

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Sub-clause (b) of the said clause 4 seeks to insert a new clause (45) in the said section so as to provide exemption to any allowance or perquisite, as may be notified by the Central Government in the Official Gazette in this behalf, paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Service Commission.

Sub-clause (c) of clause 4 seeks to insert a new clause (46) in the said section so as to provide that any specified income arising to a body or authority or Board or Trust or Commission which is constituted or established by or under a Central, State or Provincial Act or has been constituted by the Central Government or a State Government with the object of regulating or administering an activity for the benefit of general public shall be exempt if it is not engaged in commercial activity and is specified by the Central Government by notification in the Official Gazette in this behalf. The Explanation to the said clause (46) enables the Central Government to notify the nature and extent of the income of the body or authority or Board or Trust or Commission which shall constitute the specified income.

Sub-clause (c) also proposes to insert a new clause (47) in the said section 10 so as to enable the Central Government to notify any infrastructure debt fund which is set up in accordance with the guidelines as may be prescribed and the income of such notified fund will be exempt from income-tax.

Clause 6 of the Bill proposes to amend section 35AD of the Income-tax Act relating to deduction in respect of expenditure on specified business.

The proposed amendment seeks to insert a new clause (ad) in the said sub-section (5) so as to provide that the date of commencement of operations shall be on or after the 1<sup>st</sup> day of April, 2011 where a business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

The proposed amendment further seeks to insert a new sub-clause (vii) in clause (c) of sub-section (8) so as to include within the scope of "specified business", the business of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

Clause 12 of the Bill seeks to amend section 92C of the Income-tax Act relating to computation of arm's length price.

The second proviso to sub-section (2) of section 92C provides that if the variation between the arm's length price as determined and price at which the international transaction has actually been

undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price.

It is proposed to amend the second proviso to sub-section (2) of section 92C so as to provide that the allowable variation will be such percentage as may be notified by the Central Government in this behalf.

Clause 14 of the Bill seeks to insert a new section 94A in the Income-tax Act relating to special measures in respect of transactions with persons located in notified jurisdictional area.

Sub-section (1) enables the Central Government to notify any country or territory outside India, having regard to lack of effective exchange of information by it, as a notified jurisdictional area.

Sub-section (3) of the proposed new section provides that notwithstanding anything contained in the Income-tax Act, no deduction in respect of any payment made to any financial institution located in the notified jurisdictional area shall be allowed unless the assessee furnishes an authorisation in the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution and no deduction in respect of any other expenditure or allowance (including the depreciation) arising from the transaction with a person located in a notified jurisdictional area shall be allowed under any provision of the Act unless the assessee maintains such other documents and furnishes the information as may be prescribed.

Clause 18 of the Bill seeks to insert a new Chapter XII-BA (consisting of new sections 115JC, 115JD, 115JE and 115JF) in the Income-tax Act containing special provisions relating to certain limited liability partnerships.

The proposed new section 115JC provides that every limited liability partnership to which that 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 filing of return under sub-section (1) of section 139.

Clause 21 of the Bill seeks to amend section 131 of the Income-tax Act relating to power regarding discovery, production of evidence, etc.

It is proposed to insert a new sub-section (2) in the aforesaid section to provide that for the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as notified by the Board in this behalf, to exercise the powers conferred on the income-tax authorities, notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.

Clause 23 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

The proposed amendment seeks to insert a new sub-section (1C) which empowers the Central Government to exempt by notification in the Official Gazette any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.

Clause 31 of the Bill seeks to insert a new section 285 in the Income-tax Act relating to the submission of statement by a non-resident having liaison office.

The proposed new section 285 provides that every person, being a non-resident having liaison office in India, set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.

Clause 37 of the Bill seeks to substitute a new section for section 17 of the Customs Act. Sub-section (6) of the said section empowers the Board to prescribe by regulations the manner of

auditing the assessment of duty of imported goods or export goods including at the office of the proper officer or premises of the importer or exporter.

Clause 45 of the Bill seeks to amend section 75 of the Customs Act with a view to empower the Central Government to make rules to provide for the circumstances and conditions under which drawback of duty shall not be recovered even if the sale proceeds are not realised by the exporter.

Sub-clause (N) of clause 70 of the Bill seeks to amend the proviso to section 93A of the Finance Act, 1994 with a view to empower the Central Government to make rules to provide for the circumstances and conditions under which the Central Government may recover or adjust the amount of rebate which shall be deemed never to have been allowed.

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

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