) of sub-section (5) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(b) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

20 (7) The provisions contained in sub-section (6) of section 80A and the provisions of sub-sections (7) and (10) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(8) For the purposes of this section,—

(a) an "associated person", in relation to the assessee, means a person,—

25 (i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the capital of the assessee;

30 (iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent. of the total borrowings of the assessee;

35 (b) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(c) "specified business" means the any one or more of the following business, namely:—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

40 (iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.

(d) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

45 (ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

50 (e) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in such business, then, for the purposes of clause (ii) of sub-section (2), the condition specified therein shall be deemed to have been complied with;

(f) any expenditure of capital nature shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.'

- Amendment of section 36. **14.** In section 36 of the Income-tax Act, in sub-section (1),—
- (a) in clause (iii), in the *Explanation*, in clause (i), after the words "public sector company", at both the places where they occur, the words "or scheduled bank" shall be inserted; 5
- (b) in clause (viii), in the *Explanation*, in clause (b), for sub-clause (i), the following sub-clause shall be substituted with effect from the 1st day of April, 2010, namely:—
- "(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—
- (A) industrial or agricultural development; 10
- (B) development of infrastructure facility in India; or
- (C) development of housing in India;"
- (c) clause (xvi) shall be omitted.
- Amendment of section 40. **15.** In section 40 of the Income-tax Act, in clause (b), in sub-clause (v), for items (1) and (2), the following shall be substituted with effect from the 1st day of April, 2010, namely :— 15
- "(a) on the first Rs.3,00,000 of the book-profit or in case of a loss Rs.1,50,000 or at the rate of 90 per cent. of the book-profit, whichever is more;
- (b) on the balance of the book-profit at the rate of 60 per cent."
- Amendment of section 40A. **16.** In section 40A of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted with effect from the 1st day of October, 2009, namely:— 20
- 'Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words "twenty thousand rupees", the words "thirty-five thousand rupees" had been substituted.'
- Amendment of section 43. **17.** In section 43 of the Income-tax Act, with effect from the 1st day of April, 2010,—
- (a) in clause (1), after *Explanation* 12, the following *Explanation* shall be inserted, namely:— 25
- "*Explanation* 13.— The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—
- (a) in the case of such assessee; and
- (b) in any other case if the capital asset is acquired or received,— 30
- (i) by way of gift or will or an irrevocable trust;
- (ii) on any distribution on liquidation of the company; and
- (iii) by such mode of transfer as is referred to in clauses (i), (iv), (v), (vi), (vib), (xiii) and (xiv) of section 47;"
- (b) in clause (6), after *Explanation* 6, the following *Explanation* shall be inserted, namely:—
- '*Explanation* 7.— For the purposes of this clause, where the income of an assessee is derived, in part 35
- from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.' 40
- Amendment of section 44AA. **18.** In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,—
- (a) in clause (iii),—
- (i) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, figures and letters "section 44AE" shall be substituted; 45
- (ii) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;
- (b) after clause (iii), the following clause shall be inserted, namely:—
- "(iv) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD and he has claimed such income to be lower than the profits 50
- and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax during such previous year,".
- Amendment of section 44AB. **19.** In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2011,—
- (a) in clause (c),—
- (i) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, 55
- figures and letters "section 44AE" shall be substituted;

(ii) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;

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

5 "(d) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,".

20. For section 44AD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2011, namely:— Substitution of new section for section 44AD.

10 '44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent. of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession". Special provision for computing profits and gains of business on presumptive basis.

15 (2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

20 Provided that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

25 (4) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

30 (5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

Explanation.— For the purposes of this section,—

(a) "eligible assessee" means,—

35 (i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; and

6 of 2009.

40 (ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" in the relevant assessment year;

(b) "eligible business" means,—

(i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

45 (ii) whose total turnover or gross receipts in the previous year does not exceed an amount of forty lakh rupees.'.

21. In section 44AE of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of April, 2011, namely:— Amendment of section 44AE.

"(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

50 (i) being a heavy goods vehicle, shall be an amount equal to five thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

55 (ii) other than a heavy goods vehicle, shall be an amount equal to four thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.".

- Amendment of section 44AF. **22.** In section 44AF of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—
- "(6) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011."
- Amendment of section 49. **23.** In section 49 of the Income-tax Act, for sub-section (2AA), the following sub-section shall be substituted with effect from the 1st day of April, 2010, namely:—
- "(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause."
- Amendment of section 50B. **24.** In section 50B of the Income-tax Act, in *Explanation 2*, for clause (b), the following clauses shall be substituted with effect from the 1st day of April, 2010, namely:—
- "(b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, *nil*; and
- (c) in the case of other assets, the book value of such assets."
- Amendment of section 50C. **25.** In section 50C of the Income-tax Act, with effect from the 1st day of October, 2009,—
- (a) for the words "or assessed" wherever they occur, the words "or assessed or assessable" shall be substituted;
- (b) in sub-section (2), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—
- '*Explanation 2.*—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.'
- Amendment of section 56. **26.** In section 56 of the Income-tax Act, in sub-section (2),—
- (a) with effect from the 1st day of October, 2009,—
- (i) in clause (vi), after the words, figures and letters "on or after the 1st day of April, 2006", the words, figures and letters "but before the 1st day of October, 2009" shall be inserted;
- (ii) after clause (vi), the following clause shall be inserted, namely:—
- '(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—
- (a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;
- (b) any immovable property,—
- (i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;
- (ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration;
- (c) any property, other than immovable property,—
- (i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
- (ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:
- Provided that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under that section:
- Provided further that this clause shall not apply to any sum of money or any property received—
- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or

(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

5 (g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause,—

(a) "assessable" shall have the meaning assigned to it in the *Explanation* 2 to sub-section (2) of section 50C;

10 (b) "fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

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

(d) "property" means—

(i) immovable property being land or building or both;

15 (ii) shares and securities;

(iii) jewellery;

(iv) archaeological collections;

(v) drawings;

(vi) paintings;

20 (vii) sculptures; or

(viii) any work of art;

(e) "relative" shall have the meaning assigned to it in the *Explanation* to clause (vi) of sub-section (2) of this section;

25 (f) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;

(b) after clause (vii) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

30 "(viii) income by way of interest received on compensation or on enhanced compensation referred to in sub-section (2) of section 145A."

27. In section 57 of the Income-tax Act, after clause (iii), the following clause shall be inserted at the end with effect from the 1st day of April, 2010, namely:— Amendment of section 57.

35 "(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of this section."

28. After section 73 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:— Insertion of new section 73A.

"73A. (1) Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business. Carry forward and set off of losses by specified business.

40 (2) Where for any assessment year any loss computed in respect of the specified business referred to in sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and —

45 (i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

(ii) if the loss can not be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on."

Amendment
of section
80A.

29. In section 80A of the Income-tax Act,—

(a) after sub-section (3), the following sub-sections shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 2003, namely:—

'(4) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C-Deductions in respect of certain incomes*", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "*C.—Deductions in respect of certain incomes*", no deduction shall be allowed to him thereunder.;

(b) after sub-section (5) as so inserted, the following sub-section shall be inserted, namely:—

'(6) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C-Deductions in respect of certain incomes*", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

Explanation.—For the purposes of this sub-section, the expression "market value",—

(i) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(ii) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any.'

Amendment
of section
80CCD.

30. In section 80CCD of the Income-tax Act,—

(a) in sub-section (1), in the opening portion, after the words, figures and letters "Where an assessee, being an individual employed by the Central Government or any other employer on or after the 1st day of January, 2004," the words "or any other assessee, being an individual" shall be inserted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) For the purposes of this section, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year."

Amendment
of section
80DD.

31. In section 80DD of the Income-tax Act, in sub-section (1), in the proviso, for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted with effect from the 1st day of April, 2010.

Amendment
of section
80E.

32. In section 80E of the Income-tax Act, in sub-section (3), for clause (c), the following clause shall be substituted with effect from the 1st day of April, 2010, namely:—

'(c) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so;'

Amendment
of section
80G.

33. In section 80G of the Income-tax Act, in sub-section (5),—

(a) in clause (v), the word "and" at the end shall be omitted;

(b) in clause (vi), for the words "made in this behalf", the words "made in this behalf; and" shall be substituted;

(c) in clause (vi), the proviso shall be omitted with effect from the 1st day of October, 2009;

(d) after clause (vi), the following clause shall be inserted, namely:—

"(vii) where any institution or fund had been approved under clause (vi) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,—

(a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009."

34. In section 80GGB of the Income-tax Act, after the words "political party", the words "or an electoral trust" shall be inserted with effect from the 1st day of April, 2010. Amendment of section 80GGB.
- 5 35. In section 80GGC of the Income-tax Act, for the words "to a political party", the words "to a political party or an electoral trust" shall be substituted with effect from the 1st day of April, 2010. Amendment of section 80GGC.
36. In section 80-IA of the Income-tax Act,— Amendment of section 80-IA.
- (a) in sub-section (1), the words "or lays and begins to operate a cross-country natural gas distribution network" shall be omitted with effect from the 1st day of April, 2010;
- 10 (b) in sub-section (3), the words, brackets and letters "or clause (vi)" shall be omitted with effect from the 1st day of April, 2010;
- (c) in sub-section (4),—
- (A) in clause (iv), for the words, figures and letters "the 31st day of March, 2010" wherever they occur, the words, figures and letters "31st day of March, 2011" shall respectively be substituted;
- 15 (B) in clause (v), in sub-clause (b), for the figures, letters and words "31st day of March, 2008", the figures, letters and words "31st day of March, 2011" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2008;
- (C) clause (vi) shall be omitted with effect from the 1st day of April, 2010;
- (d) after sub-section (13), for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—
- "*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1).".
- 25 37. In section 80-IB of the Income-tax Act,— Amendment of section 80-IB.
- (a) for sub-section (9), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—
- '(9) The amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following, namely:—
- 30 (i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;
- (ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997;
- 35 (iii) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998.
- Explanation.*— For the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by Central or a State Government in any other manner, shall be treated as a single "undertaking".;
- 40 (b) in sub-section (9), as so substituted,—
- (A) in clause (iii), after the words, figures and letters "the 1st day of October, 1998", the words, figures and letters "but not later than the 31st day of March, 2012" shall be inserted;
- 45 (B) after clause (iii), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—
- '(iv) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (hereafter referred to as "NELP-VIII") under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after the 1st day of April, 2009.';
- 50 (c) in sub-section (10),—
- (i) after clause (d), the following clauses shall be inserted with effect from the 1st day of April, 2010, namely:—
- 55 "(e) not more than one residential unit in the housing project is allotted to any person not being an individual; and
- (f) in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons, namely:—
- 60 (i) the spouse or the minor children of such individual,
- (ii) the Hindu undivided family in which such individual is the *karta*,
- (iii) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the *karta*;"
- (ii) the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—
- 65 "*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government).".

- Amendment of section 89. **38.** In section 89 of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—
- "Provided that no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year.".
- Substitution of new section for section 90. Agreement with foreign countries or specified territories. **39.** For section 90 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely :—
- '90. (1) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,—
- (a) for the granting of relief in respect of—
- (i) income on which have been paid both income-tax under this Act and income-tax in that country or specified territory, as the case may be, or
- (ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or
- (b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, or
- (c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or
- (d) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be,
- and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.
- (2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.
- (3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.
- Explanation 1.*— For the removal of doubts, it is hereby declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company.
- Explanation 2.*— For the purposes of this section, "specified territory" means any area outside India which may be notified as such by the Central Government.'
- Amendment of section 92C. **40.** In section 92C of the Income-tax Act, in sub-section (2), for the provisos, the following provisos shall be substituted with effect from the 1st day of October, 2009, namely:—
- "Provided that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices:
- Provided further that if the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price."
- Insertion of new section 92CB. Power of Board to make safe harbour rules. **41.** After section 92CA of the Income-tax Act, the following section shall be inserted, namely:—
- '92CB. (1) The determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules.
- (2) The Board may, for the purposes of sub-section (1), make rules for safe harbour.
- Explanation.*—For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.'

- 42.** In section 115BBC of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2010, - Amendment of section 115BBC.
- (a) for clause (i), the following clause shall be substituted, namely:—
- "(i) the amount of income-tax calculated at the rate of thirty per cent of the aggregate of anonymous donation, as exceeds five per cent. of the total income of the assessee or an amount of rupees one lakh, whichever is higher; and";
- (b) for clause (ii), the following clause shall be substituted, namely:—
- "(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income subject to tax under clause (i)."
- 43.** In section 115JA of the Income-tax Act, in sub-section (2), after the second proviso, in the *Explanation*, after clause (f), for the words, brackets and letters "if any amount referred to in clauses (a) to (f) is debited to the profit and loss account, and as reduced by,—" the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998, namely:— Amendment of section 115JA.
- "(g) the amount or amounts set aside as provision for diminution in the value of any asset, if any amount referred to in clauses (a) to (g) is debited to the profit and loss account, and as reduced by,—".
- 44.** In section 115JAA of the Income-tax Act, in sub-section (3A), for the words "seventh assessment year", the words "tenth assessment year" shall be substituted with effect from the 1st day of April, 2010. Amendment of section 115JAA.
- 45.** In section 115JB of the Income-tax Act,— Amendment of section 115JB.
- (a) in sub-section (1), with effect from the 1st day of April, 2010,—
- (i) for the words, figures and letters "the 1st day of April, 2007", the words, figures and letters "the 1st day of April, 2010" shall be substituted;
- (ii) for the words "ten per cent.", at both the places where they occur, the words "fifteen per cent." shall be substituted;
- (b) in sub-section (2), after the second proviso, in *Explanation 1*, after clause (h), for the words, brackets and letters "if any amount referred to in clauses (a) to (h) is debited to the profit and loss account, and as reduced by-", the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—
- "(i) the amount or amounts set aside as provision for diminution in the value of any asset, if any amount referred to in clauses (a) to (i) is debited to the profit and loss account, and as reduced by,—".
- 46.** In section 115-O of the Income-tax Act, for sub-section (1A), the following shall be substituted, namely:— Amendment of section 115-O.
- "(1A) The amount referred to in sub-section (1) shall be reduced by,—
- (i) the amount of dividend, if any, received by the domestic company during the financial year, if—
- (a) such dividend is received from its subsidiary;
- (b) the subsidiary has paid tax under this section on such dividend; and
- (c) the domestic company is not a subsidiary of any other company:
- Provided that the same amount of dividend shall not be taken into account for reduction more than once;
- (ii) the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.
- Explanation.*— For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company, holds more than half in nominal value of the equity share capital of the company."
- 47.** In section 115WE of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010" shall be substituted. Amendment of section 115WE.
- 48.** After section 115WL of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 115WM.
- "115WM. Nothing contained in this Chapter shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year." Chapter XII-H not to apply after a certain date.

- Amendment of section 131. **49.** In section 131 of the Income-tax Act, in sub-section (1), for the words "and Chief Commissioner or Commissioner", the words ", Chief Commissioner or Commissioner and the Dispute Resolution Panel referred to in clause (a) of sub-section (15) of section 144C" shall be substituted with effect from the 1st day of October, 2009.
- Amendment of section 132. **50.** In section 132 of the Income-tax Act,— 5
- (a) in sub-section (1),—
- (i) for the words "Where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board," the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994; 10
- (ii) after the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998; 15
- (iii) in clause (A), after the words "may authorise any", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;
- (iv) in clause (B), after the word "such", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994; 20
- (v) after the third proviso, the following proviso shall be inserted, namely :—
- "Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so."; 25
- (b) in sub-section (1A),—
- (i) for the words "Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board", the words "Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994; 30
- (ii) after the words "Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998.
- Amendment of section 132A. **51.** In section 132A of the Income-tax Act, in sub-section (1), after clause (c), after the words "Chief Commissioner or Commissioner may authorise any", the words "Additional Director, Additional Commissioner," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994. 35
- Amendment of section 139A. **52.** In section 139A of the Income-tax Act, with effect from the 1st day of October, 2009,—
- (a) in sub-section (5B), in clause (iv), the word "quarterly" shall be omitted; 40
- (b) in sub-section (5D), in clause (iii), the word "quarterly" shall be omitted.
- Amendment of section 140. **53.** In section 140 of the Income-tax Act, after clause (cc), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—
- "(cd) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to sign and verify the return, or where there is no designated partner as such, by any partner thereof." 45

54. In section 143 of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010" shall be substituted. Amendment of section 143.
55. After section 144B of the Income-tax Act, the following section shall be inserted, Insertion of new section 144C.
 5 namely:—
- 10 "144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee. Reference to dispute resolution panel.
- (2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—
- (a) file his acceptance of the variations to the Assessing Officer; or
- (b) file his objections, if any, to such variation with,—
- 15 (i) the Dispute Resolution Panel; and
- (ii) the Assessing Officer.
- (3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—
- (a) the assessee intimates to the Assessing Officer the acceptance of the variation; or
- (b) no objections are received within the period specified in sub-section (2).
- 20 (4) The Assessing Officer shall, notwithstanding anything contained in section 153, pass the assessment order under sub-section (3) within one month from the end of the month in which,—
- (a) the acceptance is received; or
- (b) the period of filing of objections under sub-section (2) expires.
- (5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section 25 (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.
- (6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—
- (a) draft order;
- 30 (b) objections filed by the assessee;
- (c) evidence furnished by the assessee;
- (d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;
- (e) records relating to the draft order;
- 35 (f) evidence collected by, or caused to be collected by, it; and
- (g) result of any enquiry made by, or caused to be made by, it.
- (7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—
- (a) make such further enquiry, as it thinks fit; or
- 40 (b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.
- (8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.
- 45 (9) If the members of the Dispute Resolution 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 Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) 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, respectively. 5

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received. 10

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee. 15

(15) For the purposes of this section,—

(a) "Dispute Resolution Panel" means a collegium comprising of three Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,—

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and 20

(ii) any foreign company.¹.

Substitution of new section for section 145A.

56. For section 145A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2010, namely:— 25

Method of accounting in certain cases.

¹45A. Notwithstanding anything to the contrary contained in section 145,—

(a) the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession" shall be—

(i) in accordance with the method of accounting regularly employed by the assessee; and

(ii) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation. 30

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment. 35

(b) interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.¹.

Amendment of section 147.

57. In section 147 of the Income-tax Act, after *Explanation 2*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

"*Explanation 3.*—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148." 40

Insertion of new section 167C.

58. After section 167B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:— 45

Liability of partners of limited liability partnership in liquidation.

¹167C. Notwithstanding anything contained in the Limited Liability Partnership Act, 2008, where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of 50

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the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.”.

- 5 **59.** In section 194A of the Income-tax Act, in sub-section (3), in clause (x), after the words “public sector company” at both the places where they occur, the words “or scheduled bank” shall be inserted. Amendment of section 194A.
- 60.** For section 194C of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:— Substitution of new section for section 194C.
- 10 ‘194C. (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor 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 an amount equal to— Payments to contractors.
- 15 (i) one per cent. where the payment is being made or credit is being given to an individual or a Hindu undivided family;
- (ii) two per cent. where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,
- of such sum as income-tax on income comprised therein.
- 20 (2) Where any sum referred to in sub-section (1) is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.
- 25 (3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—
- (i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or
- (ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.
- 30 (4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.
- (5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed twenty thousand rupees:
- 35 Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.
- 40 (6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.
- 45 (7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.
- Explanation.*—For the purposes of this section,—
- (i) “specified person” shall mean,—
- (a) the Central Government or any State Government; or
- 50 (b) any local authority; or
- (c) any corporation established by or under a Central, State or Provincial Act; or
- (d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 or under any law 5 21 of 1860. corresponding to that Act in force in any part of India; or

(h) any trust; or

(i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or 10 3 of 1956.

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,— 15

(A) does not fall under any of the preceding sub-clauses; and

(B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) "goods carriage" shall have the meaning assigned to it in the *Explanation* to sub-section (7) 20 of section 44AE;

(iii) "contract" shall include sub-contract;

(iv) "work" shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting 25 or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, 30

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.'

Amendment of section 194-I. **61.** In section 194-I of the Income-tax Act, for clauses (a), (b) and (c), the following clauses shall be substituted with effect from the 1st day of October, 2009, namely:—

"(a) two per cent. for the use of any machinery or plant or equipment; and 35

(b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:".

Amendment of section 197A. **62.** In section 197A of the Income-tax Act, after sub-section (1D), the following sub-section shall be inserted, namely:—

"(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from 40 any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.".

Amendment of section 200. **63.** In section 200 of the Income-tax Act, in sub-section (3), for the words, figures and letters "prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year", the words "prepare such statements for such period as 45 may be prescribed" shall be substituted with effect from the 1st day of October, 2009.

Insertion of new section 200A. **64.** After section 200 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

Processing of statements of tax deducted at source. '200A.(1) Where a statement of tax deduction at source has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall 50 be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, apparent from any information in the statement;

5 (b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(c) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of amount computed under clause (b) against any amount paid under section 200 and section 201, and any amount paid otherwise by way of tax or interest;

10 (d) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (c); and

(e) the amount of refund due to the deductor in pursuance of the determination under clause (c) shall be granted to the deductor:

15 Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

20 (ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act;

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.

25 **65.** In section 201 of the Income-tax Act,—

Amendment of section 201.

(a) in sub-section (1A), for the words “the quarterly statement for each quarter”, the words “the statement” shall be substituted with effect from the 1st day of October, 2009;

(b) after sub-section (2), the following sub-sections shall be inserted with effect from the 1st day of April, 2010, namely:—

30 “(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of—

(i) two years from the end of the financial year in which the statement is filed in a case where the statement referred to in section 200 has been filed;

35 (ii) four years from the end of the financial year in which payment is made or credit is given, in any other case:

Provided that such order for a financial year commencing on or before the 1st day of April, 2007 may be passed at any time on or before the 31st day of March, 2011.

(4) The provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation 1* to

section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).”.

- Amendment of section 203A. **66.** In section 203A of the Income-tax Act, in sub-section (2), in clause (ba), the word “quarterly” shall be omitted with effect from the 1st day of October, 2009.
- Amendment of section 206A. **67.** In section 206A of the Income-tax Act, with effect from the 1st day of October, 2009—
 (a) in sub-section (1), for the words, figures and letters “quarterly returns for the period ending on 5 the 30th June, the 30th September, the 31st December and the 31st March in each financial year”, the words “such statements for such period as may be prescribed” shall be substituted;
 (b) in sub-section (2), for the words “quarterly returns”, the words “such statements” shall be substituted.
- Insertion of new section 206AA. **68.** After section 206A of the Income-tax Act, the following section shall be inserted with effect from 10 the 1st day of April, 2010, namely:—
 “206AA. (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be 15 deducted at the higher of the following rates, namely:—
 (i) at the rate specified in the relevant provision of this Act; or
 (ii) at the rate or rates in force; or
 (iii) at the rate of twenty per cent.
 (2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A 20 shall be valid unless the person furnishes his Permanent Account Number in such declaration.
 (3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).
 (4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant. 25
 (5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.
 (6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.”. 30
- Amendment of section 206C. **69.** In section 206C of the Income-tax Act, in sub-section (3), in the proviso, for the words, figures and letters “prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year”, the words “prepare such statements for such period as may be prescribed” shall be substituted with effect from the 1st day of October, 2009.
- Amendment of section 208. **70.** In section 208 of the Income-tax Act, for the words “five thousand rupees”, the words “ten 35 thousand rupees” shall be substituted.
- Amendment of section 246A. **71.** In section 246A of the Income-tax Act, in sub-section (1), in clause (a), for the words, brackets and figures “under sub-section (3) of section 143”, the words, brackets and figures “under sub-section (3) of section 143 except an order passed in pursuance of directions of Dispute Resolution Panel” shall be substituted with effect from the 1st day of October, 2009. 40
- Amendment of section 253. **72.** In section 253 of the Income-tax Act, in sub-section (1), after clause (c), the following clause

shall be inserted with effect from the 1st day of October, 2009, namely:—

“(d) an order passed by an Assessing Officer under sub-section (3) of section 143 in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order.”.

- 5 **73.** In section 271 of the Income-tax Act, in sub-section (1), for *Explanation* 5A, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007, namely:— Amendment of section 271.

“*Explanation* 5A.— Where, in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of—

- 10 (i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

- 15 (ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of search and,—

(a) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

- 20 (b) the due date for filing the return of income for such previous year has expired but the assessee has not filed the return,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.”.

- 25 **74.** In section 272A of the Income-tax Act, in sub-section (2), in clause (l), for the words “quarterly return”, the word “statements” shall be substituted with effect from the 1st day of October, 2009. Amendment of section 272A.

75. In section 281B of the Income-tax Act, in sub-section (2), 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, 1988, namely:— Amendment of section 281B.

- 30 “Provided also that the period during which the proceedings for assessment or reassessment are stayed by an order or injunction of any court shall be excluded from the period specified in the first proviso.”.

76. For section 282 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:— Substitution of new section for section 282.

- 35 ‘282. (1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as “communication”) may be made by delivering or transmitting a copy thereof, to the person therein named,— Service of notice generally.

(a) by post or by such courier services as may be approved by the Board; or

5 of 1908.

- 40 (b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

21 of 2000.

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000;

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

- 45 (2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

21 of 2000.

- 50 *Explanation.*—For the purposes of this section, the expressions “electronic mail” and “electronic mail message” shall have the meanings as assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000.”.

77. After section 282A of Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2010, namely:— Insertion of new section 282B.

Allotment of Document Identification Number.

“282B. (1) Every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

(2) Where the notice, order, letter or any correspondence, issued by any income-tax authority, does not bear a Document Identification Number referred to in sub-section (1), such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued. 5

(3) Every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number. 10

(4) Where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear the Document Identification Number referred to in sub-section (3), such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.”

Insertion of new section 293C.

78. After section 293B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2009, namely :— 15

Power to withdraw approval.

“293C. Where an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time: 20

Provided that the income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so.”

Amendment of First Schedule.

79. In the First Schedule to the Income-tax Act, in rule 5,—

(i) for the portion beginning with the words “balance of the profits”, and ending with the words “Controller of Insurance,”, the following shall be substituted with effect from the 1st day of April, 2011, namely:— 25

“profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 or rules made thereunder or the provision of the Insurance Regulatory and Development Authority Act, 1999 or regulations made thereunder;” 30 4 of 1938. 41 of 1999.

(ii) after clause (a), the following clause shall be inserted with effect from the 1st day of April, 2011, namely:—

“(b) (i) deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realisation of investments in accordance with the regulations made by Insurance Regulatory and Development Authority; 35

(ii) increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realisation of investments in accordance with the regulations made by Insurance Regulatory and Development Authority.”

Amendment of Fourth Schedule.

80. 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 figures, letters and words “31st day of March, 2009,”, the figures, letters and words “31st day of December, 2010,” shall be substituted. 40

Amendment of Thirteenth Schedule.

81. In the Thirteenth Schedule to the Income-tax Act, under Part B, for S.No.19 and the entries relating thereto, the following S.No. and entries shall be substituted with effect from the 1st day of April, 2010, namely:—

S.No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998	
“19	Manufacture of pulp-wood pulp, mechanical or chemical (including dissolving pulp)	4701.00		50
	Newsprint in rolls or sheets	4801.00		
	Writing or printing paper for printing of educational textbooks	4802.10		
	Paper or paperboard, in the manufacture of which—	4802.20		55
	(a) the principal process of lifting the pulp is done by hand; and			

S.No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998
5	(b) if power driven sheet forming equipment is used, the Cylinder Mould Vat does not exceeds 40 inches		
10	Maplitho paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4802.30	
	Others	4802.90	
15	Toilet or facial tissue stock, towel or napkin stock and similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled embossed, perforated, surfact-coloured, surface decorated or printed, in rolls of a width exceeding 36 cms. or in rectangular (including square) sheets with at least one side exceeding 36 cms. in unfolded state.	4803.00	
20	Kraft paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4804.10	
	Kraft paper and paperboard used in the manufacture of cartons for packing of horticultural produce	4804.20	
25	Others	4804.90	
	Other uncoated paper and paperboard, in roll or sheets, not further worked or processed than as specified in Note 2 to this Chapter.	4805.00	
	Grease-proof paper	4806.10	
30	Glassine and other glazed transparent or translucent paper	4806.20	
	Others	4806.90	
	Straw Board, in the manufacture of which sun-drying process has been employed.	4807.91	
35	Straw paper and other straw board, whether or not covered with paper other than straw paper.	4807.92	
	Other	4807.99	
	Carbon or similar copying papers	4809.10	
	Self-copy paper	4809.20	
	Others	4809.90	
40	Paper and paperboard of a kind used for writing, printing or other graphic purposes.	4810.10	
	Kraft paper and paperboard other than that of a kind used for writing, printing or other graphic purposes.	4810.20	
	Other paper and paperboard	4810.90	
45	Tarred, bituminized or asphalted paper and paperboard.	4811.10	
	Gummed or adhesive paper and paperboard	4811.20	

S.No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998	
	-Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives).			5
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates.	4811.31		10
	Others	4811.39		15
	Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol.	4811.40		
	Other	4811.90		
	Cigarette paper, whether or not cut to size or in the form of booklets or tubes	4813.00."		20