



The Mizoram Gazette

EXTRA ORDINARY
Published by Authority,

Vol. XVII Aizawl Monday 21. 3. 1988 Chaitra 1, SE 1910 Issue No. 40 (D)

NOTIFICATION

No. D. 29018/2/87-LJL/125, dt. 21st March 1988. The following Act is hereby published for general information.

Lalremruata,
Deputy Secretary to the Govt. of Mizoram,
Law, Judicial and Parliamentary Affairs Department.

THE DIRECT TAX LAWS (AMENDMENT) ACT, 1987

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. Substitution of new authorities.
3. Amendment of section 2.
4. Substitution of new section for section 3.
5. Amendment of section 4.
6. Amendment of section 10
7. Omission of sections 11, 12, 12A and 13.
8. Amendment of Section 15.

9. Amendment of section 28.
10. Omission of sections 35, 35B, 35C, 35CC, 35CCA and 35CCB.
11. Amendment of section 36.
12. Omission of section 39.
13. Amendment of section 40.
14. Amendment of section 40A.
15. Amendment of section 43B.
16. Insertion of new section 54A.
17. Amendment of section 64.
18. Substitution of new section for section 67.
19. Omission of sections 75, 76 and 77.
20. Amendment of section 78.
21. Amendment of section 80A.
22. Amendment of section 80B.
23. Omission of section 80E.
24. Insertion of new section 80F.
25. Amendment of section 80G.
26. Omission of section 80GGA.
27. Amendment of section 80L.
28. Omission of section 80QQ.
29. Substitution of new section for section 86.
30. Substitution of new sections for sections 116, 117 and 118.
31. Amendment of section 119.
32. Substitution of new section for section 120
33. Omission of sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A.
34. Substitution of new section for section 124.
35. Substitution of new section for section 127
36. Amendment of section 131
37. Amendment of section 132
38. Amendment of section 132A
39. Amendment of section 133
40. Amendment of section 133A
41. Amendment of section 138
42. Amendment of section 139
43. Amendment of section 139A
44. Amendment of section 140
45. Amendment of section 140A
46. Omission of section 141A
47. Amendment of section 142
48. Substitution of new section for section 143
49. Amendment of section 144
50. Amendment of section 144A
51. Omission of section 144B
52. Amendment of section 145
53. Omission of section 146
54. Substitution of new sections for 147 and 148
55. Amendment of section 149
56. Amendment of section 150
57. Substitution of new section for section 151
58. Amendment of section 152
59. Amendment of section 153

60. Amendment of section 154.
61. Amendment of section 155
62. Amendment of section 158
63. Insertion of new Chapter XIV-B
64. Amendment of section 164
65. Amendment of section 164A
66. Substitution of new sections for section 167A
67. Omission of sections 182 and 183
68. Substitution of new sections for sections 184, 185 and 186.
69. Amendment of section 187.
70. Insertion of new section 188A.
71. Amendment of section 189.
72. Insertion of new section 189A.
73. Amendment of section 194A.
74. Insertion of new section 194E.
75. Substitution of new sections for section 196.
76. Substitution of new sections for sections 207 and 208.
77. Amendment of section 209.
78. Omission of section 209A.
79. Substitution of new section for section 210.
80. Substitution of new section for section 211.
81. Omission of sections 212 and 213,
82. Amendment of section 214.
83. Amendment of section 215.
84. Substitution of new sections for sections 218
85. Amendment of section 220
86. Amendment of section 222.
87. Substitution of new sections for sections 223, 224 and 225.
88. Amendment of section 226.
89. Omission of section 228.
90. Amendment of section 228A,
91. Amendment of section 230.
92. Amendment of section 230A.
93. Omission of section 231.
94. Insertion of new sections 234A, 234B and 234C.
95. Amendment of section 240.
96. Amendment of section 243.
97. Amendment of section 244.
98. Insertion of new section 244A.
99. Amendment of sub-heading and substitution of new sections for section 246.
100. Omission of section 247.
101. Substitution of new section for section 267.
102. Amendment of section 268.
103. Amendment of section 269SS.
104. Amendment of section 269T.
105. Omission of section 270.
106. Substitution of new section for section 271.
107. Amendment of section 271.
108. Insertion of new sections 271C, 271D and 271E.
109. Omission of section 272.
110. Substitution of new section for section 272A.

111. Omission of section 272B.
112. Amendment of section 273.
113. Amendment of section 273A.
114. Amendment of section 273B.
115. Amendment of section 274.
116. Amendment of section 275.
117. Insertion of new section 276.
118. Substitution of new section for section 276B.
119. Omission of sections 276DD and 276E.
120. Amendment of section 278AA.
121. Insertion of new section 293B.
122. Substitution of new section for section 296.
123. Amendment of section 298.
124. Amendment of the Second Schedule.
125. Insertion of Tenth Schedule.
126. Consequential amendments.

CHAPTER-III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

127. Substitution of new authorities.
128. Amendment of section 2.
129. Amendment of section 3.
130. Amendment of section 5.
131. Substitution of new sections for sections 8, 9, 10 and 11.
132. Omission of sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13.
133. Amendment of section 14.
134. Substitution of new section for section 15
135. Amendment of section 15A.
136. Substitution of new section for section 15B.
137. Omission of section 15C.
138. Substitution of new section for section 16.
139. Amendment of section 17.
140. Amendment of section 17A.
141. Insertion of new section 17B.
142. Substitution of new sections for sections 18 and 18A.
143. Insertion of new Chapter IVB.
144. Amendment of section 21A.
145. Amendment of section 21AA.
146. Amendment of section 23.
147. Insertion of new section 23A
148. Amendment of section 31.
149. Amendment of section 32.
150. Amendment of section 34A
151. Amendment of section 35.
152. Amendment of section 35K.
153. Amendment of section 37.

154. Amendment of section 37A.
155. Amendment of section 37B.
156. Insertion of new section 37C.
157. Amendment of section 38.
158. Amendment of section 45.
159. Insertion of new section 47.
160. Consequential amendments.

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

161. Substitution of new authorities.
162. Amendment of section 2.
163. Amendment of section 3.
164. Substitution of new sections for sections 7, 8, 9 and 10.
165. Omission of sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12.
166. Amendment of section 13.
167. Substitution of new section for section 14.
168. Amendment of section 14A.
169. Insertion of new section 14B.
170. Substitution of new section for section 15
171. Amendment of section 16.
172. Amendment of section 16A.
173. Insertion of new section 16B.
174. Substitution of new sections for sections 17 and 17A.
175. Insertion of new Chapter IVA.
176. Amendment of section 22.
177. Insertion of new section 22A.
178. Amendment of section 32.
179. Amendment of section 33.
180. Amendment of section 33A.
181. Amendment of section 34.
182. Amendment of section 36.
183. Amendment of section 37.
184. Amendment of section 45.
185. Insertion of new section 47.
186. Consequential amendments.

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

187. Substitution of new authorities.
188. Substitution of new section for section 3.
189. Amendment of section 18.

THE DIRECT TAX LAWS (AMENDMENT) ACT 1987

An Act

further to amend the Income-tax, Act 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Direct Tax Laws (Amendment) Act, 1987.

Short title and commencement.

(2) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1989 and any reference to the commencement of this Act in any provision of this Act shall be construed as a reference to the commencement of that provision.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

Substitution of new authorities.

2. In the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, the references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by the references to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

43 of 1961.

TABLE

| (1) | (2) |
|--|---|
| Director of Inspection Deputy Director of Inspection | Director General or Director Deputy Director |

| | |
|---|--|
| Assistant Director of Inspection Commissioner | Assistant Director Chief Commissioner or Commissioner Deputy Commissioner |
| Inspecting Assistant Commissioner | Deputy Commissioner (Appeals) |
| Appellate Assistant Commissioner | Assessing Officer: |
| Income-tax Officer | |

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in sections 245D, 253, 256, 263 and 264.

Amend-
ment of
section 2

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

(a) clauses (I) and (IA) shall be renumbered as clauses (IA) and (IB) respectively, and before clause (IA) as so renumbered, the following clause shall be inserted, namely:—

'(1) "advance tax" means the advance tax payable in accordance with the provisions of Chapter XVII-C;';

(b) after clause (7), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(7A) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Deputy Commissioner who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;';

(c) after clause (9), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(9A) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under sub-section (1) of section 117;';

(d) clause (15A) shall be renumbered as clause (15B), and before clause (15B) as so renumbered, the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

'(15A) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax under sub-section (1) of section 117;';

(e) in clause (16), the words "and includes a person appointed to be an Additional Commissioner of Income tax under that sub-section" shall be omitted with effect from the 1st day of April, 1988;

(f) after clause (19), the following clauses shall be inserted with effect from the 1st day of April, 1988, namely:—

'(19A) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Income-tax under sub-section (1) of section 117;

(19B) "Deputy Commissioner (Appeals)" means a person appointed to be a Deputy Commissioner of Income tax (Appeals) under sub-section (1) of section 117;';

(g) for clause (21), the following clause shall be substituted with effect from the 1st day of April, 1988 namely:—

'(21) "Director General or Director" means a person appointed to be a Director General of Income-tax or as the case may be, a Director of Income-tax under sub-section (1) of section 117, and includes a person appointed under that sub-section to be a Deputy Director of Income-tax or an Assistant Director of Income-tax;';

(h) clause (22A) shall be renumbered as clause (22B), and before clause (22B) as so renumbered, the following clause shall be inserted, namely:—

'(22A) "domestic company" means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income;';

(i) after clause (23), the following clause shall be inserted, namely:—

'(23A) "foreign company" means a company which is not a domestic company;';

(j) in clause (24), in sub-clause (jia), for the words “, not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution”, the words, brackets, letters and figures “or by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F” shall be substituted;

(k) for clause (25), the following clause shall be substituted with effect from the 1st day of April, 1988, namely:—

“(25) “Income-tax Officer” means a person appointed to be an Income-tax Officer under sub-section (1) of section 117;”;

(l) clause (27) shall be omitted with effect from the 1st day of April, 1988;

(m) in clause (28), for the word, brackets and figure “sub-section (2)”, the word, brackets and figure “sub-section (1)” shall be substituted with effect from the 1st day of April, 1988;

(n) after clause (29B) [as inserted by clause (c) of section 3 of the Finance Act, 1987], the following clause shall be inserted, namely:—

11 of 1987

“(29C) “maximum marginal rate” means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual as specified in the Finance Act of the relevant year;”;

(o) in clause (37A),—

(i) in sub-clause (i),—

(1) the words, brackets, figures and letter “or sub-section (9) of section 80E from any payment referred to therein” shall be omitted;

(2) for the words, figures and letter “section 115B or section 164”, at both the places where they occur, the words, figures and letters “section 115B or section 115BB or section 115E or section 164 or section 164A or section 167A” shall be substituted with effect from the 1st day of April, 1988;

(3) after the words, figures and letter "or section 167A", at both the places where they occur, the words, figures and letter "or section 167B" shall be inserted;

(4) for the words, figures and letter "section 115B or, as the case may be, section 164", the words, figures and letters "section 115B or section 115BB or section 115E or section 164 or section 164 A or section 167A. as the case may be", shall be substituted with effect from the 1st day of April, 1988;

(5) after the word, figures and letter "section 167A", in the third place where they occur, the words, figures and letter "or section 167B" shall be inserted;

(ii) in sub-clause (ii), for the figures, letter and word "194D and 195", the figures, letters and word "194D, 194E and 195" shall be substituted with effect from the 1st day of April, 1988;

(p) clause (39) shall be omitted;

(q) clause (43B) shall be omitted;

(r) for clause (44), the following clause shall be substituted, namely :-

'(44) "Tax Recovery Officer" means any Income-tax Officer who may be authorised by the Chief Commissioner or Commissioner, by general or special order in writing, to exercise the powers of a Tax Recovery Officer;';

(s) clause (48) shall be omitted.

4. For section 3 of the Income-tax Act, the following section shall be substituted, namely :-

Substitution of new section for section 3.

"3. (1) Save as otherwise provided in this section, "previous year" for the purposes of this Act, means the financial year immediately preceding the assessment year:

"Previous year" defined.

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous

year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.

(2) "Previous year," in relation to the assessment year commencing on the 1st day of April, 1989, means the period which begins with the date immediately following the last day of the previous year relevant to the assessment year commencing on the 1st day of April, 1988 and ends on the 31st day of March, 1989:

Provided that where the assessee has adopted more than one period as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988 for different sources of his income, the previous year in relation to the assessment year commencing on the 1st day of April, 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year for the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989, referred to in sub-section (2) exceeds a period of twelve months, the provisions of this Act shall apply subject to the modifications specified in the rules in the Tenth Schedule.

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

(a) for the words "subject to the provisions of, this Act," the words and brackets "subject to the provisions (including provisions for the levy of additional income-tax) of, this Act" shall be substituted;

(b) the words "or previous years, as the case may be," shall be omitted.

Amendment of section 4.

Amendment of section 10.

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

(a) after clause (2), the following clause shall be inserted, namely :-

"(2A) in the case of a person being a partner of a firm which is assessed as such, his share in the total income of the firm.

Explanation:—For the purposes of this clause, the share of a partner in the total income of a firm assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits.”;

(b) for clauses (4) and (4A), the following clause shall be substituted, namely :-

“(4) (i) in the case of a non resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf, including income by way of premium on the redemption of such bonds;

(ii) in the case of an individual who is a person, resident outside India as defined in clause (q) of section 2 of the Foreign Exchange Regulation Act, 1973, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the said Act and the rules made thereunder;”;

46 of 1973.

(c) for clause (5), the following clause shall be substituted, namely :-

“(5) subject to such conditions as the Central Government may prescribe (including conditions as to number of journeys and the amount which shall be exempt per head) in the case of an individual, the value of any travel concession or assistance received by or due to him, :-

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India;

(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service;

Provided that the amount exempt under sub-clause (a) or sub-clause (b) shall not, except in such cases and under such circumstances as may be prescribed having regard to the travel concession or assistance granted to the employees of the Central Government,

exceed the value of the travel concession or assistance which would have been received by or due to the individual in connection with his proceeding to any place in India on leave or, as the case may be, after retirement from service or after the termination of his service;

Provided further that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Explanation— For the purposes of this clause, “family”, in relation to an individual, means—

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual;’;

(d) in clause (10),—

(i) in sub-clause (iii), for the words “calculated on the basis of the average salary for three years immediately preceding the year in which the gratuity is paid, subject to a maximum of thirty-six thousand rupees or twenty months’ salary so calculated, whichever is less”, the words “calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government” shall be substituted;

(ii) in the first and second provisos, for the words “shall not exceed thirty-six thousand rupees”, the words “shall not exceed the limit so specified” shall be substituted;

(iii) the third and fourth provisos shall be omitted;

(iv) in the Explanation, for the words “In this clause the words, brackets, figures and letters “In this clause, and in clause (10AA)” shall be substituted;

(e) in clause (10A), the proviso shall be omitted;

(f) in clause 10AA), in sub-clause (ii),—

(i) for the words “six months”, the words “eight months” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(ii) for the words "or thirty thousand rupees, whichever is less" the words "subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 1986;

(iii) in the first and second provisos, for the words "shall not exceed thirty thousand rupees", the words "shall not exceed the limit so specified" shall be substituted and be deemed to have been substituted with effect from the 1st day of July, 1986;

(iv) the third and fourth provisos shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986;

(v) in the Explanation, the brackets and figure "1", and clause (ii) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 1986.

(g) in clause (10B), in the first proviso, for clause (ii), the following clause shall be substituted, namely:—

"(ii) such amount, that not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf,";

(h) for clause (14), the following clause shall be substituted, namely:—

"(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly, necessarily and exclusively incurred in the performance of the duties of an office or employment of profit, as the Central Government may, by notification in the Official Gazette, specify, to the extent to which such expenses are actually incurred for that purpose;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him

for the increased cost of living, as the Central Government may, by notification in the Official Gazette, specify, to the extent specified in the notification;”;

(i) in clause (15), for sub-clauses (i), (ia), (ib), (ii) and (iia), the following sub-clause shall be substituted, namely:—

“(i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates savings certificates, other certificates issued by the Central Government and deposits as the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification;”;

(j) for clauses (17A), (17B) and (18), the following clause shall be substituted, namely:—

“(17A) any payment made, whether in cash or kind,—

(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved by the Central Government in this behalf; or

(ii) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;”;

(k) clauses (21) and (23) shall be omitted;

(l) in clause (23C).—

(i) in sub-clause (iii), the word “or” occurring at the end shall be omitted;

(ii) sub-clause (iv) and (v) and the proviso shall be omitted;

(m) after clause (23C), the following clause shall be inserted with effect from the 1st day of April, 1988, namely

“(23D) any income from such Mutual Fund set up by a public sector bank or a public financial institution and subject to such conditions, including the condition

that at least ninety per cent of the income from the Mutual Fund shall be distributed to the unit holders every year, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation — For the purposes of this clause —

(a) the expression “public sector bank” means the State of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking companies (Acquisition and Transfer of undertakings) Act, 1980;

(d) the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956.

7. Sections 11, 12, 12A and 13 of the Income-tax Act shall be omitted.

Omission of sections 11, 12 12A and 13.

8. In section 15 of the Income-tax Act, the Explanation shall be numbered, as Explanation 1, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely :—

Amendment of section 15

‘Explanation 2—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as “salary” for the purposes of this section’

9. In section 28 of the Income-tax Act, —

Amendment of sections 28.

(a) after clause (iv), the following clause shall be inserted, namely :—

“(v) any interest, salary, bonus, commission or remuneration; by whatever name called, due to, or received by, a partner of a firm from such firm.”

(b) Explanation I shall be omitted.

10. Sections 35, 35B, 35CC, 35CCA and 35CCB of the Income-tax Act shall be omitted.

Omission of sections 35, 35B, 35C, 35CC, 35CCA and 35CCB.

Amend-
ment of
section 36.

11. In section 36 of the Income-tax Act, —

(a) in sub-section (I), —

(i) in clause (ii) the provisos shall be omitted;

(ii) in clause (vii), in the opening portion, for the words “any debt or part thereof which is established to have become a bad debt in the previous year”, the words “any bad debt or part or thereof which is written off as irrecoverable in the accounts of the assessee for the previous year” shall be substituted;

(iii) in clause (viii), in the Explanation, for clause (ii), the following clause shall be substituted, namely :—

(ii) “Scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, but does not include a co-operative bank”; 23 of 1955
38 of 1959
5 of 1970
40 of 1980
2 of 1934.

(b) in sub-section (2),—

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

“(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee”;

(ii) in clause (iii), after the words “earlier previous year”, the brackets, words, figures and letters “(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)” shall be inserted;

(iii) in clause (iv), after the words “accounts of the previous year”, the brackets, words, figures and letters “(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)” shall be inserted.

Omission of section 39. 12. Section 39 of the Income-tax Act shall be omitted.

Amendment of section 40. 13. In section 40 of the Income-tax Act,—

(i) in the opening portion, for the words and figures “sections 30 to 39” the words and figures “sections 30 to 38” shall be substituted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

‘(b) in the case of any firm assessable as such,—

(i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as remuneration) to any partner who is not a whole-time working partner; or

(ii) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(iii) any payment of remuneration to any partner who is a whole-time working partner, or of interest to any partner, which, in either case is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(iv) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at such rate of interest payable by a scheduled bank on its deposits; or

(v) any payment of remuneration to any partner who is a whole-time working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as

the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder:—

(1) in case of a firm carrying on a profession referred to in section 44AA or which is notified for the purpose of that section,—

(a) on the first Rs. 50,000 of the book-profit at the rate of 90 per cent.;

(b) on the next Rs 50,000 of the book-profit at the rate of 65 per cent.;

(c) on the balance of the book-profit at the rate of 40 per cent.;

(2) in the case of any other firm,—

(a) on the first Rs. 50,000 of the book-profit at the rate of 75 per cent.;

(b) on the next Rs. 50,000 of the book-profit at the rate of 50 per cent.;

(c) on the balance of the book-profit at the rate of 25 per cent.

Explanation 1.—In this clause,—

(a) “whole-time working partner” means a partner of the firm who is in receipt of any remuneration from the firm for services rendered to that firm and who is not in receipt of any similar remuneration from any other person;

(b) “book-profit” means the profit which would have been computed in accordance with the provisions of Parts II and III of the Sixth Schedule to the Companies Act, 1956 if those provisions had been applicable to a firm and before making any deduction of any loss brought forward or any unabsorbed depreciation allowance or any other allowance or deduction brought forward from any earlier previous year and without making any deduction under section 32AB or section 33AB or under Chapter VI-A as increased by the following amounts if they have been taken into account in arriving at such profits—

- (1) the aggregate amount of the remuneration and the interest to all the partners of the firm;
- (2) income-tax;
- (3) reserves or provisions of any kind;
- (4) depreciation;

and as reduced by the depreciation computed in accordance with the provisions of sub-section (1) of section 32 and the aggregate amount of interest allowed to all the partners of the firm under this clause;

(c) "scheduled bank" shall have the same meaning as is assigned to it in the Explanation to clause (viiia) of sub-section (1) of section 36.

Explanation 2.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

- (i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;
- (ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 3.— Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;

(ba) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as “member in a representative capacity” and “person so represented”, respectively),—

(i) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person;:

(iii) clause (c) shall be omitted.

14. In section 40A of the Income-tax Act,—

(a) in sub-section (3), for the words “two thousand five hundred rupees”, wherever they occur, the words “ten thousand rupees” shall be substituted;

(b) sub-sections (5) and (6) shall be omitted.

15. In section 43B of the Income-tax Act,—

(a) in clause (b), the word ‘or’ shall be inserted at the end;

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

Amendment of section 43B

Amendment of 40A

“(c) any sum referred to in clause (ii) of sub-section (1) of section 36,”;

(c) in the first proviso (as inserted by section 10 of the Finance Act, 1987), after the word, brackets and letter ‘clause (a)’, the words, brackets and letter ‘or clause (c)’ shall be inserted; 11 of 1987

(d) the Explanation shall be numbered as Explanation 1, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

“Explanation 2.— For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (c) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him”.

Insertion
of new
section
54A.

16. After section 54 of the Income-tax Act, the following section shall be inserted namely:—

Relief
of tax on
capital gains
on transfer
of property
held under
trust for
charitable
or reli-
gious pur-
poses or by
certain insti-
tutions.

‘54A. (1) Where the capital gain arises from the transfer of a long term capital asset, being property specified in sub-section (2) (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, during the previous year in which the transfer took place or within a period of six months after the close of such previous year, acquired an other capital asset (such asset being hereafter in this section referred to as the new asset), to be held for the same purposes as those for which the original asset was held, then, the capital gain arising from the transfer shall be dealt with in accordance with the following provisions, that is to say,—

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the net consideration shall not be charged under section 45;

Provided that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer but is received after the expiry of the previous year, the period of six months referred to in this section shall, in relation to so much of such compensation as is not received before such expiry, be reckoned from the date immediately following the date on which such compensation is received by the assessee.



(2) The property referred to in sub-section (1) shall be the following, namely:—

(a) property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India;

(b) property held under trust in part only for charitable or religious purposes in India the trust having been created before the commencement of this Act;

(c) property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India abroad or which tends to promote international welfare in which India is interested;

(d) property held by a trust or institution of national importance referred to in clause (d) of sub-section (1) of section 80F.

(3) In the case of a capital asset being property falling under clause (b) of sub-section (2) the provisions of sub-section (1) shall apply only to that fraction of the capital gain arising from the transfer of such capital asset which represents the extent to which the income derived from the capital asset transferred was, immediately before such transfer, applicable to charitable or religious purposes.

Explanation.—In this section, “net consideration” shall have the meaning assigned to it in Explanation 5 below sub-section (1) of section 54E.’

17. In section 64 of the Income-tax Act, in sub-section (1),—

Amendment of section 64.

(a) clause (i) shall be omitted;

(b) in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

“Provided that nothing in this clause shall apply in relation to any such income arising to the spouse from a firm carrying on any such profession as is referred to in sub-section (1) of section 44AA, where the spouse possesses any technical or professional qualification in the nature of a degree or diploma of a university within the meaning of clause (c) of the Explanation below sub-section (2B) of section 32A;”;

(c) clause (iii) shall be omitted;

(d) in clause (iv), the words, brackets and figure “in a case not falling under clause (i) of this sub-section,” shall be omitted;

(e) in clause (v), the words, brackets and figures “in a case not falling under clause (iii) of this sub-section,” and the brackets and words “(not being a married daughter)” shall be omitted;

(f) in clause (vii), the brackets and words “(not being a married daughter)” shall be omitted;

(g) for Explanation 1, the following Explanation shall be substituted, namely :—

“Explanation 1.—For the purposes of clause (ii), the individual, in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.”;

(h) Explanation 1A and Explanation 2A shall be omitted;

(i) for Explanation 3, the following Explanation shall be substituted namely:—

“Explanation 3—For the purposes of clauses (iv), (v) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or minor child or son’s wife or son’s minor child (hereafter in this Explanation referred to as “the transferee”) are invested by transferee,—

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(ii) in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of the investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.”

18. For section 67 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 67.

‘67. (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or

Method of computing a member’s share in the income of association

21 of 1860

under any law corresponding to that Act in force in any part of India,] whether the net result of the computation of the total income of such association or body is a profit or a loss his share (whether any profit or net loss) shall be computed as follows, namely:—

of persons
or body of
individual.

(a) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(b) where the amount apportioned to a member under clause (a) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount and the result shall be treated as the member's share in the income of the association or body;

(c) where the amount apportioned to a member under clause (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under subsection (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.

- Omission of sections 75,76 and 77 19. Sections 75,76 and 77 of the Income-tax Act shall be omitted.
- Amendment of section 78, 20. In section 78 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—
- “(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.”.
- Amendment of section 80A. 21. In section 80A of the Income-tax Act, for sub-section (3), the following sub-section shall be substituted, namely:—
- “(3) Where in computing the total income of an association of persons or a body of individuals any deduction is admissible under section 80G or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80-I or section 80J, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association or body”.
- Amendment of section 80B. 22. In section 80B of the Income-tax Act, clauses (2), (4), (6) and (8) shall be omitted.
- Omission of section 80E. 23. Section 80E of the Income-tax Act shall be omitted.
- Insertion of new section 80F. 24. After section 80E of the Income-tax Act as so omitted, the following section shall be inserted, namely:—
- “80F. (1) In computing the total income of an assessee, being—
- (a) a person in receipt of income derived from property held under trust wholly for charitable or religious purposes in India or by an institution established wholly for such purposes in India; or
- (b) a person in receipt of income derived from property held under trust in part only for charita-

ble or religious purposes in India, the trust having been created before the commencement of this Act; or

(c) a person in receipt of income derived from property held under a trust created on or after the 1st day of April, 1952, or by an institution established on or after that date, for a charitable purpose which is for the benefit of citizens of India abroad or which tends to promote international welfare in which India is interested; or

(d) a trust or institution declared by the Board, by notification in the Official Gazette, to be a trust or institution of national importance, having regard to the objects set out in the instrument creating the trust or establishing the institution, the opinion of such experts in the respective fields of activity of the trust or institution as the Board may think fit to consult, and other relevant factors, there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified hereunder, namely :-

(i) any amount applied in India by the person referred to in clause (a), or by the trust or institution referred to in clause (d), during the previous year wholly and exclusively to the purposes of the trust or institution;

(ii) any amount applied in India by the person referred to in clause (b) during the previous year wholly and exclusively to the charitable or religious purposes of the trust;

(iii) any amount applied outside India by the person referred to in clause (c) during the previous year wholly and exclusively for the benefit of citizens of India abroad or for promoting international welfare in which India is interested, where the Board has, by general or special order, directed such amount to be deducted;

Provided that any such amount applied wholly and exclusively for the benefit of citizens of India abroad shall qualify for the deduction under this clause only if such amount is applied in accordance with a scheme framed by such person and approved by the Board and notified in the Official Gazette;

(iv) any amount invested or deposited during the previous year in such form or mode, in such manner and for such period as may be prescribed, where

such investment or deposit is held by such person or, as the case may be, trust or institution for a period of not less than six months ending with the due date for furnishing the return of income under sub-section (1) of section 139.

(2) The deduction under sub-section (1) shall not be allowed unless the following conditions are fulfilled, namely :-

(a) the person in receipt of the income or, as the case may be, the trust or institution has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner or any other authority prescribed in this behalf before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution :

Provided that the Commissioner or the authority so prescribed may, in his or its discretion, admit an application for the registration of any trust or institution after the period aforesaid.

Explanation.— Where an application for registration of the trust or institution has been made to the Commissioner in accordance with the provisions of section 12A as it stood immediately before the 1st day of April, 1989, the requirements of this clause shall be deemed to have been complied with;

(b) where the gross total income of the trust or institution for the previous year exceeds fifty thousand rupees, the accounts of the trust or institution for the previous year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(c) such other conditions as the Board may, having regard to the interests or quantum of the revenue, by general or special order, impose, and such conditions may include a condition that a nominee of the Board shall, notwithstanding anything contained in any other law for the time being in force or in any instrument constituting the trust or institution concerned or governing the working there-

of, be appointed on the Board of trustees of the said trust or, as the case may be, the governing body of the institution.

(3) The deduction under sub-section (1) shall not be allowed where—

(a) any part of the property of the trust or institution is held for a private religious purpose which does not enure for the benefit of the public or any part of the income from such property is applied to any such purpose as aforesaid;

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, the trust or institution is created or established for the benefit of any particular religious community or caste;

(c)(i) in the case of a trust or institution created or established after the commencement of this Act, any part of the income of the trust or institution, under the terms of the trust or the rules governing the institution, enures, or

(ii) in the case of a trust or institution whenever created or established, any part of the income or any property of the trust or institution is, during the previous year, used or applied,

in a manner which results directly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person; or

(d) any funds of the trust or institution are invested or deposited, for any period during the previous year, otherwise than in any such form or mode, in such manner and for such period as is prescribed for the purposes of clause (iv) of sub-section (1):

Provided that the Chief Commissioner or the Commissioner may, if he is satisfied, on an application by the trust or institution, that the application of the provisions of sub-clause (i) or sub-clause (ii) of clause (c) would result in grave hardship to the trust or institution, allow the deduction wholly or to such extent as he may deem fit having regard to the extent of the benefit, amenity or perquisite derived or enjoyed by the interested person:

Provided further that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) of clause (c) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution in the manner specified in that clause, if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution.

(4) Without prejudice to the generality of the provisions of clause (c) of sub-section (3), the income or the property of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied in a manner which results directly or indirectly in conferring any benefit, amenity or perquisite (whether convertible into money or not) on any interested person, if—

(a) any part of the income or property of the trust or institution is, or continues to be, lent to any interested person for any period during the previous year without either adequate security or adequate interest or both;

(b) any land, building or other property of the trust or institution is, or continues to be, made available for the use of any interested person for any period during the previous year without charging adequate rent or other compensation;

(c) any amount is paid by way of salary, allowance or otherwise during the previous year to any interested person out of the resources of the trust or institution for services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(d) the services of the trust or institution are made available to any interested person during the previous year without adequate remuneration or other compensation;

(e) any share, security or other property is purchased by or on behalf of the trust or institution from any interested person during the previous year for a consideration which is more than adequate;

(f) any share, security or other property is sold by or on behalf of the trust or institution to any

interested person during the previous year for a consideration which is less than adequate;

(g) any income or property of the trust or institution is diverted during the previous year in favour of any interested person:

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property so diverted does not exceed one thousand rupees;

(h) any funds of the trust or institution are, or continue to remain, invested for any period during the previous year in any concern in which any interested person has a substantial interest:

Provided that in a case where the aggregate of the funds of the trust or institution invested in a concern referred to in this clause does not exceed five per cent. of the capital of that concern, the deduction under sub-section (1) in respect of the amount referred to in clause (i) or clause (ii) of that sub-section shall not be denied in relation to the application of any income other than the income arising to the trust or institution from such investment, by reason only of this clause.

(5) Where deduction has been allowed under sub-section (1) for any previous year with reference to any amount referred to in clause (iv) of that sub-section and in any subsequent previous year the whole or any part of the investment or deposit in which such amount is held is realised or converted into cash the amount so realised or converted into cash shall, notwithstanding anything contained in any other provision of this Act, be deemed to be the income of the assessee of the previous year in which it is so realised or converted and shall be chargeable to tax accordingly.

(6) The deduction under sub-section (1) shall not be allowable in a case where the whole or any part of the income of the person or, as the case may be, trust or institution referred to in that sub-section is chargeable to income-tax, by virtue of the provisions of sections 60 to 63, as the income of the author of the trust or founder of the institution or any other person who has made a transfer of any income or asset to the trust or institution.

(7) Where the property referred to in clause (a) or clause (b) or clause (c) of sub-section (1) consists wholly or partly of a business undertaking, or any person, trust or institution referred to in clause (a) or clause (b) or clause (c) or clause (d) of that sub-section derives income from a business carried on by him or it, the foregoing provisions of this section shall apply subject to the following conditions and with the following modifications, namely :—

(a) separate books of account are maintained by such person, trust or institution in respect of such business; such accounts are maintained on the cash system of accounting and are audited by an accountant as defined in the Explanation below sub-section (2) of section 288, and the person, trust or institution furnished, along with the return of income for the relevant assessment year, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed;

(b) in computing the profits and gains of such business, no deduction shall be allowed in respect of any expenditure which results directly or indirectly in the provision of any remuneration, perquisite, benefit or amenity to any interested person, whether for any services rendered or otherwise;

(c) the provisions of sections 71 and 72 shall not be applicable in relation to any loss pertaining to such business;

(d) any amount referred to in clause (i) or clause (ii) or clause (iii) of sub-section (1), in so far as such amount is applied out of the profits and gains of such business, shall qualify for the deduction under that sub-section, if—

(i) such amount is so applied during the previous year; or

(ii) such amount is so applied during the financial year next following the previous year and, until it is so applied, the amount is kept in deposit in a separate account in any schedule bank and it is not utilised for any purpose which is not a purpose of the trust or institution,

and any amount which is not so applied out of such deposit during the financial year aforesaid shall be chargeable to tax as the income under the head "Profits

and gains of business or profession" of such person, trust or institution of the next following previous year and all the provision of this Act shall apply accordingly;

(e) any amount referred to in clause (iv) of sub-section (1) shall not be taken into account for the purpose of allowing the deduction under that sub-section, in so far as such amount relates to the profits and gains of such business;

(f) without prejudice to the provisions of sub-section (3), the deduction under sub-section (1) shall not be allowed in a case where—

(i) such business consists, wholly or partly, in—

(A) the purchase and sale of any securities or shares;
or

(B) money-lending or financing in any form; or

(C) speculation in securities or shares or any other commodities; or

(D) engaging in the conduct of, or participating in, any lottery or crossword puzzle, races including horse races, card games or other games of any sort or gambling or betting of any form or nature whatsoever; or

(E) such other activity as may be prescribed; or

(ii) the person, trust or institution aforesaid engages in any business transaction with any interested person or with any concern in which any interested person has a substantial interest;

(iii) such person, trust or institution enters into any partnership or joint venture or forms any association of persons or a body of individuals with any interested person has a substantial interest.

(8) The Board may, by general or special order, direct that any power or authority conferred upon it under this section may, subject to such conditions and restrictions as it may think fit to impose, be exercised also by such officer not below the rank of a Commissioner as it may specify in the order.

Explanation 1.—For the purposes of this section,—

(a) “interested person” means—

(i) the author of the trust or the founder of the institution;

(ii) any person who has made a substantial contribution to the trust or institution, that is to say, any person whose total contribution up to the end of the relevant previous year exceeds twenty-five thousand rupees;

(iii) where such author, founder or person is a Hindu undivided family, a member of the family or any relative of such member;

(iv) any trustee of the trust or manager (by whatever name called) of the institution;

(v) any relative of any such author, founder, person, member, trustee or manager as aforesaid;

(vi) any concern in which any of the persons referred to in sub-clauses (i), (ii), (iii), (iv), and (v) has a substantial interest;

(b) “relative,” in relation to an individual, means,—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) any lineal ascendant or descendant of the individual;

(v) any lineal ascendant or descendant of the spouse of the individual;

(vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);

(vii) any lineal ascendant or descendant of a brother or sister of either the individual or of the spouse of the individual;

(c) “scheduled bank” shall have the same meaning as in clause (ii) of the Explanation to clause (vii) of sub-section (1) of section 36;

(d) "trust" includes any other legal obligation,

(e) any reference to "institution" shall be construed as including also a reference to "fund".

Explanation 2.—A trust or institution created or established for the benefit of scheduled castes, backward classes, scheduled tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (3).

Explanation 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of the other persons referred to in clause (a) of Explanation 1;

(ti) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in clause (a) of Explanation 1 are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern'.

25. In section 80G of the Income-tax Act,—

(a) in sub-section (1), in clause (i), for the words, brackets, figures and letter "sub-clause (iiia) or in", the words, brackets, figures and letters "sub-clause (iiia) or sub-clause (iiid) or sub-clause (iiie) or" shall be substituted; Amendment of section 80G.

(b) in sub-section (2), after sub-clause (iiic) of clause (a), the following sub-clauses shall be inserted, namely:—

"(iiid) the rural development fund set up and notified by the Central Government in this behalf; or

(iiie) a trust or institution of national importance referred to in clause (b) of sub-section (1) of section 80F which has as its main object the undertaking of scientific research or carrying out of any rural development programme or any programme of

conservation of natural resources or of afforestation of wasteland; or”;

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

“(4) Where the aggregate of the sums referred to in sub-clauses (iv), (v) and (vii) of clause (a) and in clause (b) of sub-section (2) exceeds ten per cent. of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), then the amount in excess of ten per cent of the gross total income shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).”;

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

“(i) where the institution or fund derives any income, such income would not be liable to be included in its total income under the provisions of clause (22) or clause (22A) or clause (23AA) or clause (23C) of section 10, or the trust or institution [other than the trust or institution referred to in sub-clause (iii) of clause (a) of sub-section (2)] is eligible for the deduction under section 80F;”;

(e) in Explanation 2, for clauses (i) and (ii), the following clauses shall be substituted, namely:—

(i) that, subsequent to the donation, the trust or institution has become ineligible for the deduction under section 80F due to non-compliance with any of the provisions of that section;

(ii) that the deduction under section 80F is denied in relation to the application of any income arising to it from any investment referred to in clause (h) of sub-section (4) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent of the capital of that concern;”;

26. Section 80GGA of the Income-tax Act shall be omitted.

Omission
of section
80GGA.

Amendment of section 80L. 27. In section 80-L of the Income-tax Act, in sub-section (1), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1988, namely:—

“(va) income received in respect of units of a Mutual Fund specified under clause (23D) of section 10;”.

Omission of section 80QQ. 28. Section 80QQ of the Income-tax Act shall be omitted.

Substitution of new section for section 86. 29. For section 86 of the Income-tax Act, the following section shall be substituted, namely:—

Share of member of an association of persons or body of individuals in the income of the association or body.

“86. Where the assessee is a member of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India, income-tax shall not be payable by the assessee in respect of his share in the income of the association or body computed in the manner provided in section 67:

21 of 1860

Provided that,—

(a) where the association or body is chargeable to tax on its total income at the maximum marginal rate or any higher rate, under any of the provisions of this Act, the share of a member computed as aforesaid shall not be included in his total income;

(b) in any other case, the share of a member computed as aforesaid shall form part of his total income:

Provided further that where no income-tax is chargeable on the total income of the association or body, the share of a member computed as aforesaid shall be chargeable to tax as part of his total income and nothing contained in this section shall apply to the case.”.

30. For sections 116, 117 and 118 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely.—

Substitution of new sections for sections 116 117 and 118.

“116. There shall be the following classes of **Income-tax authorities** for the purposes of this Act, namely:

54 of 1963.

(a) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963,

(b) Directors-General of Income-tax or Chief Commissioners of Income-tax,

(c) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

(d) Deputy Directors of Income-tax or Deputy Commissioner of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(e) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(f) Income-tax Officers,

(g) Tax Recovery Officers,

(h) Inspectors of Income-tax.

117. (1) The Central Government may appoint such persons as it thinks fit to be **income-tax authorities**. **Appointment of income-tax authorities.**

(2) Without prejudice to the provisions of subsection (1), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a Director-General, a Chief Commissioner or a Director or a Commissioner to appoint **income-tax authorities** below the rank of an Assistant Commissioner.

(3) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an **income-tax authority** authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

Control of income-tax authorities.

118. The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or Authorities as may be specified in such notification.”.

Amendment of section 119.

31. In section 119 of the income-tax Act, with effect from the 1st day of April, 1988,—

(a) in sub-section (2), in clause (b), for the words “the Commissioner or the Income-tax Officer”, the words “and brackets “any income-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals)” shall be substituted;

(b) sub-section (3) shall be omitted.

Substitution of new section for section 120.

32. For section 120 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Jurisdiction of income-tax authorities.

“120. (1) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

(2) The directions of the Board under sub-section (1) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(3) In issuing the directions or orders referred to in sub-sections (1) and (2), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria namely:—

- (a) territorial area;
- (b) persons or classes of persons;
- (c) incomes or classes of income; and
- (d) cases or classes of cases.

(4) Without prejudice to the provisions of sub-sections (1) and (2), the Board may, by general or

special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

(a) authorise any Director-General or Director to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(b) empower the Director-General or Chief Commissioner or Commissioner to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by a Deputy Commissioner, and, where any order is made under this clause, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such Deputy Commissioner by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the Deputy Commissioner shall not apply.

(5) The directions and orders referred to in sub-sections (1) and (2) may, wherever considered necessary or appropriate for the proper management of the work, require to or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(6) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the

income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification”.

33. Sections 121, 121A, 122, 123, 125, 125A, 126, 128, 130 and 130A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

Omission
of sec-
tions 121,
121A, 122,
123, 125,
125A,
126, 128,
130 and
130A.

34. For section 124 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely :—

Substitu-
tion of
new sec-
tion for
section
124.

“124. (1) Where, by virtue of any direction or order issued under sub-section (1) or sub-section (2) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

Jurisdic-
tion of
Assessing
Officers.

(a) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and.

(b) in respect of any other person residing within the area.

(2) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the Director-General or the Chief Commissioner or the Commissioner; or where the question is one relating to areas within the jurisdiction of different Directors General or Chief Commissioners or Commissioners, by the Directors General or Chief Commissioners or Commissioners concerned or, if they are not in agreement by the Board or by such Director General or Chief Commissioner or Commissioner or as the Board may, by notification in the Official Gazette, specify.

(3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(a) where he has made a return under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or after the completion of the assessment, whichever earlier;

(b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (1) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgement of the Assessing Officer, whichever is earlier.

(4) Subject to the provisions of sub-section (3), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (2) before the assessment is made.

(5) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (1) or sub-section (2) of section 120.”

35. For section 127 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely :—

Substitution of new section for section 127.

Power to transfer cases.

‘127. (1) The Director General or Chief Commissioner or Commissioner may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officers or Assessing Officers- (whether with or without concurrent jurisdiction) also sub-ordinate to him.

(2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Director General or Chief Commissioner or Commissioner,—

(a) where the Directors General or Chief Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Director General or Chief Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(b) where the Directors General or Chief Commissioners or Commissioners aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such Director General or Chief Commissioner or Commissioner as the Board may, by notification in the Official Gazette, authorise in this behalf.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(4) The transfer of a case under sub-section (1) or sub-section (2) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.

Explanation — In section 120 and this section, the word "case" in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act, in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year."

36 In section 131 of the Income-tax Act,—

Amend-
ment of
section 131.

(a) in sub-section (1A), for the words "If the Assistant Director of Inspection", the words, brackets and figures "If the Director General or Director, or the authorised officer referred to in sub-section (1) of section 132, before he takes action under clauses (i) to (v) of that sub-section", shall be substituted;

(b) sub-section (2), shall be omitted.

Amend-
ment of
section 132.

37. In section 132 of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words "or Income-tax Officer" occurring in clauses (A) and (B), the words "Assistant Commissioner or Income-tax Officer" shall be substituted;

(ii) in the proviso, for the word and figures "section 121", the word and figures "section 120" shall be substituted;

(b) in sub-section (1A), for the word and figures "section 121", the word and figures "section 120" shall be substituted;

(c) in sub-section (3), the following Explanation shall be inserted at the end, namely,—

"Explanation — For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iii) of sub-section (1)";

(d) in sub-section (4), the following Explanation, shall be inserted at the end, namely,—

"Explanation — For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922, or under this Act";

11 of 1922

(e) after sub-section (8), the following sub-section shall be inserted, namely,—

“(8A) An under sub-section (3) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorised officer, for reasons to be recorded by him in writing, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Commissioner for such extension:

Provided that the Commissioner shall not approve the extension of the period for any period beyond the expiry of thirty days after the completion of all the proceedings under this Act in respect of the years for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.”;

(f) in Explanation 1, for the words, brackets and figure “the period of one hundred and twenty days for the purposes of sub-section (5)”, the words, brackets and figure “the period referred to in sub-section (5) for the purposes of that sub-section” shall be substituted.

38. In section 132A of the Income-tax Act, in sub-section (1), for the words “or Income-tax Officer”, the words, “Assistant Commissioner or Income-tax Officer” shall be substituted. Amendment of section 132A.

39. In section 133 of the Income-tax Act,—

(a) in clause (4), for the words “four hundred rupees”, the words “one thousand rupees, or such higher amount as may be prescribed” shall be substituted; Amendment of section 133.

(b) the following proviso shall be added at the end, namely:—

“Provided that the powers referred to in clause (6), may also be exercised by the Director-General, the Chief Commissioner, the Director and the Commissioner.”.

40. In section 133A of the Income-tax Act, in the Explanation, in clause (a), for the words “if so authorised by the Income-tax Officer”, the words “if so authorised by any such authority” shall be substituted. Amendment of section 133A.

41. In section 138 of the Income-tax Act, in sub-section (1),—

(i) in clause (a), for the words and figures “relating to any assessee in respect of any assess- Amendment of section 138

ment made under this Act or under the Indian Income-tax Act 1922", the following shall be substituted, namely:—

"received or obtained by any income-tax authority in the performance of his functions under this Act";

(ii) in clause (b),—

11 of 1922

(1) for the words, figures and letters "in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 on or after the 1st day of April, 1960", the words "received or obtained by any income-tax authority in the performance of his functions under this Act" shall be substituted;

(2) the words "in respect of that assessment only" shall be omitted.

42. In section 139 of the Income-tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 139

(1) Every person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

Explanation.—In this sub-section, "due date" means—

(a) where the assessee is a company the 31st day of December of the assessment year;

(b) where the assessee is a person, other than a company,—

(i) in a case where the accounts of the assessee are required under this Act or any other law to be audited, or in the case of a co-operative society, the 31st day of October of the assessment year;

(ii) in a case where the total income referred to in this sub-section includes any income from business or profession, not being a case falling under sub-clause (i), the 31st day of August of the assessment year;

(iii) in any other case, the 30th day of June of the assessment year;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3) (as amended by section 12 of the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986),— 46 of 1986

(i) the words, brackets and figure "has not been served with a notice under sub-section (2)," shall be omitted;

(ii) the words "or by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained" shall be omitted;

(d) for sub-sections (4) and (4A), the following sub-sections shall be substituted, namely:—

"(4) Any person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier:

Provided that where the return relates to a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.

(4A) Every person, trust or institution referred to in sub-section (1) of section 80F shall, if the total income in respect of which such person, trust or institution is assessable (the total income for this purpose being computed without giving effect to the provisions of that section) exceeds the maximum amount which is not chargeable to income tax, furnish a return of such income of the previous year,

in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).”;

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

“(5) If any person, having furnished a return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment whichever is earlier.

Provided that where the return relates to the previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the reference to one year aforesaid shall be construed as a reference to two years from the end of the relevant assessment year.”;

(f) in sub-sections (6) and (6A), for the words, brackets and figures “in sub-sections (1), (2) and (3)”, the words, brackets and figures “in sub-sections (1) and (3) of this section, and in clause (i) of sub-section (1) of section 142” shall be substituted;

(g) sub-section (7) shall be omitted;

(h) in sub-section (8), after clause (b), the following clause shall be inserted, namely:—

“(c) The provisions of this sub-section shall apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references therein to the other provisions of this Act shall be construed as references to the said provisions as they were applicable to the relevant assessment year.”;

(i) in sub-section (10), in the proviso, for clauses (c) and (d), the following clause shall be substituted, namely:—

“(c) a return of loss which has been furnished in accordance with the provisions of sub-section (3);

(d) a return furnished under sub-section (4A), in respect of a person, trust or institution referred to in sub-section (1) of section 80F;”.

43. In section 139A of the Income-tax Act,—

(i) in sub-sections (1) and (2), for the words “any accounting year”, the words “any previous year” shall be substituted;

Amend-
ment of
section
139A

(ii) in sub-section (6), after clause (b), the following clause shall be inserted, namely:—

“(c) the categories of documents pertaining to business or profession of the persons to whom permanent account numbers have been allotted, in which such numbers shall be quoted by them.”;

(iii) in the Explanation, clause (a) shall be omitted.

Amend-
ment of
section 140.

44. In section 140 of the Income-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf:

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;”;

(ii) to clause (c), the following provisos shall be added, namely:—

“Provided that where the company is not resident in India the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return :

Provided further that,—

(a) where the company is being wound up, whether under the orders of a court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178;

(d) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof;”;

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

“(dd) in the case of a political party referred to in sub-section (4B) of section 139, by the chief executive officer of such party (whether such chief executive officer is known as secretary or by any other designation);”.

Ament-
ment of
section
140A.

45. In section 140A of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words “the assessee shall be liable to pay such tax before furnishing the return and the return shall be accompanied by proof of payment of such tax”, the following shall be substituted, namely:—

“the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest”;

(ii) the following Explanation shall be inserted at the end, namely:—

“Explanation:—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid, and all the provisions of this Act shall apply accordingly.”.

46. Section 141A of the Income-tax Act, shall be omitted.

Omission of section 141 A.

47. In section 142 of the Income-tax Act, in Sub-section (1),—

Amendment of section 142.

(a) in the opening paragraph, for the words, brackets and figures “or to whom a notice has been issued under sub-section (2) of section 139 (whether a return has been made or not)”, the words, brackets and figure “or in whose case the time allowed under sub-section (1) of that section for furnishing the return has expired” shall be substituted;

(b) clauses (i) and (ii) shall be re-numbered as clauses (ii) and (iii) thereof respectively, and before clause (ii) as so re-numbered, the following clause shall be inserted, namely:—

“(i) where such persons has not made a return before the end of the relevant assesment year, to furnish a return of his income or the income of any other person in respect of which he is assessable under this Act, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or”.

Substitution of 4. For section 143 of the Income-tax Act, the following section shall be substituted, namely:—
for section 143.

Assessment. “143. (1) (a) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142.—

(i) if any tax or interest is found due on the basis of such return, after adjustment of any tax deducted at source, any advance tax paid and any amount paid otherwise by way of tax or interest,

then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the income or loss declared in the return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any loss carried forward, deduction, allowance or relief, which, on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed in the return, shall be allowed;

(iii) any loss carried forward, deduction, allowance or relief claimed in the return, which, on the basis of the the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed.

(b) Where, as a result of an order made under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264, or any order of settlement made under sub-section (4) of section 245D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause(a), there is any variation in the carry forward loss, deduction, allowance or relief claimed in the return, and as a result of which,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 156 and all the provisions of this Act shall apply accordingly, and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him on the basis of such assessment.”.

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

Amend-
ment of
section
144

(a) in clause (a), for the words, brackets and figures “by any notice given under sub-section (2) of section 139”, the words, brackets and figures “under sub-section (1) of section 139” shall be substituted;

(b) for the words “shall make the assessment,” the words “shall after giving the assessee an opportunity of being heard, make the assessment” shall be substituted;

(c) the words “or refundable to the assessee” shall be omitted;

(d) the following provisos shall be added at the end, namely:—

“Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (1) of section 142 has been issued prior to the making of an assessment under this section.”.

50. In section 144A of the Income-tax Act, sub-section (2) shall be omitted.

Amendment of section 144A.

51. Section 144B of the Income-tax Act shall be omitted.

Omission of section 144B.

Amendment of section 145.

52. In section 145 of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that where no method of accounting is regularly employed by the assessee, any income by way of interest on securities shall be chargeable to tax as the income of the previous year in which such interest is due to the assessee.”.

Omission of section 146.

53. Section 146 of the Income-tax Act shall be Omitted.

Substitution of new sections for sections 147 and 148.

54. For sections 147 and 148 of the Income-tax Act, the following sections shall be substituted, namely:—

Income escaping assessment.

“147. If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any

other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):

Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;

(b) Where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(c) where an assessment has been made, but —

(i) income chargeable to tax has been underassessed; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed.

148. Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139”.

Issued of
notice
where in-
come has
escaped
assess-
ment.

55. In section 149 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely —

Amend-
ment of
section 149

“(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 143 or section 147 has been made for such assessment year,—

(i) if four years, have elapsed from the end of relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to more than rupees one lakh or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii):

(ii) If four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

Explanation — In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of Explanation 2 of section 147 shall apply as they apply for the purposes of that section."

Amend-
ment of
section 150

56. In section 150 of the Income-tax Act, in sub-section (1), the words "or by a court in any proceeding under any other law" shall be added at the end.

Substitution
of new sec-
tion for sec-
tion 151

57. For section 151 of the Income-tax Act, the following section shall be substituted, namely :—

Sanctio
for issue
of notice.

"151. (1) In a case where an assessment under sub-section (3) of section 143 or section 147 has been made for the relevant assessment year, no notice shall be issued under section 148 except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice."

Amend-
ment of
section 152

58. In section 152 of the Income-tax Act, in sub-section (2), for the words, brackets, letter and figures "in circumstances falling under clause (b) of section 147".

the words and figures "under section 147" shall be substituted.

Amend-
ment of
section 153

59. In section 153 of the Income tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of two years from the end of the assessment year in which the income was first assessable.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of two years from the end of the financial year in which the notice under section 148 was served:

Provided that where the notice under section 148 was served on or before the 31st day of March, 1987, such assessment, reassessment or recomputation may be made at any time up to the 31st day of March, 1990.";

(c) ~~clause (iv) of Explanation 1 shall be omitted.~~

60. In section 154 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 154.

"(1) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may—

(a) amend any order passed by it under the provisions of this Act;

(b) amend any intimation sent by it under sub-section (1) of section 143, or enhance or reduce the amount of refund granted by it under that sub-section."

61. In section 155 of the Income-tax Act,—

(a) in sub-section (1), in the opening paragraph, for the words "Where in respect of any completed assessment of a partner in a firm", the words, figu-

Amend-
ment of
section 155

res and letters "Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April 1989, or any earlier assessment year," shall be substituted;

(b) sub-sections (3) and (13) shall be omitted;

(c) sub-sections (5B), (6), (7A), (8), (8A), (9), (9A), (10), (10B) and (10C) shall be omitted with effect from the 1st day of April, 1992.

62. In section 158 of the Income-tax Act, for the words "Whenever a registered firm is assessed" the words, figures and letters "Whenever, in respect of the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, a registered firm is assessed" shall be substituted.

Amendment of section 158

Insertion of new Chapter XIV-B.

63. After section 158A of the Income-tax Act, the following Chapter shall be inserted, namely:--

"CHAPTER XIV-B

CHARGE OF ADDITIONAL INCOME-TAX IN CERTAIN CASES

Additional income-tax

158B. (1) Where, in the case of any person, the total income determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed income) exceeds the total income declared in the return of income furnished by such person for that assessment year (hereafter in this section referred to as returned income) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 143 or section 144, be liable to pay, by way of additional income-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of thirty per cent.

(2) For the purposes of sub-section (1),--

(a) where such person has furnished two or more returns of income for the same assessment year, the total income declared in the return furnished last before the service of a notice under sub-section (2) of section 143 on such person shall be treated as the returned income;

(b) where such person fails to furnish the return of income in respect of any assessment year and the assessment for that year is made under section 144, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be nil;

(c) where such person fails to furnish a return of income for any assessment year under section 139, but furnishes such return after he is served with a notice under section 148, the returned income shall be taken to be the total income on which tax, by way of advance tax, deduction of tax at source and otherwise, has been paid, and where no such tax has been paid, the returned income shall be taken to be nil;

(d) where such person has furnished a return of loss under sub-section (3) of section 139 for any assessment year, the additional income-tax under sub-section (1) shall be calculated at the rate specified in that sub-section on the sum or, as the case may be, the aggregate of the sums by which the loss is reduced to a lower amount or, as the case may be converted into a positive amount of income in the regular assessment.

(3) Where, as a result of an order under section 147 or section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of settlement passed under sub-section (4) of section 245D, the amount on which the additional income-tax is payable under sub-section (1) has been increased or reduced, as the case may be, the additional income-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional income-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and all the provisions of this Act shall apply accordingly;

(ii) in a case where the additional income-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional income

tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed income or loss as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is bona fide and all the facts relating to the same and material to the computation of the assessed income or loss have been disclosed by him :

Provided that—

(i) where an appeal before the Deputy Commissioner (Appeals) or the Commissioner (Appeals) has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional income-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional income-tax shall be accompanied by a fee of one hundred rupees.

(5) Where, in the course of a search under section 132, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income,—

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

(b) for any previous year which is to end on or after the date of the search,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of the search, such income shall not, for the purposes of liability to the additional income tax under this section, be treated as forming part of the returned income, unless,—

(i) such income is, or the transactions resulting in such income are, recorded,—

(A) in a case falling under clause (a), before the date of the search; and

(B) in a case falling under clause (b), on or before the date of the search,

in the books of account, if any, maintained by him for any source of income or such income is otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(ii) the assessee, in the course of the search, makes a statement under sub-section (4) of section 132 that the money, bullion, jewellery or other valuable article or thing found in his possession or under his control, has been acquired out of his income which has not been disclosed so far in his return of income to be furnished before the expiry of the time specified in sub-section (1) of section 139, and also specifies in the statement the manner in which such income has been derived and pays the tax together with interest, if any, in respect of such income.

(6) The additional income-tax payable under this section shall not be included—

(i) in the amount of the tax payable on the total income as determined on regular assessment, for the purposes of sub-section (1) of section 234A; or

(ii) in the amount of the assessed tax, for the purposes of sub-section (1) of section 234B.”

Amend-
ment of
section
164.

64. In section 164 of the Income-tax Act,—

(a) in sub-section (1),—

(i) in the opening portion, for the brackets, figures and words “(1) Subject to the provisions of sub-sections (2) and (3), where”, the word “Where” shall be substituted;

(ii) in the first proviso, for the words “association of persons”, in the two places where they occur, the word “individual” shall be substituted;

(b) sub-sections (2) and (3), and Explanation 2 shall be omitted.

Amend-
ment of
section
164A.

65. In section 164A of the Income-tax Act, in the Explanation, clause (i) shall be omitted,

Substitu-
tion of
new sec-
tions for
section
167A.

66 In Chapter XV of the income-tax Act, for the sub heading "DD.— Association of persons—special cases", and section 167A below it, the following shall be substituted, namely :—

"DD.—Firms, association of persons and body of individuals.

167A. In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the maximum marginal rate.

Charge of
tax in the
case of
a firm.
Charge of
tax where
shares of
members
in associa-
tion of per-
sons or
body of
individuals
unknown,
etc,

21 of 1860.

167B. (1) Where the individual shares of the members of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India] in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1)], the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of an individual under the Finance Act of of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body (whether or not it exceeds the maximum amount aforesaid) is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

Explanation.—For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be interminate or unknown if such shares (in relation to the whole or any part of such income) are indetermi-

nate or unknown on the date of formation of such association or body or at any time thereafter.”.

67. Sub-heading “A.—Assessment of firms,” and sections 182 and 183 of the Income-tax Act shall be omitted.

Omission of sections 182 and 183.

68. For the sub-heading “B.—Registration of firms” before section 184, and for sections 184, 185 and 186 of the Income-tax Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 184, 185 and 186.

184. (1) A firm shall be assessed as a firm for the purposes of this Act, if—

Assessment as a firm.

(i) the partnership is evidenced by an instrument; and
(ii) the individual shares of the partner are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm or the previous year for the assessment year in respect of which assessment as a firm is first sought.

Explanation.—For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(3) The return of income referred to in sub-section (2) shall be signed and verified by all the partners, not being minors.

(4) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(5) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

(6) Notwithstanding anything contained in the foregoing provisions of this section, where, in respect of any assessment year, there is, on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.

Assessment when section 184 not complied with.

185. Where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same manner as an association of persons, and all the provisions of this Act shall apply accordingly.”.

Amendment of section 187.

69. In section 187 of the Income-tax Act, in sub-section (1), the proviso shall be omitted.

Insertion of new section 188A.

70. After section 188 of the Income-tax Act, the following section shall be inserted, namely:—

Joint and several liability of partners for tax payable by firm.

“188A. Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.”.

71. In section 189 of the Income-tax Act, the Explanation below sub-section (3) shall be omitted.

Amendment of section 189.

72. In chapter XVI of the Income-tax Act, after section 189, the following section shall be inserted, namely:—

Insertion of new section 189A.

“189A. In relation to the assessment of any firm and its partners for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, the provisions of this Chapter as they stood immediately before the date of commencement of the Direct Tax Laws (Amendment) Act, 1987, shall continue to apply.”.

Provisions applicable to past assessments of firms.

73. In section 194A of the Income-tax Act, in sub-section (3), clause (iv) shall be omitted with effect from the 1st day of April, 1988.

Amendment of section 194A.

74. After section 194D of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:—

“194E, (1) Any person assessable as a firm who is responsible for paying to a partner any income by way of,—

(a) interest on capital or any other sum borrowed by it from the partner;

(b) salary, bonus, commission or remuneration, by whatever name called,

shall at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax on the estimated amount of the interest or as the case may be, salary, bonus, commission or remuneration aforesaid due to the partner during the financial year at the average rate of income-tax computed on the basis of the rates in force for that financial year in which such income is credited or paid to the partner.

(2) Where, during the financial year, an assessee derives such income simultaneously from more than one firm, or where he was successively a partner in more than one firm, he may furnish to the firm responsible for making the payment referred to in sub-section (1) (being one of the said firms as the assessee may, having regard to the circumstances of his case, choose), such details of the payments referred to in sub-section (1) due or received by him from the other firm or firms, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the firm responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).

(3) Where an assessee who receives the payments referred to in sub-section (1) has, in addition, any income other than the income referred to in sub-section (1) (not being a loss under any head of income) for the same financial year, he may send to the firm responsible for making the payment referred to in sub-section (1) the particulars of such other income and of any tax deducted thereon under any other provision of this Chapter, in such form and verified in such manner as may be prescribed

Insertion of new section 194E.

Interest, salary, bonus, commission or remuneration to partners.

and thereupon the firm responsible as aforesaid shall take such other income and the tax, if any, deducted thereon also into account for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from the payments referred to in sub-section (1) below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.

(4) The firm responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year."

Substitution of new sections for section 196. 75. For section 196 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Interest or dividend or other sums payable to Government Reserve Bank or certain corporations. "196. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by any person from any sums payable to—

(i) the Government, or

(ii) the Reserve Bank of India or

(iii) a corporation established by or under a Central Act which is, under any law for the time being in force, exempt from income-tax on its income, or

(iv) a Mutual Fund specified under clause (23D) of section 10,

where such sum is payable to it by way of interest or dividend in respect of any securities or shares owned by it or in which it has full beneficial interest, or any other income accruing or arising to it.

Tax not to be deducted from any sums payable to unit holders. 196A. Notwithstanding anything contained in the foregoing provisions of this Chapter, no deduction of tax shall be made by a public sector bank or a public financial institution referred to in clause (23D)

ders of Mutual Fund. of section 10 from any sums payable to unit-holders of a Mutual Fund specified under that clause.”.

76. For sections 207 and 208 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitution of new sections for sections 207 and 208.

207. Tax shall be payable in advance during any financial year, in accordance with the provisions of sections 208 to 219 (both inclusive), in respect of the total income of the assessee which would be chargeable to tax for the assessment year immediately following that financial year, such income being hereafter in this Chapter referred to as “current income”.

Liability for payment of advance tax.

208. Advance tax shall be payable during a financial year in every case where the amount of such tax payable by the assessee during that year, as computed in accordance with the provisions of this Chapter, is one thousand five hundred rupees or more.’.

Conditions of liability to pay advance tax.

77. In section 209 of the Income-tax Act, with effect from the 1st day of April, 1988,—

Amendment of section 209.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The amount of advance tax payable by an assessee in the financial year shall, subject to the provisions of sub-sections (2) and (3), be computed as follows, namely:—

(a) where the calculation is made by the assessee for the purposes of payment of advance tax under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, he shall first estimate his current income and income-tax thereon shall be calculated at the rates in force in the financial year;

(b) where the calculation is made by the Assessing Officer for the purpose of making an order under sub-section (3) of section 210, the total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment or the total income returned by the assessee in any return of income furnished by him for any

subsequent previous year, whichever is higher, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(c) where the calculation is made by the Assessing Officer for the purpose of making an amended order under sub-section (4) of section 210, the total income declared in the return furnished by the assessee for the later previous year, or, as the case may be, the total income in respect of which the regular assessment, referred to in that sub-section has been made, shall be taken and income-tax thereon shall be calculated at the rates in force in the financial year;

(d) the income-tax calculated under clause (a) or clause (b) or clause (c) shall, in each case, be reduced by the amount of income tax which would be deductible at source during the said financial year under any provision of this Act from any income (as computed before allowing any deductions admissible under this Act) which has been taken into account in computing the current income or, as the case may be, the total income aforesaid; and the amount of income-tax as so reduced shall be the advance tax payable.”;

(b) in sub-section (2),—

(i) in clause (a),—

(A) in the opening portion, for the words, brackets, figures and letter “where the assessee sends a statement under sub-section (1) of section 209A or where the Income-tax Officer makes an order under sub-section (1) or sub-section (3) of section 210”, the words, brackets and figures “where the Assessing Officer makes an order under sub-section (3) or sub-section (4) of section 210” shall be substituted;

(B) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(i) if the total income declared by the assessee for the later previous year referred to in sub-section (4) of section 210 forms the basis of computation of advance tax, the net agricultural income as returned by the assessee in the return of income for the assessment year relevant to such later previous year;”;

(ii) for clause (b), the following clause shall be substituted, namely:—

“(b) in cases where the advance tax is paid by the assessee on the basis of his estimate of his current income under sub-section (1) or sub-section (2) or sub-section (5) or sub-section (6) of section 210, the net agricultural income, as estimated by him, of the period which would be the previous year for the immediately following assessment year;”;

(c) in sub-section (3),—

(i) in the opening portion, for the words and figures “under section 210”, the words, brackets and figures “under sub-section (3) or sub-section (4) of section 210” shall be substituted;

(ii) in clause (b), for the words, figures and letter “on the basis of which tax has been paid by the Hindu undivided family under section 140A”, the words, figures and brackets “in respect of which a return of income is furnished by the Hindu undivided family under section 139 or in response to a notice under sub-section (1) of section 142” shall be substituted.

Omission
of
section
209A.

78. Section 209A of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

79. For section 210 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely,—

Substitu-
tion of new
section for
section 210

“210. (1) Every person who is liable to pay advance tax under section 208 (whether or not he has been previously assessed by way of regular assessment) shall; of his own accord, pay, on or before each of the due dates specified in section 211, the appropriate percentage, specified in that section, of the advance tax on his current income, calculated in the manner laid down in section 209.

Payment of
advance
tax by the
assessee of
his own ac-
cord or in
pursuance
of order of
Assessing
Officer

(2) A person who pays any instalments of advance tax under sub-section (1), may increase or reduce the amount of advance tax payable in the remaining instalment or instalments to accord with his estimate of his current income and the advance tax payable thereon, and make payment of the said amount in the remaining instalment or instalments accordingly.

(3) In the case of a person who has been already assessed by way of regular assessment in respect of the total income of any previous year and who has not paid any advance tax under sub-section (1), the Assessing Officer, if he is of opinion that such person is liable to pay advance tax, may, at any time during the financial year but not later than the last day of February, by order in writing, require such person to pay advance tax calculated in the manner laid down in section 209, and issue to such person a notice of demand under section 156 specifying the instalment or instalments in which such tax is to be paid.

(4) If, after the making of an order by the Assessing Officer under sub-section (3) and at any time before the 1st day of March, a return of income is furnished by the assessee under section 139 or in response to a notice under sub-section (1) of section 142, or a regular assessment of the assessee is made, in respect of a previous year later than that referred to in sub-section (3), the Assessing Officer may make an amended order and issue to such assessee a notice of demand under section 156 requiring the assessee to pay, on or before the due date or each of the due dates specified in section 211 falling after the date of the amended order, the appropriate percentage, specified in section 211, of the advance tax computed on the basis of the total income declared in such return or in respect of which the regular assessment aforesaid has been made.

(5) A person who is served with an order of the Assessing Officer under sub-section (3) or an amended order under sub-section (4) may, if in his estimation the advance tax payable on his current income would be less than the amount of the advance tax specified in such order or amended order, send an intimation in the prescribed form to the Assessing Officer to that effect and pay such advance tax as accords with his estimate, calculated in the manner laid down in section 209, at the appropriate percentage thereof specified in section 211, on or before the due date or each of the due dates specified in section 211 falling after the date of such intimation.

(6) A person who is served with an order of the Assessing Officer under sub-section (3) or amended order under sub-section (4) shall, if in his estimation the advance tax payable on his current income would exceed the amount of advance tax specified in such order or amended order or intimated by him under sub-section (5), pay on or before the due date of the last instal-

ment specified in section 211, the appropriate part or, as the case may be, the whole of such higher amount of advance tax as accords with his estimate, calculated in the manner laid down in section 209.”.

Substitu- 80. For section 211 of the Income-tax Act, the
tion of new following section shall be substituted with effect from
section for the 1st day of April, 1988, namely :—
section 211

Instalments of advance tax and due dates “211. (1) Advance tax on the current income, calculated in the manner laid down in section 209 shall be payable by all the assesseees who are liable to pay the same in three instalments during each financial year, the due date of, and the amount payable in, each such instalment being as specified in the following Table :

TABLE

| Due date of instalment | Amount payable |
|---------------------------------|--|
| On or before the 15th September | Not less the twenty per cent. of such advance tax. |
| On or before the 15th December | Not less than fifty per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier instalment. |
| On or before the 15th March | The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments. |

Provided that any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act.

(2) If the notice of demand issued under section 156 in pursuance of an order of the Assessing Officer under sub-section (3) or sub-section(4) of section 210 is served after any of the due dates specified in sub-section (1), the appropriate part or, as the case may be the whole of the amount of the advance tax specified in such notice shall be payable on or before each of such of those dates as fall after the date of service of the notice of demand”.

Omission
of sections
212 and 213

81. Section 212 and 213 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1988.

82. In section 214 of the Income-tax Act,—

(a) in sub-section (1AA), after the word and figures “section 264”, the words, brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” shall be inserted;

Amend-
ment of
section
214.

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

“(3) This sections 215, 216 and 217 shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment year and, in the application of the said sections to the assessment for any earlier assessment year, references therein [except in sub-section (1A) and sub-section (3) of section 215] to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”

83. In section 215 of the Income-tax Act, in sub-section (3), after the word and figures ‘section 264’, the words, brackets, figures and letter ‘or an order of the Settlement Commission under sub-section (4) of section 245D’ shall be inserted.

Amend-
ment of
section 215

84. For section 218 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1988, namely:—

Substitu-
tion of
new section
for section
218.

“218. If any assessee does not pay on the date specified in sub-section (1) of section 211, any instalment of advance tax that he is required to pay by an order of the Assessing Officer under sub-section (3) or sub-section (4) of section 210 and does not, on or before the date on which any such instalment as is not paid becomes due, send to the Assessing Officer an intimation under sub-section (5) of section 210 or does not pay on the basis of his estimate of his current income the advance tax payable by him under sub-section (6) of section 210, he shall be deemed to be an assessee in default in respect of such instalment or instalments.”

When as-
sесsee
deemed to
be in
default.

85. In section 220 of the Income-tax Act,—

Amendment
of section
220.

(a) in sub-section (1), for the words “thirty-five days” wherever they occur, the words “thirty days” shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figures “fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub section (1)”, the words, brackets and figure “one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid” shall be substituted;

(ii) in the proviso, after the word and figures “section 264”, the words brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” shall be inserted;

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

“Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month.”.

86. In section 222 of the Income-tax Act,—

(a) in sub-section (1), for the portion beginning with the words “When an assessee is in default” and ending with the words “in accordance with the rules laid down in the Second Schedule—”, the following shall be substituted, namely:—

‘When an assessee is in default or is deemed to be in making a payment of tax, the Tax Recovery Officer may draw up under his signature a statement in the prescribed form specifying the amount of arrears due from the assessee (such statement being hereafter in this Chapter and in the Second Schedule referred to as ‘certificate’) and shall proceed to recover from such assessee the amount specified in the certificate by one or more of the modes mentioned below, in accordance with the rules laid down in the Second Schedule—’;

Amentment
of section
222.

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Tax Recovery Officer may take action under sub-section (1), notwithstanding that proceedings for recovery of the arrears by any other mode have been taken.”.

Substitution of new sections for sections 223, 224 and 225.

87. For sections 223, 224 and 225 of the Income-tax Act, the following sections shall be substituted, namely:—

Tax Recovery Officer by whom recovery is to be effected.

“223. (1) The Tax Recovery Officer competent to take action under section 222 shall be—

(a) the Tax Recovery Officer within whose jurisdiction the assessee carries on his business or profession or within whose jurisdiction the principal place of his business or profession is situate, or

(b) the Tax Recovery Officer within whose jurisdiction the assessee resides or movable or immovable property of the assessee is situate, the jurisdiction for this purpose being the jurisdiction assigned to the Tax Recovery Officer under the orders or directions issued by the Board, or by the Chief Commissioner or Commissioner who is authorised in this behalf by the Board in pursuance of section 120.

(2) Where an assessee has property within the jurisdiction of more than one Tax Recovery Officer and the Tax Recovery Officer by whom the certificate is drawn up—

(a) is not able to recover the entire amount by sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that, for the purpose of expediting or securing the recovery of the whole or any part of the amount under this Chapter, it is necessary so to do, he may send the certificate or, where only a part of the amount is to be recovered, a copy of the certificate certified in the prescribed manner and specifying the amount to be recovered to a Tax Recovery Officer within whose jurisdiction the assessee resides or has property and, thereupon, that Tax Recovery Officer shall also proceed to recover the amount under this Chapter as if the certificate or copy thereof had been drawn up by him.

224. It shall not be open to the assessee to dispute the correctness of any certificate drawn up by the Tax Recovery Officer on any ground whatsoever, but it shall be lawful for the Tax Recovery Officer to cancel the certificate if, for any reason, he thinks it necessary so to do, or to correct any clerical or arithmetical mistake therein.

Validity of certificate and cancellation or amendment thereof.

225. (1) It shall be lawful for the Tax Recovery Officer to grant time for the payment of any tax and when he does so, he shall stay the proceedings for the recovery of such tax until the expiry of the time so granted.

Stay of proceedings in pursuance of certificate and amendment or cancellation thereof.

(2) Where the order giving rise to a demand of tax for which a certificate has been drawn up is modified in appeal or other proceeding under this Act, and, as a consequence thereof, the demand is reduced but the order is the subject-matter of further proceeding under this Act, the Tax Recovery Officer shall stay the recovery of such part of the amount specified in the certificate as pertains to the said reduction for the period for which the appeal or other proceeding remains pending.

(3) Where a certificate has been drawn up and subsequently the amount of the outstanding demand is reduced as a result of an appeal or other proceeding under this Act, the Tax Recovery Officer shall, when the order which was the subject-matter of such appeal or other proceeding has become final and conclusive, amend the certificate, or cancel it, as the case may be.”.

88. In section 226 of the Income-tax Act,—

Amendment of section 226.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Where no certificate has been drawn up under section 222, the Assessing Officer may recover the tax by any one or more of the modes provided in this section.

(IA) Where a certificate has been drawn up under section 222, the Tax Recovery Officer may, without prejudice to the modes of recovery specified in that section, recover the tax by any one or more of the modes provided in this section.”;

(b) in sub-sections (2), (3), (4) and (5), for the words “Income-tax Officer”, wherever they occur, the words “Assessing Officer or Tax Recovery Officer” shall be substituted.

Omission of section 228.

89. Section 228 of the Income-tax Act shall be omitted.

Amendment of section 228A

90. In section 228A of the Income-tax Act,—

(a) in sub-section (1), in clause (a), for the words “specified in a certificate received from an Income-tax Officer”, the words and figures “specified in a certificate drawn up by him under section 222” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where an assessee is in default or is deemed to be in default in making a payment of tax, the Tax Recovery Officer may, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate drawn up by him under section 222 and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.”.

Amendment of section 230.

91. In section 230 of the Income-tax Act, in sub-section (1), for the portion beginning with the words “no person who is not domiciled in India”, and ending with the words “shall leave the territory of India”, the following shall be substituted, namely:—

“no person—

(a) who is not domiciled in India; or

(b) who is domiciled in India at the time of his departure, but—

(i) intend to leave India as an emigrant or
(ii) intends to proceed to another country on a work permit with the object of taking up any employment or other occupation in that country; or

(iii) in respect of whom circumstances exist which in the opinion of an income-tax authority, render it necessary for him to obtain a certificate under this section,

shall leave the territory of India”,

92. In section 230A of the Income-tax Act, in sub-section (1), for the words "fifty thousand rupees", the words "one lakhs rupees" shall be substituted. Amendment of section 230A.

93. Section 231 of the Income-tax Act shall be omitted. Omission of section 231.

94. In Chapter XVII of the income-tax Act, after section 234, the following heading and sections shall be inserted, namely:— Insertion of new section 234A, 234B and 234C.

F.—Interest chargeable in certain cases

234A. (1) Where the return of income for any assessment year under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub-section (1) of section 142, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month or part of a month comprised in the period commencing on the date, immediately following the due date, and,— Interest for defaults in furnishing return of income.

(a) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under section 144,

on the amount of the tax on the total income as determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source.

Explanation 1.—In this section, "due date" means the date specified in sub-section (1) of section 139 as applicable in the case of the assessee.

Explanation 2.—In this sub-section and sub-section (3), "tax on the total income as determined on regular assessment" shall not include the additional income-tax, if any, payable under section 158B.

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest if any, paid under section 140A towards the interest chargeable under this section.

(3) Where the return of income for any assessment year, required by a notice under section 148 issued after the completion of an assessment under sub-section (3) of section 143 or section 144 or section 147, is furnished after the expiry of the time allowed under such notice, or is not furnished the assessee shall be liable to pay simple interest at the rate of two per cent., for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the re-assessment or re-computation under section 147,

on the amount by which the tax on the total income determined on the basis of such re-assessment or re-computation exceeds the tax on the total income determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section, “tax on the total income determined on the basis of the re-assessment or re-computation under section 147” shall not include the additional income-tax, if any, payable under section 158B.

(+) Where, as a result of an order under section 154 of section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount of tax on which interest was payable under sub-section (1) or sub-section (3) of this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Interest for defaults in payment of advance tax

234B. (1) Subject to the other provisions of this section, where, in any financial year, an assessee who is liable to pay advance tax under section 208 has failed to pay such tax or, where the advance tax paid by such assessee under the provisions of section 210 is less than ninety per cent. of the assessed tax, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the in the period from the 1st day of April next following such financial year to the date of the regular assessment, on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid as aforesaid falls short of the assessed tax.

Explanation 1.—In this section, “assessed tax” means the tax on the total income determined on the basis of the regular assessment, as reduced by the amount of tax deducted at source in accordance with the provisions of Chapter XVIIIB on any income which is subject to such deduction and which is taken into account in computing such total income.

Explanation 2.—Where in relation to an assessment year, an assessment is made for the first time under section 147, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

Explanation 3.—In Explanation 1 and in sub-section (3), “tax on the total income determined on the basis of the regular assessment” shall not include the additional income-tax, if any, payable under section 158B.

(2) Where, before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(i) interest shall be calculated in accordance with the foregoing provisions of this section up to the date on which the tax is so paid, and reduced by the interest, if any, paid under section 140A towards the interest chargeable under this section;

(ii) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax so paid together with the advance tax paid falls short of the assessed tax.

(3) Where, as a result of an order of re-assessment or re-computation under section 147, the amount on which interest was payable under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day following the date of the regular assessment referred to in sub-section (1) and ending on the date of the re-assessment or re-computation under section 147, on the amount by which the tax on the total income determined on the basis of the re-assessment or re-computation exceeds the tax on the total income determined on the basis of the regular assessment aforesaid.

Explanation.—In this sub-section “tax on the total income determined on the basis of the re-assessment or re-computation under section 147” shall not include the additional income-tax, if any, payable under section 158B.

(4) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) or sub-section (3) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly;

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Interest for
deferment

234C. (1) Where in any financial year, the advance tax paid by the assessee on his current income on or

of advance tax. before the 15th day of September is less than twenty per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than fifty per cent. of the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. per month of the shortfall from for a period of three months on the amount of the shortfall from twenty per cent. or, as the case may be fifty per cent. of the tax due on the returned income.

Explanation.—In this section, “tax due on the returned income” means the tax chargeable on the total income declared in the return of income furnished by the assessee for the assessment year commencing on the 1st day of April immediately following the financial year in which the advance tax is paid, as reduced by the amount of tax deductible at source in accordance with the provisions of Chapter XVIIIB on any income which is subject to such deduction and which is taken into account in computing such total income.

(2) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April 1989 and subsequent assessment years.’.

Amend-
ment of
section 240

95. To section 240 of the Income-tax Act, the following proviso shall be added, namely:—

“Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”.

Amend-
ment of
section 243

96. In section 234 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.”

Amendment
of section
244

97. In section 244 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted namely:—

“(3) The provisions of this section shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989 or any subsequent assessment years.”.

98. After section 244 of the Income-tax Act, the following section shall be inserted, namely :—

Insertion
of new
section
244A.

“244A. (1) Where, in pursuance of any order passed under this Act, refund of any amount becomes due to the assessee, he shall, subject to the provisions of this section, be entitled to receive, in addition to the said amount, simple interest thereon calculated in the following manner, namely :—

Interest
on re-
funds.

(a) where the refund is out of any tax paid by way of advance tax or treated as paid under section 199, during the financial year immediately preceding the assessment year, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted :

Provided that no interest shall be payable if the amount of refund is less than ten per cent. of the tax as determined on regular assessment;

(b) in any other case, such interest shall be calculated at the rate of one and one-half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.— For the purposes of this clause, “date of payment of tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 156 is paid in excess of such demand.

(2) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, the period of the delay so attributable

to him shall be excluded from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(3) Where, as a result of an order under section 147, or section 154 or section 155 or section 250 or section 254 or 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D, the amount on which interest was payable under sub-section (1) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

(4) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years."

Amendment
of sub-head-
ing and
substitution
of new

99. In Chapter XX of the Income-tax Act, for the sub-heading "A.— Appeals to the Appellate Assistant Commissioner and Commissioner (Appeals)" and section 246, the following sub-heading and sections shall be substituted, namely :—

'A.—Appeals or applications to the Deputy Commissioner (Appeals) and Commissioner (Appeals),

246.(1) Subject to the provisions of sub-section (2), any assessee aggrieved by any of the following orders of an Assessing Officer (other than the Deputy Commissioner) may appeal to the Deputy Commissioner (Appeals) against such order—

(a) an order against the assessee, where the assessee denies liability to be assessed under this

Appeal-
able
orders

Act or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 163 treating the assessee as the agent of a non-resident;

(e) an order under sub-section (2) or sub-section (3) of section 170;

(f) an order under section 171;

(g) any order under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 135 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(i) an order under section 201;

(j) an order under section 216 in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment year;

(k) an order under section 237;

an order imposing a penalty under —

(i) section 221, or

(ii) section 271, section 271A, section 271B, section 271C, section 271D, section 271E or section 272A;

(iii) sub-section (1) of section 271, section 272, section 272B or section 273 as they stood immediately before the 1st day of April 1989, in respect of any assessment for the assessment year commencing on the 1st day of April, 1988 or any earlier assessment years.

(2) Notwithstanding anything contained in sub-section (1), any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against such order —

(a) an order specified in sub-section (1) where such order is made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 120 or section 124;

(b) an order specified in clauses (a) to (e) (both inclusive) and clauses (i) to (l) (both inclusive) of sub-section (1) made against the assessee, being a company;

(c) an order of assessment made after the 30th day of September, 1984 on the basis of the directions issued by the Deputy Commissioner under section 144A;

(d) an order made by the Deputy Commissioner under section 154;

(e) an order imposing a penalty under section 271B;

(f) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(g) an order imposing a penalty under clause (c) of sub-section (1) of section 271, as it stood immediately before the 1st day of April, 1989, in respect of any assessment for the assessment year commencing on the 1st day of April 1988 or any earlier assessment years, where such penalty has been imposed with the previous approval of the Deputy Commissioner under the proviso to clause (iii) of sub-section (1) of that section;

(h) an order made by an Assessing Officer (other than Deputy Commissioner) under the provisions of this Act in the case of such person or

classes of persons as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

(3) Notwithstanding anything contained in sub-section (1), the Board or the Director General, or Chief Commissioner or Commissioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, or Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.

Explanation — For the purposes of this section,—

(a) “appointed day” means the 10th day of July, 1978 being the day appointed under section 39 of the Finance (No. 2) Act 1977;

29 of 1977

(b) “status” means the category under which the assessee is assessed as “individual” “Hindu undivided family” and so on.

Application by the assessee in certain cases.

246A. (1) Where, before furnishing a return of income under section 139 or, as the case may be, sub-section (1) of section 142 for any assessment year, any question arises as to whether,—

(a) any income is includible or not in computing the total income (hereafter in this section referred to as the disputed income), or

(b) any deduction, allowances or other relief is admissible or not in computing the total income (hereafter in this section referred to as the disputed deduction).

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee, —

(i) shall include in such return the disputed income and shall not claim the disputed deduction, and

(ii) shall also pay thirty per cent of the tax due on the disputed income and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purposes of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry, or call for such books of accounts, other documents or information which he deems necessary; or

(b) direct the Assessing Officer concerned to conduct such inquiry and furnish the report thereon, and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provision relating to filing of appeals under this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.

100. Section 247 of the Income-tax Act shall be omitted.

Omission of section 247.

101. For section 267 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 267.

“267. Whereas the result of an appeal under section 246 or section 253, any change is made in the assessment of a body of individuals or an association of persons or a new assessment of a body of individuals or an association of persons is ordered to be made, the Deputy Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal, as the case may be, shall pass an order authorising the Assessing Officer either to amend the assessment made on any member of the body or association or make a fresh assessment on any member of the body or association.”

Amendment of assessment of appeal.

102. In section 268 of the Income-tax Act, the words "or an application" shall be omitted. Amendment of section 268.

103. In section 269SS of the Income-tax Act,— Amendment of section 269SS.
 (a) for the words "ten thousand rupees", the words 'twenty thousand rupees' shall be substituted;

(b) after the proviso and before the Explanation, the following proviso shall be inserted, namely:—

"Provided further that the provisions of this section shall not apply to any loan or deposit where the person from whom the loan or deposit is taken or accepted and the person by whom the loan or deposit is taken or accepted are both having agricultural income and neither of them has any income chargeable to tax under this Act."

104. In section 269T of the Income-tax Act,— Amendment of section 269T.
 (a) in sub-section (2),—

(i) after the words 'no firm', the words 'or other person' shall be inserted;

(ii) for the words 'ten thousand rupees', the words 'twenty thousand rupees' shall be substituted;

(b) in the Explanation, for clause (ii) the following clause shall be substituted, namely:—

"(ii) "deposit" means any deposit of money which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes deposit of any nature."

Omission of section 270.

105. Section 270 of the Income-tax Act shall (ii) the following clause be omitted.

Substitution of new section for section 271.

106. For section 271 of the Income-tax Act, the following section shall be substituted, namely:—

Failure to comply with notices.

"271. If the Assessing Officer, in the course of any proceedings under this Act' is satisfied that any person has failed to comply with a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or with a direction issued under sub-section (2A) of section 142, the Assessing Officer may direct that such person shall

pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.”.

Amendment
of section
271A.

107. In section 271A of the Income-tax Act, for the words “a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of tax, if any, which would have been avoided if the income returned by such person had been accepted as the correct income”, the words “a sum which shall not be less than two thousand rupees but which may extend to one hundred thousand rupees” shall be substituted.

Insertion
of new sections
271C,
271D and
271E.

108. After section 271B of the Income-tax Act, the following sections shall be inserted, namely:—

Penalty for
failure to
deduct tax
at source.

“271C. If any person fails to deduct the whole or any part of the tax as required by or under the provisions of Chapter XVII-B, he shall be liable to pay, by way of penalty, a sum equal to the amount of the tax which he failed to deduct as aforesaid.

Penalty for
failure to
comply with
the provisions
of section
269SS

271D. If a person takes or accepts any loan or deposit in contravention of the provisions of section 269SS he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit so taken or accepted.

271E. If a person repays any deposit referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the deposit so repaid.”.

Penalty for
failure to
comply
with the
provision of
section 269T

109. Section 272 of the Income-tax Act shall be omitted.

Omission
of section
272.

110. For section 272A of the Income-tax Act, the following section shall be substituted, namely:—

Substitu-
tion of new
section for
section
272A.

“272A. (1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment,

Penalty for
failure to
answer
questions,

refuses to answer any question put to him by an income-tax authority in the exercise of its powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which an income-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 131 either to attend to give evidence or produce books of account or other documents or a certain place and time omits to attend or produce books of account or documents at the place or time; or

(d) fails to comply with the provisions of section 139A,

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure.

(2) If any person fails—

(a) to comply with a notice issued under sub-section (6) of section 94; or

(b) to give the notice of discontinuance of his business or profession as required by sub-section (3) of section 176; or

(c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 or section 206A or section 20 B or section 285B; or

(d) to allow inspection of any register referred to in section 134 or of any entry in such register or to allow copies of such register or of any entry therein to be taken; or

(e) to furnish the return of income which he is required to furnish under sub-section (4A) of section 139 or to furnish it within the time allowed and in the manner required under that sub-section; or

(f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 137; or

(g) to furnish a return as required by section 139; or

sign statements, furnish information, returns or statements, allow inspections, etc.

(h) to deduct and pay tax as required by sub-section (2) of section 226;

he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before an income-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such income-tax authority;

(b) in a case falling under clause (f) of sub-section (2), by the Chief Commissioner or Commissioner; and

(c) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any income-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed is given an opportunity of being heard in the matter by such authority.

Explanation.—In this section, “income-tax authority” includes a Director General, Director, Deputy Director and an Assistant Director while exercising the powers vested in a court under the Code of Civil Procedure, 1908 when trying a suit in respect of the matters specified in sub-section (1) of section 131.

5 of 1908

Omission
of section
272B.

111. Section 272B of the Income-tax Act shall be omitted.

Amend-
ment of
section 273

112. In section 273 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

(3) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, and references in it is

section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

Amendment of section 273A.

113. In section 273A of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The provisions of this section shall apply to and in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year and references in this section to the other provisions of this Act shall be construed as references to those provisions as for the time being in force and applicable to the relevant assessment year.”.

114. In section 273B of the Income-tax Act, for the words, figures, brackets and letters “section 270, clause (a) or clause (b) of sub-section (1) of section 271, section 271A, section 271B, sub-section (2) of section 272A, sub-section (1) of section 272AA, sub-section (1) of section 272B”, the words, figures letters and brackets “section 271, section 271A, section 271B, section 271C, section 271D, section 271E, clause (c) or clause (d) of sub-section (1) or sub-section (2) of section 272A, sub-section (1) of section 272AA” shall be substituted.

Amendment of section 273B.

115. In section 274 of the Income-tax Act,—

Amendment of section 274

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

“(2) No order imposing a penalty under this Chapter shall be made—

(a) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(b) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) An income-tax authority on making an order under this Chapter imposing a penalty, unless he is himself the Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.”

116. In section 275 of the Income-tax Act, for clause (a) and (b) excluding the Explanation, the following clauses shall be substituted, namely:— Amendment of section 275.

“(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Deputy Commissioner (Appeals) or the Commissioner (Appeals) under section 246 or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner whichever period expires later;

(b) in a case where the relevant assessment or other order is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(c) in any other case, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.”

Insertion of new section 276, 117. After section 275A of the Income-tax Act, the following section shall be inserted, namely:—

Removal, concealment, transfer or delivery of property to thwart tax recovery “276. Whoever fraudulently removes, conceals, transfers or delivers to any persons any property or any interest therein intending thereby to prevent that property or interest therein from being taken in execution of a certificate under the provisions of the Second Schedule shall be punishable with rigorous imprisonment for a term which may extend to two years and shall also be liable to fine.”

Substitution of new section for section 276B. 118. For section 276B of the Income-tax Act, the following section shall be substituted, namely:—

Failure to pay the tax deducted at source.

“276B. If a person fails to pay to the credit of the Central Government, the tax deducted at source by him as required by or under the provisions of Chapter XVII-B, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.”.

Omission of sections 276DD and 276E.

119. Sections 276DD and 276E of the Income-tax Act shall be omitted.

Amendment of section 278AA.

120. In section 278AA of the Income-tax Act, for the words, figures and letters “section 276B, section 276DD or section 276E,”, the words, figures and letter “or section 276B,” shall be substituted.

121. After section 293A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 293B.

“293B. Where, under any provision of this Act the approval of the Central Government or the Board is required to be obtained before a specified date, it shall be open to the Central Government or, as the case may be, the Board to condone, for sufficient cause, any delay in obtaining such approval.”.

Power of Central Government or Board to condone delays in obtaining approval.

122. For section 296 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 296.

“296. The Central Government shall cause every rule made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Rules to be laid before Parliament.

123. In section 298 of the Income-tax Act, after sub-section (2), the following sub-sections shall be added with effect from the 1st day of April, 1988, namely:— Amendment of section 298.

“(3) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(4) Every order made under sub-section (3) shall be laid before each House of Parliament.”

124. In the Second Schedule to the Income-tax Act,— Amendment of the Second Schedule.

(1) for the words and figures “See section 222” occurring under the heading, the words and figures “See sections 222 and 276” shall be substituted;

(2) in rule 1, for clause (a), the following clause shall be substituted, namely:—

“(a) “certificate”, except in rules 7, 44, 65 and sub-rule (2) of rule 66, means the certificate drawn up by the Tax Recovery Officer under section 222 in respect of any assessee referred to in that section”;

(3) in rule 2, for the words “When a certificate has been received by the Tax Recovery Officer from the Income-tax Officer”, the words “When a certificate has been drawn up by the Tax Recovery Officer” shall be substituted;

(4) for rule 8, the following rule shall be substituted, namely:—

Disposal
of Pro-
ceeds of
execution.

“8. (1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:—

(a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;

(b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for

satisfaction of any other amount recoverable from the assessee under this Act which may be due on the date on which the assets were realised; and

(c) the balance, if any, remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

(2) If the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.”;

(5) in rule 9,—

(i) for the words “Income-tax Officer”, the words “Tax Recovery Officer” shall be substituted;

(ii) the words “duly filed under this Act” shall be omitted;

(6) in rule 14, for the words “Income-tax Officer”, the words “Tax Recovery Officer” shall be substituted;

(7) for rule 19A, the following rule shall be substituted, namely:—

Entrust-
ment
of cer-
tain
func-
tion
by Tax
Recovery

“19A. A Tax Recovery Officer may, with the previous approval of the Deputy Commissioner, entrust any of his functions as the Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him, be deemed to be a Tax Recovery Officer.”;

(8) in rule 25, in sub-rule (1), for the words “and the Income-tax Officer shall bear such sum as the Tax Officer shall require in order to defray the cost of such arrangements”, the words “and he shall have power to defray the cost of such arrangements” shall be substituted;

(9) in rule 27, for the words “Income-tax Officer” wherever they occur, the words ‘Tax Recovery Officer’ shall be substituted; .

(10) in rule 31, for the words ‘Income-tax Officer’ occurring in the proviso, the words ‘Tax Recovery Officer’ shall be substituted;

(11) in rule 47, for the words ‘direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the Income-tax Officer’, the words

and figure 'direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8" shall be substituted;

(12) in rule 59, after sub-rule (2), the following sub-rule shall be inserted, namely:—

“(3) Where the Income-tax Officer referred to in sub-rule (1) is declared to be the purchaser of the property at any subsequent sale, nothing contained in rule 57 shall apply to the case and the amount of the purchase price shall be adjusted towards the amount specified in the certificate.”;

(13) in rule 60, in sub-rule (1), in clause (a), the words “for payment to the Income-tax Officer” shall be omitted

(14) in rule 61, for the words “Income-tax Officer”, the words “such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf” shall be substituted;

(15) in rule 73, in sub-rule (1), in clause (a) and (b), for the words “the receipt of the certificate in the office of the Tax Recovery Officer”, the words “the drawing up of the certificate by the Tax Recovery Officer” shall be substituted;

(16) in rule 74, for the words “the Tax Recovery Officer shall proceed to hear the Income-tax Officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter”, the words “the Tax Recovery Officer shall give the defaulter” shall be substituted;

(17) in rule 77, in sub-rule (1),—

(a) for clause (ii) of the proviso, the following clause shall be substituted, namely:—

“(ii) on the request of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79.”;

(b) the second proviso shall be omitted;

(18) in rules 82, 83 and 87, for the words “Tax Recovery Commissioner”, the words “Chief Commissioner or Commissioner” shall be substituted;

(19) in rule 85, for the words “If at any time after the issue of the certificate by the Income-tax Officer to

the Tax Recovery Officer”, the words “If at any time after the certificate is drawn up by the Tax Recovery Officer” shall be substituted;

(20) in rule 86,—

(a) for sub-rule (1), the following sub-rule shall be substituted, namely:—

“(1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie to the Chief Commissioner or Commissioner.”;

(b) for sub-rule (4), the following sub-rule shall be substituted, namely:—

“(4) Notwithstanding anything contained in sub-rule (1), where a Chief Commissioner or Commissioner is authorised to exercise powers as such in respect of any area, then, all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area, or an area which is included in that area, shall lie to such Chief Commissioner or Commissioner.”;

(21) rule 89 shall be omitted;

(22) in rule 90, in sub-rule (1), for the words “Income-tax Officer”, the words “Tax Recovery Officer” shall be substituted;

(23) in rule 92, for the words “Tax Recovery Commissioners”, in two places where they occur, the words “Chief Commissioner, Commissioners” shall be substituted;

(24) after rule 93, the following rule shall be inserted, namely:—

“94. All proceedings for the recovery of tax pending immediately before the coming into force of the amendments of this Schedule by the Direct Tax Laws (Amendment) Act, 1937 shall be continued under this Schedule as amended by that Act from the stage they had reached, and, for this purpose, every certificate, issued by the Income-tax Officer under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment, and, if any difficulty arises in continuing the said proceedings, the Board may issue (whether by way of modification, not affecting the substance of any rule in this Schedule or otherwise) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty.”.

Continuance
of certain
pending
proceedings
and power
to remove
difficulties.

Insertion of
Tenth
Schedule.

125. In the Income-tax Act, after the Ninth Schedule, the following Schedule shall be inserted, namely:—

'THE TENTH SCHEDULE

[See section 3(5)]

Modifications subject to which the provisions of this Act shall apply in cases where the previous year in relation to the Assessment year commencing on the 1st April, 1989, Referred to in section 3(2), Exceeds Twelve months.

Definition

1. In this Schedule, "transitional previous year" means the period reckoned as the previous year for the assessment year commencing on the 1st day of April, 1989, in the manner specified in sub-section (2) of section 3 and, in a case where the proviso to that sub-section applies, the longer or, as the case may be, the longest of the periods reckoned in the manner laid down in the said proviso.

2. In a case where the transitional previous year is longer than twelve months, the provisions of this Act and the Finance Act of the relevant year shall apply subject to the modifications specified in rules 3, 4, 5, and 6 of this Schedule.

Special provisions in a case where the transitional previous year is longer than twelve months.

3. The provisions of this Act specified in column (1) of the Table below shall be subject to the modification that the reference therein to the amount or amounts specified in the corresponding entry in column (2) of the said Table, shall be construed as a reference to the said amount or amounts as increased by multiplying each such amount by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

Modifications pertaining to monetary limits, etc.

Provided that for the purposes of this rule and rules 5 and 6, where the transitional previous year includes a part of a month, then, if such part is fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

TABLE

| Provision of the Act (1) | Amount (2) |
|-----------------------------|---------------|
|-----------------------------|---------------|

| THE TENTH SCHEDULE | | Rs. |
|-------------------------------|------------|-------------------------|
| Section 10 (3) | | 5,000 |
| Section 16 | | 10,000 |
| Section 24 (I)(ii) | | 3,600 |
| Section 37 (2A) | | 10,000 |
| Section 44AA (2)(i) and (iii) | | 25,000 and 2,50,000 |
| Section 44AB | | 40,00,000 and 10,00,000 |
| Section 48 (2) | | 10,000 |
| Section 80C (1) | | 6,000 |
| Section 80C (2)(d) | | 12,000 |
| Section 80C (4) | | 40,000 and 60,000 |
| Section 80F (2)(b) | | 50,000 |
| Section 80L (1) | | 7,000 |
| Section 80L (1)—1st proviso | | 3,000 |
| Section 80L (1)—2nd proviso | | 2,000 |
| Section 80U | | 15,000 |
| Section 139A | | 50,000 |

4. Where the transitional previous year comprises a period of eighteen months or more, then, sub-section (1) of section 6 shall be subject to the modification that references therein to the periods of one hundred and eighty-two days ninety day shall be construed as references, respectively, to the periods of two hundred and seventy-three days and one hundred and thirty-five days.

5. Where the assessee's income under the head 'Profits and gains of business or profession' for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (ii) of sub-section (1) of section 32 in respect of depreciation of buildings, machinery, plant or furniture calculated in the manner stated therein, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

Special provisions in a case where the transitional previous year comprises a period of more than 12 months.

Modification in section 6.

Modification in respect of depreciation allowance

Insertion of Tenth Schedule

Definition

In the Income-tax Act, after the Ninth Schedule, the following Schedule shall be inserted, namely:

Modification in respect of rate of tax

6. The tax chargeable on the total income of the transitional previous year shall be calculated at the average rate of tax on the amount obtained by multiplying such total income by a fraction of which the numerator is twelve and the denominator is the number of months in the transitional previous year, as if the resultant amount were the total income.

Power of Board to grant relief in case of hardship.

7. The Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.

Consequential amendments

126. The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act, save as otherwise provided, with effect from the 1st day of April, 1989 namely :—

(1) in section 2, clause (3) shall be omitted with effect from the 1st day of April, 1988;

(2) in section 10, in clause (15), in sub-clause (iii), in the Explanation, for the words, brackets and figures "the Explanation to clause (iii) of sub-section (5) of sub-section 11", the words, brackets and figures "clause (ii) of the Explanation to clause (vii) of sub-section (1) of section 36" shall be substituted;

(3) in section 10A, after sub-section (7) and before the Explanation, the following sub-section shall be inserted, namely :—

"(8) References in this section to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of this section, as if such amendment or omission had not been made."

(4) in section 29, for the words, figures and letter "sections 30 to 43A," the words, figures and letter "sections 30 to 43B" shall be substituted;

(5) in section 32, in sub-section (2), the brackets and words "(or, if the assessee is a registered firm or an unregistered firm assessed as a registered firm, in the assessment of its partners)" shall be omitted;

(6) in section 40A, in sub-section (2), in clause (a), the proviso shall be omitted;

(7) in section 41, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.”;

(8) in section 43A, in sub-section (1), for the words brackets, figures and letter “in clause (iv) of sub-section (1) of section 35 or in section 35A”, the words, figures and letter “in section 35A” shall be substituted;

(9) in section 44, for the words, figures and letter “sections 28 to 43A”, the words, figures and letter “sections 28 to 43B” shall be substituted;

(10) in section 80, for the words, brackets and figures “within the time allowed under sub-section (1) of section 139 or within such further time as may be allowed by the Income-tax Officer,” the words, brackets and figures “in accordance with the provisions of sub-section (3) of section 139” shall be substituted;

(11) in section 80G,—

(a) in sub-section (5), in clause (v), the words, brackets and figures “or is an institution approved by the Central Government for the purposes of clause (23) of section 10,” shall be omitted;

(b) Explanation 4 shall be omitted;

(12) in section 80HHA, in the Explanation, for clause (a), the following clause shall be substituted, namely:—

“(a) “rural area” means any area other than—

(i) an area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thou-

and according to the last preceding census of which the relevant figures have been published before the first day of the previous year; or

(ii) an area within such distance, not being more than fifteen kilometres from the local limits of any municipality or cantonment board referred to in sub-clause (i), as the Central Government may, having regard to the stage of development of such area (including the extent of, and scope for, urbanisation of such area) and other relevant considerations specify in this behalf by notification in the Official Gazette;';

(13) in section 132, in sub-section (1), in the proviso and in sub-section (1A), the words and figures "notwithstanding anything contained in section 121" shall be omitted with effect from the 1st day of April, 1988;

(14) in section 132B, in sub-section (1), in clause (iii), for the words "the Income-tax Officer", wherever they occur, the words "the Assessing Officer or, as the case may be, Tax Recovery Officer" shall be substituted;

(15) in section 133A, in sub-section (6), for the words, brackets and figures "sub-sections (1) and (2) of section 131", the words, brackets and figures "sub-section (1) of section 131" shall be substituted;

(16) in section 139, in sub-section (8), in clause (b), after the word and figures "section 264", the words brackets, figures and letter "or an order of the Settlement Commission under sub-section (4) of section 245D" shall be inserted;

(17) in section 144A,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted;

(b) sub-section (2) shall be omitted;

(18) in section 174,—

(a) in sub-section (4),—

(i) for the words, brackets and figures "as a return under sub-section (2) of section 139", the words, brackets and figures "as a return under clause (i) of sub-section (1) of section 142" shall be substituted;

(ii) for the words, brackets and figures "a notice issued under sub-section (2) of section 139", the words, brackets and figures "a notice issued under clause (i) of sub-section (1) of section 142" shall be substituted;

(b) in sub-section (6), for the words brackets and figures "sub-section (2) of section 139 or sub-section (1) of", wherever they occur, the words, brackets and figures "clause (i) of sub-section (1) of section 142 or" shall be substituted;

(19) in section 176,—

(a) in sub-section (5), for the words, bracket and figures "under sub-section (2) of section 139", wherever they occur, the words brackets and figures "under clause (i) of sub-section (1) of section 142" shall be substituted;

(b) in sub-section (7), for the words, brackets and figures "sub-section (2) of section 139 or sub-section (1) of", wherever they occur, the words, brackets and figures "clause (i) of sub-section (1) of section 142 or" shall be substituted;

(20) in section 199, the brackets, words, figures and letter "(including a provisional assesment under section 141A), if any," shall be omitted;

(21) in section 219, the proviso shall be omitted;

(22) section 234 shall be omitted;

(23) in section 253, in sub-section (1), in clause (a), after the word and figures "section 154," the word, figures and letters "section 246 A" shall be inserted;

(24) in section 276CC, for the words, brackets and figures "sub-section (2) of section 139", the words, brackets and figures "clause (i) of sub-section (1) of section 142" shall be substituted;

(25) in section 279, in sub-section (3), for the words, brackets and letters "clauses (a), (b), (c), (d) and (e)", the words brackets and letters "clauses (a) to (g)" shall be substituted with effect from the 1st day of April, 1988;

(26) in section 288, in sub-section (4), in clause (b), the words, brackets and figures "clauses (i) and (ii) of sub-section (1) of" shall be omitted;

(27) in the First Schedule, in rule 5, in clause (a), for the words, figures and letter "sections 30 to 43A", the words, figures and letter "sections 30 to 43B" shall be substituted;

(28) in the Third Schedule, for the words "Income-tax Officer", the words "Assessing Officer or Tax Recovery Officer", shall be substituted.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

127. In the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth tax Act) save as otherwise expressly provided in this Act, and unless the context otherwise requires references to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1-88 by references to the authority or authorities specified in the corresponding entry in column (2) of the said

Substitution of new authorities.

Table, and such consequential changes as the rules of grammar may require, shall also be made:

TABLE

| (1) | (2) |
|--|------------------------------------|
| Director of Inspection | Director General or Director |
| Deputy Director of Inspection | Deputy Director |
| Assistant Director of Inspection | Assistant Director |
| Commissioner or Commissioner of Wealth-tax | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner or Inspecting Assistant Commissioner of Wealth-tax | Deputy Commissioner |
| Appellate Assistant Commissioner | Deputy Commissioner (Appeals) |

| | | |
|-------------------------|---------|-------------------------------|
| Wealth-tax Officer | ... | Assessing Officer |
| Inspector of Wealth-tax | | Inspector of In- come-tax: |

Provided that nothing contained in this section shall apply to the references to "Commissioner occurring in sections 22D, 24 and 25.

Amend-
ment of
section

128. In section 2 of the Wealth-tax Act,—

(i) clause (a) shall be omitted;

(ii) clause (ca) shall be re-lettered as clause (cb) and before that clause as so re-lettered, the following clause shall be inserted, namely:—

'(ca) "Assessing Officer" means the Assistant Commissioner or the Income tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of Wealth-tax under section 8 of this Act, and also the Deputy Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;';

(iii) clauses (g), (gg), (hb), (k), (l) and (la) shall be omitted;

(iv) for clause (h), the following clause shall be substituted, namely:—

'(h) "company" shall have the meaning assigned to it in clause (17) of section 2 of the Income-tax Act;';

(v) after clause (lb), the following clause shall be inserted, namely:—

'(lc) "maximum marginal rate" means the rate of wealth-tax applicable in relation to the highest slab of wealth in the case of an individual as specified in Part I of Schedule I;';

(vi) in clause (q), clause (i) of the proviso shall be omitted;

(vii) for clause (s), the following clause shall be substituted, namely:—

(s) the expressions "Chief Commissioner", "Director-General", "Commissioner", "Commissioner (Appeals)", "Director", "Deputy Commissioner", "Assistant Commissioner", "Income-tax Officer", "Inspector of Income-tax" and "Tax Recovery Officer" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.

129. In section 3 of the Wealth-tax Act for the words "Subject to the other provisions contained in this Act", the words and brackets "subject to the other provisions (including provisions for the levy of additional wealth-tax) contained in this Act" shall be substituted. Amendment of section 3.

130. In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1988,— Amendment of section 5.

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

"(xxiva) units of a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act;"

(ii) in sub-section (IA), after the brackets and figures "(xxiv)", the brackets, figures and letter "(xxiva)" shall be inserted.

131. For sections 8,9,10 and 11 of the Wealth-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1988, namely:— Substitution of new sections for sections 8,9, 10 and 11.

"8. The income-tax authorities specified in section 116 of the Income-tax Act shall be the wealth-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a wealth tax authority under this Act in respect of any individual, Hindu undivided family or company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act. Wealth-tax authorities and their jurisdiction

Explanation.—For the purposes of this section the wealth-tax authority having jurisdiction in relation to a person who is not an assessee within the meaning of the Income-tax Act shall be the wealth-tax authority having jurisdiction in respect of the area in which that person resides.

9. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of wealth-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any wealth-tax authority.

Control of
wealth-tax
authorities

Instructions
to subordi-
nate autho-
rities.

10. (1) The Board may, from time to time, issue such orders, instructions and directions to other wealth-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any wealth-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeal) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power.

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 16, 17, 18 and 35 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being prejudicial to assesses) as to the guidelines, principles or procedures to be followed by other wealth-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information.

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any wealth-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner

(Appeals), to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

Jurisdiction of Assessing Officers and power to transfer cases.

11. (1) The provisions of sections 124 and 127 of the Income-tax Act shall, so far may be, apply for the purposes of this Act as they apply for the purposes of the Income-tax Act, subject to the modifications specified in sub-section (2).

(2) The modifications referred to in sub-section (1) shall be the following, namely:—

(a) in section 124 of the Income-tax Act,—

(i) in sub-section (3), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Wealth-tax Act;

(ii) sub-section (5) shall be omitted;

(b) in section 127 of the Income-tax Act, in the Explanation below sub-section (5), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Wealth-tax Act.”

132. Sections 8A, 8AA, 8B, 9A, 10A, 11A, 11AA, 11B, 12 and 13 of the Wealth-tax Act shall be omitted with effect from the 1st day of April, 1988. Omission of sections

8A, 8AA,
8B, 9A,
10A, 11A,
11AA, 11B,
12 and 13.

133. In section 14 of the Wealth-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

Amend
ment
of sec-
tion 14.

(1) Every person, if his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax, shall, on or before the due date,

furnish a return of his net wealth or the net wealth of such other person as on that valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of such net wealth and such other particulars as may be prescribed.

Explanation.—In this sub-section, “due date” in relation to an assessee under this Act shall be the same date as that applicable to an assessee under the Income-tax Act under the Explanation to sub-section (1) of section 139 of the Income-tax Act.

(2) Notwithstanding anything contained in any other provision of this Act, a return of net wealth which shows the net wealth below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished:

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 17.;

(b) sub-section (3) shall be omitted.

134. For section 15 of the Wealth-tax Act, the following section shall be substituted, namely :—

Substitution of new section of section 15.

“15. If any person has not furnished a return within the time allowed under sub-section (1) of section 14 or under a notice issued under clause (i) of sub-section (4) of section 16, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier :

Return after due date and amendment of return.

Provided that —

(a) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(b) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991 or before the completion of the assessment, whichever is earlier.”.

Amend-
ment of
section
15A.

135. In section 15A of the Wealth-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in this behalf;

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other reason, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf :

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;”;

(ii) to clause (c), the following provisos shall be added, namely :—

“Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return :

Provided further that,—

(a) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178 of the Income-tax Act;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.”

136. For section 15B of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 15B.

“15B. (1) Where any tax is payable on the basis of any return furnished under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4) of section 16 or under section 17, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

Self assessment.

Explanation.—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if, any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 16 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.”

137. Section 15C of the Wealth-tax Act shall be omitted.

Omission of section 15C.

138. For section 16 of the Wealth-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 16.

“16. (1) (a) Where a return has been made under section 14 or section 15 or in response to a notice under clause (i) of sub-section (4),—

Assessment.

(i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 30 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee, the following adjustments shall be made in the net wealth declared in the return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed or made in the return, shall be allowed;

(iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed;

(b) Where, as a result of an order made under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section.

(4) of section 22D relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 30 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not understated the net wealth or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the day specified in the notice issued under sub-section (2) or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the net wealth of the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 14 or section 15 or in whose case the time allowed under sub-section (1) of section 14 for finishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return before the end of the relevant assessment year to furnish a return of his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date, in the prescribed form and verified in the prescribed manner, setting forth the particulars of such net wealth and such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person —

(a) fails to make the return required under sub-section (1) of section 14 and has not made a return or a revised return under section 15, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account, all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the net wealth to the best of his judgement and determine the sum payable by the person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the assessment should not be completed to the best of his judgement:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section."

139. In section 17 of the Wealth-tax Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :— Amendment
of section 17.

“(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the net wealth chargeable to tax in respect of which any person is assessable under this Act has escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other Provisions of this section and section 17A, serve on such person a notice requiring him to furnish within such period, not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth the net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice, along with such other particulars as may be required by the notice, and may proceed to assess or re-assess such net wealth and also any other net wealth chargeable to tax in respect of

which such person is assessable, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year), and the provisions of this Act shall, so far as may be, apply as if the return were a return required to be furnished under section 14:

Provided that where an assessment under sub-section (3) of section 16 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any net wealth chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 14 or section 15 or in response to a notice issued under sub-section (4) of section 16 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation. — Production before the Assessing Officer of account books other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

— of the Wealth-Tax Act.

Amendment of section 17.

(IA) No notice under sub-section (1) shall be issued for the relevant assessment year.

- (a) in a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for such assessment year,—
 - (i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);
 - (ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year;
 - (iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax

which has escaped assessment amounts to or is likely to amount to rupees ten lakhs or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees two lakhs and fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the net wealth chargeable to tax which has escaped assessment amounts to or is likely to amount to rupees five lakhs or more for that year.

Explanation.—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where net wealth chargeable to tax has escaped assessment, namely :—

(a) where no return of net wealth has been furnished by the assessee although his net wealth or the net wealth of any other person in respect of which he is assessable under this Act on the valuation date exceeded the maximum amount which is not chargeable to wealth-tax;

(b) where a return of net wealth has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the net wealth or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 16 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that after the expiry of four years from the end of the relevant assessment year, no such notice

shall be issued unless the Chief Commissioner or commissioner is satisfied on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.”:

(b) in sub-section (2), in the opening paragraph, the words “or by a court in any proceedings under any other law” shall be added at the end.

Amend-
ment of
section 17A

140. In section 17A of the Wealth-tax Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely;—

“(1) No order of assessment shall be made under section 16 at any time after the expiry of two years from the end of the assessment year in which the net wealth was first assessable:

Provided that where the net wealth was first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(2) No order of assessment or reassessment shall be made under section 17 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served:

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 17 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(ii) where the notice under clause (b) of sub-section (1) of section 17 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such

assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.—References to section 17 in the proviso shall be construed as references to that section as it stood before amendment by the Direct Tax Laws (Amendment) Act, 1987.”;

(b) in sub-section (3),—

(i) for the words “four years”, the words “two years” shall be substituted:

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that where the order setting aside or cancelling an assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.”

141. After section 17A of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of new section 17B.

‘17B. (1) Where the return of net wealth for any assessment year under sub-section (1) of section 14 or section 15, or in response to a notice under clause (i) of sub-section (4) of section 16, is furnished after the due date, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

Interest for defaults in furnishing return of net wealth.

(a) where the return is furnished after the due date, ending on the date of furnishing of the return, or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 16,

on the amount of tax payable on the net wealth as determined on regular assessment.

Explanation 1.—In this section, “due date” means the date specified in sub-section (1) of section 14 as applicable in the case of the assessee.

Explanation 2.—In this sub-section and sub-section (3), “tax payable on the net wealth as determined on regular assessment” shall not include the additional wealth-tax, if any, payable under section 18D.

Explanation 3.—Where, in relation to an assessment year, an assessment is made for the first time under section 17, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 15B towards the interest chargeable under this section.

(3) Where the return of net wealth for any assessment year, required by a notice under sub-section (1) of section 17 issued after the completion of an assessment under sub-section (3) or sub-section (5) of section 16 or section 17, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 17,

on the amount by which the tax on the net wealth determined on the basis of such reassessment exceeds the tax on the net wealth as determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section “tax on the net wealth determined on the basis of the reassessment under section 17” shall not include the additional wealth-tax, if any, payable under section 18D.

(4) Where, as a result of an order under section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(1) shall be passed after the expiry of the financial year in which the proceedings in the course of which action (i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.

Substitution of new section for section 18 and 18A of the Wealth tax Act, the following sections shall be substituted, namely:—

Penalty for failure to comply with notices

18. (1) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 16, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure:

Provided that—

(a) no penalty shall be imposable under this section, if the person proves that there was reasonable cause for the failure referred to in this sub-section;

(b) no order imposing a penalty under this section shall be made:

(i) by the Income-tax Officer, where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioner, where the penalty exceeds twenty thousand rupees,

except with the prior approval of the Deputy Commissioner.

(2) No order shall be made under sub-section (1) unless the person concerned has been heard or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under sub-section (1) shall be passed after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation.—In computing the period of limitation for the purposes of this section,—

(i) any period during which the immunity granted under section 22H remained in force;

(ii) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39; and

(iii) any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court,

shall be excluded.

18A. (1) If any person,—

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a wealth-tax authority in the exercise of his powers under this Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a wealth-tax authority may legally require him to sign; or

(c) to whom a summons is issued under sub-section (1) of section 37 either to attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time.

he shall pay, by way of penalty a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 35, he shall pay, by way of penalty, a sum which shall not be

Penalty for failure to answer questions, sign statements furnish information allow to inspections, etc.

less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues:

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-section (2) shall be imposed—

(a) in a case where the contravention, failure or default in respect of which such penalty is impossible occurs in the course of any proceeding, before a wealth-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such wealth-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any wealth-tax authority referred to in sub-section (3) unless the person on whom the penalty is proposed to be imposed has been heard, or has been given a reasonable opportunity of being heard in the matter, by such authority.

Explanation.— In this section, “wealth-tax authority” includes a Director General, Director, Deputy Director, Assistant Director and a Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 37.’ 5 of 1908.

Insertion
of new
Chapter
IVB.

143. In the Wealth-tax Act, after section 18C, the following Chapter shall be inserted, namely:—

“CHAPTER IVB

Charge of Additional Wealth-tax In Certain Cases

Additional
wealth-
tax.

18D. (1) Where, in the case of any person, the net wealth determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed net wealth) exceeds the net wealth declared in the return of net wealth furnished by such person for that assessment year (hereafter in this section referred to

ass than one hundred rupees but which may extend to two hundred rupees for every day during which the as returned net wealth) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as payable by him on the basis of the assessment under section 16, be liable to pay, by way of additional wealth-tax, in respect of the said assessment year, a sum calculated on such excess amount at the rate of three per cent.

(2) For the purposes of sub-section (1),

(a) where such person has furnished two or more returns of net wealth for the same assessment year, the net wealth declared in the return furnished last before the service of a notice under sub-section (2) of section 16 on such person shall be treated as the returned net wealth;

(b) where such person fails to furnish the return of net wealth in respect of any assessment year and the assessment for that year is made under sub-section (5) of section 16, the returned net wealth shall be taken to be nil;

(c) where such person fails to furnish a return of net wealth for any assessment year under section 14 or section 15, but furnished such return after he is served with a notice under section 17, the returned net wealth shall be taken to be nil.

(3) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which the additional wealth-tax is payable under sub-section (1) has been increased or reduced, as the case may be, the additional wealth-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional wealth-tax is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly;

(ii) in a case where the additional wealth-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or other-

2 of 1988

Section
of new
Chapter
IVB

wise, wive or reduce the amount of additional wealth-tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or, disallowed in computing the assessed net wealth, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is bona fide and all the facts relating to the same and material to the computation of the assessed net wealth have been disclosed by him :

Provided that —

(i) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional wealth-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional wealth-tax shall be accompanied by a fee of one hundred rupees.

(5) Where in the course of a search under section 37A, the assessee is found to be the owner of any money, bullion, jewellery or other valuable article or thing (hereinafter referred to as assets) and the assessee claims that such assets represent form part of his net wealth—

(a) on any valuation date falling before the date of the search, but the return in respect of the net wealth on such date has not been furnished before the date of the search or where such return has been furnished the said date, such assets have not been declared in such return; or

(b) on any valuation date falling on or after the date of the search,

then, notwithstanding that such assets are declared by him in any return of net wealth furnished on or after the date of the search, the value of such assets shall not for the purposes of liability to the additional wealth-tax under sub-section (1), be treated as forming part of the returned net wealth, unless—

(i) such assets are recorded—

(A) in a case falling under clause (a), before the date of the search; and

(B) in a case falling under clause (b), on or before the date of the search,

in the books of account, if any, maintained by him or such assets are otherwise disclosed to the Chief Commissioner or Commissioner before the said date; or

(ii) the assessee, in the course of the search, makes a statement under sub-section (4) of section 37A that any money, bullion, jewellery or other valuable article or thing found in his possession or under his control forms part of his net wealth which has not been disclosed so far in his return of net wealth to be furnished before the expiry of the time specified in sub-section (1) of section 14, and also specifies in the statement the manner in which such net wealth has been acquired and pays the tax together with interest, if any, in respect of such net wealth.

(6) The additional wealth-tax payable under this section shall not be included in the amount of tax payable on the net wealth as determined on regular assessment, for the purposes of section 17B.”

144. In section 21A of the Wealth-tax Act,—

(a) in clause (i), for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act”, the words “any interested person,” shall be substituted;

(b) in clause (ii), for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the said Act, or”, the words “any interested person,” shall be substituted;

(c) clause (iii) shall be omitted;

(d) in the first proviso, for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act”, the words “any interested person” shall be substituted;

(e) in the second proviso,—

(i) for the words, brackets and figures “any person referred to in sub-section (3) of section 13 of the Income-tax Act has a substantial interest as provided in Explanation 3 to that section”, the words,

Amend-
ment of
section
21A.

figures, brackets and letter “any interested person has a substantial interest as provided in Explanation 3 below sub-section (4) of section 80F of the Income-tax Act” shall be substituted;

(ii) for the words, brackets and figure “any person referred to in the aforesaid sub-section (3)”, the words “any interested person” shall be substituted;

(f) in the third proviso,—

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

‘(a) in the case of any trust or institution of national importance notified under clause (d) of sub-section (1) of section 80F of the Income-tax Act,—

(i) the provisions of clause (i) and clause (ii) shall not apply; and

(ii) the other provisions of this section shall apply with the modification that for the words “at the maximum marginal rate”, the words and figures “at the rates specified in Part I of Schedule I in the case of an individual” shall be substituted;’;

(ii) in clause (b), for the words, brackets and figures “clauses (i) to (iii)”, the words, brackets and figures “clauses (i) and (ii)” shall be substituted;

(g) in the Explanation, for clauses (a) and (aa), the following clauses shall be substituted, namely :—

‘(a) the expression “interested person” shall have the meaning assigned to it in clause (a) of Explanation 1 below sub-section (4) of section 80F of the Income-tax Act;

(ab) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any interested person in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (3) of section 80F of the Income-tax Act at any time during the period of twelve months ending with the relevant valuation date;’.

145. In section 21AA of the Wealth-tax Act, in sub-section (1), for the portion beginning with the words “purposes of this Act” and ending with the words “beneficial to the revenue”, the words “purposes of this Act, and at the maximum Marginal rate shall be substituted.

Amend-
ment of
section
21AA.

146 In section 23 of the Wealth-tax Act,—

(a) in sub-section (1),—

Amend-
ment of
section 23

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

“(d) objecting to any penalty imposed by the Assessing Officer under section 18 as it stood immediately before the 1st day of April, 1989, or under section 18 as amended by the Direct Tax Laws (Amendment) Act, 1987”;

(ii) clause (i) shall be omitted;

(b) in sub-section (1A), for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

“(b) objecting to any penalty imposed under clause (c) of sub-section (1) of section 18 as it stood immediately before the 1st day of April, 1989 in respect of any assessment year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section; or

(c) objecting to any assessment or order referred to in clauses (a) to (h) (both inclusive) of sub-section (1), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 8 or section 11 ; or

(d) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 18A.”;

(c) for sub-sections (1B) and (1C), the following sub-section shall be substituted, namely:—

“(1B) Notwithstanding anything contained in sub-section (1), the Board or the Director General or Chief Commissioner or Commissioner if so authorised by the Board, may, by order in writing, transfer any appeal which is pending before a Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) if the Board or, as the case may be, the Director General, Chief Commissioner or Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transferred:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be re-opened or that he be reheard.”;

Insertion of
new section
23A.

(d) in sub-section (2A), the proviso shall be omitted.
147. After section 23 of the Wealth-tax Act, the following section shall be inserted, namely:—

Application
by the as-
essee in
certain cases.

“23A. (1) Where before furnishing a return of net wealth under sub-section (1) of section 14 or section 15 or sub-section (4) of section 16 for any assessment year, any question arises as to whether,—

(a) any wealth is includible or not in computing the net wealth (hereafter in this section referred to as the disputed wealth), or

(b) any exemption or deduction is admissible or not in computing the net wealth (hereafter in this section referred to as the disputed deduction),

the assessee shall, after furnishing such return, make an application under sub-section (2):

Provided that the assessee,—

(i) shall include in such return the disputed wealth and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the disputed wealth and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the aforesaid return, to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1) the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnished the report thereon,

and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filing of appeals under

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this Act shall, so far as may be, apply to the making of an application under this section as if such application were an appeal.”

148. In section 31 of the wealth-tax Act,—

Amend-
ment of
section 31.

(a) in sub-section (1) and the proviso to that sub-section, for the words “thirty-five days” in the three places where they occur, the words “thirty days” shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1),” the words, brackets and figure “one and one-half per cent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid” shall be substituted;

(ii) in the proviso, after the words and figures “or section 35” the words, brackets, figures and letter “or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D” shall be inserted;

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

“Provided further that in respect of any period commencing on or before the 31st day of March, 1989, and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one-half per cent. for every month or part of a month”.

149. In section 32 of the Wealth-tax Act,—

Amend-
ment of
section 32

(a) for the words “and to Wealth-tax Officer and Commissioner of Wealth-tax instead of to Income-tax Officer and Commissioner of Income tax” the words “and to the corresponding wealth-tax authorities specified therein” shall be substituted;

(b) for Explanation II, the following Explanation shall be substituted, namely :—

“Explanation II. — The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding wealth-tax authorities for the purpose of recovery of wealth-tax and sums imposed by way of penalty, fine and interest under this Act.”.

Amend-
ment of
section
34A.

150. In section 34A of the Wealth-tax Act,—

(i) to sub-section (1), the following proviso shall be added, namely :—

“Provided that where, by the order aforesaid,—

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount, if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”;

(ii) after sub-section (4), the following sub-sections shall be inserted, namely,—

“(4A) The provisions of sub-sections (3), (3A) and (4) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(4B) (a) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation. — For the purposes of this clause, ‘date of payment of the tax or penalty’ means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 30 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to

him shall be excluded from the period for which interest is payable and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 17 or section 23 or section 24 or section 25 or section 27 or section 29 or section 35 or any order of the Wealth-tax Settlement Commission under sub-section (4) of section 22D, the amount on which interest was payable under clause (a) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 30 and the provisions of this Act shall apply accordingly.

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989 and subsequent assessment years.”.

151. In section 35 of the Wealth-tax Act, in sub-section (1), clause (aa) shall be renumbered as clause (aaa) and before clause (aaa) as so renumbered, the following clause shall be inserted, namely:— Amendment of section 35

“(aa) a wealth-tax authority may amend any intimation sent by it under sub-section (1) of section 16 or enhance or reduce the amount of refund granted by it under that sub-section.”.

152. In section 35K of the Wealth-tax Act,—

(a) in sub-section (1), for the words “an assessment year”, the words, figures and letters “the assessment year commencing on the 1st day of April 1988, or any earlier assessment year” shall be substituted; Amendment of section 35K

(b) in sub-section (2), for the words, figures and letters “any of the Wealth-tax authorities specified in sections 8, 9, 9A, 10, 10A and 11”, the words and brackets “any Wealth-tax authority (not being an Inspector of Income-tax)” shall be substituted.

153. In section 37 of the Wealth-tax Act,—

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

Amend-
ment of
section 37.

“(1A) If the Director General or Director or the authorised officer referred to in sub-section (1) of section 37A, before he takes action under clauses (i) to (vi) of that sub-section, has reason to suspect that any net wealth has been concealed, or is likely to be concealed, by any person or class of persons within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto it shall be competent for him to exercise the powers conferred under sub-section (1) on the wealth-tax authorities referred to in that section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other wealth-tax authority.”;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3),—

(i) after the words, brackets and figure “in sub-section (1)”, the words, brackets, figures and letter “or sub-section (1A)” shall be inserted;

(ii) in the proviso, after the words “Valuation Officer”, the words “or an Assistant Director” shall be inserted.

154. In section 37A of the Wealth-tax Act,—

(1) in sub-section (1),—

(a) in clause (c), for the words “any articles or things including money”, the words “any money bullion, jewellery or other valuable article or thing” shall be substituted;

(b) in clauses (A) and (B), for the words “or Wealth-tax Officer” the words “Assistant Commissioner or Income-tax Officer” shall be substituted;

(c) in clauses (i) and (ii), for the words “articles or things including money”, the words “money, bullion, jewellery or other valuable article or thing” shall be substituted;

(d) for clause (iv), the following clause shall be substituted, namely:—

Amend-
ment of
section
37A.

“(iv) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;”;

(e) in clause (vi), for the words “any articles or things including money”, the words “any money, bullion, jewellery or other valuable article or thing” shall be substituted;

(f) in the proviso, for the word and figures “section 10”, the word and figure “section 8” shall be substituted;

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

“Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume weight or other physical characteristic or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (iv) of this sub-section.”;

(2) in sub-section (2),—

(a) for the words “articles or things including money”, the words “money, bullion, jewellery or other valuable article or thing” shall be substituted;

(b) for the word and figures “section 10”, the word and figure “section 8” shall be substituted;

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

“(3A) The authorised officer may, where it is not practicable to seize any books of account, other documents, money, bullion, jewellery or other valuable article or thing, for reasons other than those mentioned in the second proviso to sub-section (1), serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

Explanation.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (iv) of sub-section (1).”;

(4) in sub-section (4), the following Explanation shall be inserted at the end, namely :—

“Explanation.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of matters relevant for the purposes of any investigation connected with any proceedings under this Act.”;

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

(5A) Where any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in this section 37B and 37C referred to as the assets) is seized under sub-section (1) or sub-section (2), the Assessing Officer, after affording a reasonable opportunity to the person concerned of being heard and making such inquiry as may be prescribed, shall within one hundred and twenty days of the seizure, make an order, with the previous approval of the Deputy Commissioner,—

(i) estimating the undisclosed net wealth in a summary manner to the best of his judgment on the basis of such materials as are available with him;

(ii) calculating the amount of tax on the net wealth so estimated in accordance with the provisions of this Act;

(iii) determining the amount of interest payable and the amount of any penalty imposable in accordance with the provisions of this Act, as if the order had been the order of regular assessment;

(iv) specifying the amount that will be required to satisfy any existing liability under this Act in respect of which such person is in default or is deemed to be in default, and retain in his custody such assets or part thereof as are in his opinion sufficient to satisfy the aggregate of the amounts referred to in

clauses (ii), (iii) and (iv) and forthwith release the remaining portion, if any, of the assets to the person from whose custody they were seized :

Provided that where a person has paid or made satisfactory arrangements for payment of all the amounts referred to in clauses (ii), (iii) and (iv) or any part thereof, the Assessing Officer, may with the previous approval of the Chief Commissioner or Commissioner release the assets or such part thereof as he may deem fit in the circumstances of the case.

(5B) The assets retained under sub-section (5A) may be dealt with in accordance with the provisions of section 37C.

(5C) If the Assessing Officer is satisfied that the seized assets or any part thereof were held by such person for or on behalf of any other person, the Assessing Officer may proceed under sub-section (5A) against such other person and all the provisions of this section shall apply accordingly.”;

(6) after sub-section (6), the following sub-section shall be inserted, namely :—

“(6A) An order under sub-section (3A) shall not be in force for a period exceeding sixty days from the date of the order, except where the authorise officer, for reasons to be recorded in writing by him, extends the period of operation of the order beyond sixty days, after obtaining the approval of the Chief Commissioner or Commissioner for such extension :

Provided that the Chief Commissioner or Commissioner shall not approve the extension of the period of any period beyond the expiry of thirty days after the completion of the proceedings under this Act in respect of the year for which the books of account, other documents, money, bullion, jewellery or other valuable articles or things are relevant.”;

(7) after sub-section (9), the following sub-section shall be inserted, namely :—

“(9A) If any person objects for any reason to an order made under sub-section (5A), he may, within thirty days from the date of such order, make an application to the Chief Commissioner or Commissioner stating therein the reasons for such objection and requesting for appropriate relief in the matter.”;

(8) for sub-section (10), the following sub-section shall be substituted, namely :—

“(10) On receipt of the application under sub-section (9), the Board or on receipt of the application under sub-section (9A), the Chief Commissioner or Commissioner, may, after giving the applicant an opportunity of being heard, pass such orders as it or he thinks fit.”;

(9) after sub-section (12), the following Explanations shall be inserted, namely :—

‘Explanation 1.— In computing the period referred to in sub-section (5A) for the purposes of that sub-section, any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

Explanation 2.— In this section, the word “proceeding” means any proceeding in respect of any year under this Act which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also proceedings under this Act which may be commenced after such date in respect of any year.’

155. In section 37B of the Wealth-tax Act,—

(a) in sub-section (1),—

(i) in clause (c), for the words “any articles or things including money”, the words “any assets” shall be substituted;

(ii) for the words “or Wealth-tax Officer”, the words, “Assistant Commissioner or Income-tax Officer” shall be substituted;

(iii) for clauses (i) and (ii), the words “to deliver such books of account, other documents’ or asset to the requisitioning officer” shall be substituted;

(b) in sub-section (2), for clauses (i) and (ii), the following shall be substituted, namely:—

“the officer or authority referred to in clause (a) or clause (b) or clause (c), as the case may be, of that sub-section shall deliver the books of account, other documents, or assets to the requisitioning

Amendment of section 37B.

officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.”;

(c) for sub-section (3), the following sub-section shall be sub-stituted, namely:—

‘(3) Where any books of account, other documents, or assets have been delivered to the requisitioning officer, the provisions of sub-sections (5) to (12) (both inclusive) of section 37A and section 37C shall, so far as may be, apply as if such books of account, other documents, or assets had been seized under sub-section (1) of section 37A by the requisitioning officer from the custody of the person referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of this section and as if for the words “the authorised officer” occurring in sub-sections (5) to (12) aforesaid, the words “the requisitioning officer” were substituted.’

156. After section 37B of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion
of new
section
37C.

“37C. (1) The assets retained under sub-section (5A) of section 37A may be dealt with in the following manner, namely:—

Application
of retained
assets.

(i) the amount of the existing liability referred to in clause (iv) of the said sub-section and the amount of the liability determined on completion of the regular assessment or re-assessment for all the assessment years for which the net wealth referred to in clause (i) of that sub-section is assessable to tax (including any penalty levied or interest payable, in connection with such assessment or re-assessment) and in respect of which the assessee is in default or is deemed to be in default may be recovered out of such assets;

(ii) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (i) and the assessee shall be discharged of such liabilities to the extent of the money so applied;

(iii) the assets other than money may also be applied for the discharge of any such liability referred to in clause (i) as remains undischarged and for

this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer under authorisation from the Chief Commissioner or Commissioner under sub-section (5) of section 226 of the Income-tax Act as made applicable to this Act by section 32, and the Assessing Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule to the Income-tax Act as made applicable to this Act by section 32.

(2) Nothing contained in sub-section (1) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(3) Any assets or proceeds thereof which remain after the liabilities referred to in clause (i) of sub-section (1) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(4) (a) The Central Government shall pay simple interest at the rate of fifteen per cent per annum on the amount by which the aggregate of the money retained under section 37A and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (iv) of sub-section (5A) of that section exceeds the aggregate of the amounts required to meet the liabilities referred to in clause (i) of sub-section (1) of this section.

(b) Such interest shall run from the date immediately following the expiry of the period of six months from the date of the order under sub-section (5A) of section 37A to the date of the regular assessment or re-assessment referred to in clause (i) of sub-section (1) or, as the case may be, to the date of the last of such assessments or re-assessments."

**Amendment
of section 38.**

157. In section 38 of the Wealth-tax Act,—

(a) for the words "Where, for the purposes of determining the wealth-tax payable by any person", the words "Where, for the purposes of this Act" shall be substituted;

(b) for the words "the Wealth-tax Officer", in the first place where they occur, the words "any

wealth tax authority" and, in the second and third places where they occur, the words "such wealth-tax authority" shall be substituted;

(c) after the words "from individual, company", the brackets and words "(including a banking company)" shall be inserted.

153. In section 45 of the wealth-tax Act, after clause (i) and the Explanation thereto, the following clause shall be inserted namely:— Amendment of section 45.

"(j) a Mutual Fund specified under clause (23D) of section 10 of the Income-tax Act."

159. After section 46A of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988, namely:— Insertion of new section 47.

"47. (1) If any difficulty arises in giving effect to the provisions of this Act as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty: Power to remove difficulties.

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament."

160. The following amendments (being amendments of a consequential nature) shall be made in the Wealth-tax Act with effect from the 1st day of April, 1989, namely:— Consequential amendments.

(1) in section 5, in sub-section (1), in clause (i), for the proviso, the following proviso shall be substituted, namely:—

"Provided that nothing contained in this clause shall apply to any property forming part of any business, not being a business,—

(a) the income whereof qualifies for deduction under section 80F of the Income-tax Act; or

(b) a business carried on by an institution, fund or trust referred to in clause (22) or clause (22A) or clause (23B) or clause (23C) of section 10 of that Act;"

(2) in section 24, in sub-section (1), after the word and figures "section 23", the words, figures and letter "or section 23A" shall be inserted;

(3) in section 35, in sub-section (1),—

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

"(b) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 18A;"

(b) for clauses (d) and (e), the following clauses shall be substituted, namely:—

"(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 23 or section 23A;

(d) The Commissioner may amend any order passed by him under section 25;

(e) the Appellate Tribunal may amend any order passed by it under section 24."

CHAPTER IV

Amendments to the Gift-tax Act, 1958

Substitution
of new
authorities.

161. In the Gift-tax Act, 1958 (hereafter in this Chapter referred to as the Gift-tax Act), save as otherwise expressly provided in this Act, and unless the context otherwise requires, references, to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April 1988 by references to the authority or authorities specified in the corresponding entry in column (2) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made; 18 of 1958.

TABLE

| (1) | (2) |
|-------------------------------|------------------------------|
| Director of Inspection | Director General or Director |
| Deputy Director of Inspection | Deputy Director |

| | |
|--|--|
| Assistant Director of Inspection | Assistant Director |
| Commissioner or Commissioner of Commissioner Gift-tax | Chief Commissioner or Commissioner |
| Inspecting Assistant Co- missioner or Inspecting Assistant Commissioner of Gift-tax | Deputy Commissioner |
| Appellate Assistant Co- missioner Gift-tax Officer | Deputy Commissioner (Appeals) Assessing Officer |
| Inspector of Gift-tax | Inspector of Income-tax: |

Provided that nothing contained in this section shall apply to the references to "Commissioner" occurring in section 23 and 24.

**Amendment
of section 2.**

162. In section 2 of the Gift-tax Act.—

(a) clause (i) shall be omitted;

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

'(iiiia) "Assessing Officer" means the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of gift-tax under section 7 of this Act, and also the Deputy Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;';

(c) clauses (vi), (via), (vii), (xiii), (xv), (xvi), (xvii) and (xviii) shall be omitted;

(d) for clause (vii), the following clause shall be substituted, namely:—

'(vii) the expressions "company", "Indian company" and "company in which the public are substantially interested" shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;';

(e) for clause (xi), the following clause shall be substituted, namely:—

‘(xi) the expressions ‘firm’, ‘partner’ and ‘partnership’ shall have the meanings respectively assigned to them under section 2 of the Income-tax Act;’;

(f) in clause (xx),—

(i) sub-clause (b) shall be omitted;

(ii) in the first proviso, the words, brackets and letter ‘or sub-clause (b)’ shall be omitted;

(iii) the second proviso shall be omitted;

(g) after clause (xxiv), the following clause shall be inserted, namely:—

‘(xxv) the expressions ‘Chief Commissioner’, ‘Director General’, ‘Commissioner’ ‘Commissioner (Appeals)’, ‘Director’, ‘Deputy Commissioner’, ‘Deputy Commissioner (Appeals)’, ‘Assistant Commissioner’, ‘Income-tax Officer’, ‘Tax Recovery Officer’ and ‘Inspector of Income-tax’ shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.’.

163. In section 3 of the Gift-tax Act, in sub-section (2), for the words “Subject to the other provisions contained in this Act”, the words and brackets “Subject to the other provisions (including provisions for the levy of additional gift-tax) contained in this Act” shall be substituted. Amendment of section 3.

Substitution of new sections for sections 7, 8, 9 and 10.

164. For sections 7, 8, 9, and 10 of the Gift-tax Act, the following sections shall be substituted with effect from the 1st day of April 1988, namely:—

Gift-tax authorities and their jurisdiction.

“7. The income-tax authorities specified in section 116 of the income-tax Act shall be the gift-tax authorities for the purposes of this Act and every such authority shall exercise the powers and perform the functions of a gift-tax authority under this Act in respect of any person within his jurisdiction, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

Explanation.— For the purposes of this section, the gift-tax authority having jurisdiction in relation to a person who has no income assessable to income-tax under the Income-tax Act shall be the gift-tax authority having jurisdiction in respect of the area in which that person resides.

Control of gift-tax authorities.

8. Section 118 of the Income-tax Act and any notification issued thereunder shall apply in relation to the control of gift-tax authorities as they apply in relation to the control of the corresponding income-tax authorities, except to the extent to which the Board may, by notification in the Official Gazette, otherwise direct in respect of any gift-tax authority.

Instructions to subordinate authorities.

9. (1) The Board may, from time to time, issue such orders, instructions and directions to other gift-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board :

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any gift-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Deputy Commissioner (Appeals) or Commissioner (Appeals) in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 15, 16, 17 and 34 or otherwise), general or special orders in respect of any class of cases, setting forth directions or instructions (not being

prejudicial to assessee) as to the guidelines, principles or procedures to be followed by other gift-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(b) the board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise any gift-tax authority, not being a Deputy Commissioner (Appeals) or Commissioner (Appeals) to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law.

10. (1) The provisions of sections 124 and 127 of the Income-tax Act shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the income-tax Act, subject to the modifications specified in sub-section (2).

Jurisdiction of Assessing Officers and power to transfer cases.

(2) The modifications referred to in sub-section (1) shall be the following, namely :—

(a) in section 124 of the Income-tax Act,—

(i) in sub-section (3), references to the provisions of the Income-tax Act shall be construed as references to the corresponding provisions of the Gift-tax Act;

(ii) sub-section (5) shall be omitted;

(b) in section 127 of Income-tax Act, in the Explanation below sub-section (5), references to proceedings under the Income-tax Act shall be construed as including references to proceedings under the Gift-tax Act.”

165. Sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12 of the Gift-tax Act shall be omitted with effect from the 1st day of April, 1988.

Omission of sections 7A, 7AA, 7B, 8A, 9A, 11, 11A, 11AA, 11B and 12.

166. In section 13 of the Gift-tax Act,—

Amend-
ment of
section 13.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

“(1) Every person who during a previous year has made any taxable gifts, or is assessable in respect of the taxable gifts made by any other person under this Act, which, in either case, exceeded the maximum amount nor chargeable to gift-tax, shall, on or before the 30th day of June of the corresponding assessment year, furnish a return of such gifts in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(2) Notwithstanding anything contained in other provisions of this Act, a return which shows the amount of taxable gifts below the maximum amount which is not chargeable to tax shall be deemed never to have been furnished.

Provided that this sub-section shall not apply to a return furnished in response to a notice under section 16”;

(b) sub-section (3) shall be omitted.

Substitu-
tion of new
section for
section 14.

167. For section 14 of the Gift-tax Act, the following section shall be substituted, namely :—

Return
after due
date and
amendment
of return.

“14. If any person has not furnished a return within the time allowed under sub-section (1) of section 13 or by a notice issued under clause (i) of sub-section (4) of section 15, or having furnished a return discovers any omission or wrong statement therein, he may furnish a return or a revised return as the case may be, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier;

Provided that —

(a) where such return or revised return relates to the assessment year commencing on the 1st day of April, 1987, or any earlier assessment year, it may be furnished at any time up to and inclusive of the 31st day of March, 1990 or before the completion of the assessment, whichever is earlier;

(b) where such return relates to the assessment year commencing on the 1st day of April, 1988, it may be furnished at any time up to and inclusive of the 31st day of March, 1991, or before the completion of the assessment, whichever is earlier."

Amend-
ment of sec-
tion 14A.

168. In section 14A of the Gift-tax Act,—

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

“(a) in the case of an individual,—

(i) by the individual himself;

(ii) where he is absent from India, by the individual himself or by some person duly authorised by him in his behalf.

(iii) where he is mentally incapacitated from attending to his affairs, by his guardian or any other person competent to act on his behalf; and

(iv) where, for any other person, it is not possible for the individual to sign the return, by any person duly authorised by him in this behalf.

Provided that in a case referred to in sub-clause (ii) or sub-clause (iv), the person signing the return holds a valid power of attorney from the individual to do so, which shall be attached to the return;”

(ii) to clause (c), the following provisos shall be added, namely:—

“Provided that where the company is not resident in India, the return may be signed and verified by a person who holds a valid power of attorney from such company to do so, which shall be attached to the return:

Provided further that,—

(a) where the company is being wound up, whether under the orders of the court or otherwise, or where any person has been appointed as the receiver of any assets of the company, the return shall be signed and verified by the liquidator referred to in sub-section (1) of section 178 of the Income-tax Act;

(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be signed and verified by the principal officer thereof.”.

169. After section 14A of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion
of new section 14B.

“14B. (1) Where any tax is payable on the basis of any return furnished under section 13 or under section 14 or in response to a notice under clause (i) of sub-section (4) of section 15 or under section 16, after taking into account the amount of tax, if any, already paid under any provision of this Act, the assessee shall be liable to pay such tax, together with interest payable under any provision of this Act for any delay in furnishing the return, before furnishing the return and the return shall be accompanied by proof of payment of such tax and interest.

Self-assessment.

Explanation.—Where the amount paid by the assessee under this sub-section falls short of the aggregate of the tax and interest as aforesaid, the amount so paid shall first be adjusted towards the interest payable as aforesaid and the balance, if any, shall be adjusted towards the tax payable.

(2) After the regular assessment under section 15 has been made, any amount paid under sub-section (1) shall be deemed to have been paid towards such regular assessment.

(3) If any assessee fails to pay the whole or any part of such tax or interest or both in accordance with the provisions of sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of the tax or interest or both remaining unpaid and all the provisions of this Act shall apply accordingly.”

Substitution
of new section for
section 15.

170. For section 15 of the Gift-tax Act, the following section shall be substituted, namely:—

Assessment

'15. (1) (a) Where a return has been made under section 13 or section 14 or in response to a notice under clause (i) of sub-section (4),—

(i) if any tax or interest is found due on the basis of such return after adjustment of any amount paid by way of tax or interest, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice issued under section 31 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due on the basis of such return, it shall be granted to the assessee:

Provided that in computing the tax or interest payable by, or refundable to, the assessee the following adjustments shall be made in the taxable gifts declared in return, namely:—

(i) any arithmetical errors in the return, accounts or documents accompanying it shall be rectified;

(ii) any exemption or deduction, which, on the basis of the information available in such return, accounts or documents, is prima facie admissible but which is not claimed or made in the return, shall be allowed;

(iii) any exemption or deduction claimed or made in the return, which, on the basis of the information available in such return, accounts or documents, is prima facie inadmissible, shall be disallowed.

(b) Where, as a result of an order made under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34 relating to any earlier assessment year and passed subsequent to the filing of the return referred to in clause (a), there is any variation in the exemption or deduction claimed or made in the return, and as a result of which,—

(i) if any tax or interest is found due, an intimation shall be sent to the assessee specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under section 31 and all the provisions of this Act shall apply accordingly; and

(ii) if any refund is due, it shall be granted to the assessee:

Provided that an intimation for any tax or interest due under this clause shall not be sent after the expiry of four years from the end of the financial year in which any such order was passed.

(2) In a case referred to in sub-section (1), if the Assessing Officer considers it necessary or expedient to ensure that the assessee has not omitted to disclose any taxable gift or has not understated the amount or value of any such gift or has not under-paid the tax in any manner he shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend at the office of the Assessing Officer or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of the financial year in which the return is furnished or on the expiry of six months from the end of the month in which the return is furnished, whichever is later.

(3) On the date specified in the notice issued under sub-section (2) or, as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by order in writing, assess the value of taxable gift made by the assessee and determine the sum payable by him on the basis of such assessment.

(4) For the purposes of making an assessment under this Act, the Assessing Officer may serve, on any person who has made a return under section 13 or section 14 or in whose case the time allowed under sub-section (1) of section 13 for furnishing the return has expired, a notice requiring him, on a date to be specified therein,—

(i) where such person has not made a return before the end of the relevant assessment year, to furnish a return of the taxable gifts made by him or of the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, or

(ii) to produce or cause to be produced such accounts, records or other documents as the Assessing Officer may require.

(5) If any person—

(a) fails to make the return required under sub-section (1) of section 13 and has not made a return or a revised return under section 14, or

(b) fails to comply with all the terms of a notice issued under sub-section (2) or sub-section (4),

the Assessing Officer, after taking into account all relevant material which he has gathered, shall, after giving such person an opportunity of being heard, estimate the value of taxable gifts to the best of his judgement and determine the sum payable by such person on the basis of such assessment:

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the person to show cause, on a date and time to be specified in the notice, why the the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (4) has been issued prior to the making of the assessment under this sub-section.

(6) Notwithstanding anything contained in section 6, for the purpose of making an assessment under this Act the Assessing Officer may refer the valuation of such property to the Valuation Officer,—

(a) in a case where the value of the property as returned is in accordance with the estimate made by a registered valuer, if the Assessing Officer is of opinion that the value so returned is less than its fair market value;

(b) in any other case, if the Assessing Officer is of opinion—

(i) that the fair market value of the property exceeds the value of the property as returned by more than such percentage of the value of the property as returned or by more than such amount as may be prescribed in this behalf; or

(ii) that having regard to the nature of the property and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (ha) and (i) of sub-sections (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957, shall, with the necessary modifications apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

27 of 1957.

Explanation.—In this sub-section, “Valuation Officer” has the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957.’

27 of 1957.

Amendment
of section
16.

171. In section 16 of the Gift-tax Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) If the Assessing Officer, for reasons to be recorded by him in writing, is of the opinion that the taxable gifts in respect of which any person is assessable under this Act (Whether made by him or by any other person) have escaped assessment for any assessment year (whether by reason of under-assessment or assessment at too low a rate or otherwise), he may, subject to the other provisions of this section and section 16A, serve on such person a notice requiring him to furnish within such period not being less than thirty days, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner, setting forth the taxable gifts made by him or by such other person during the previous year mentioned in the notice, in respect of which he is assessable, along with such other particulars as may be required by the notice, and may proceed to assess or re-assess such gift and also any other taxable gifts in respect of which such person is assessable, which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section for the assessment year concerned (hereafter in this section referred to as the relevant assessment year); and the provisions of this Act shall, so far as may be, apply as if the return were a return required under section 13:

Provided that where an assessment under sub-section (3) of section 15 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any taxable gift chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 13 or section 14 or in response to a notice issued under sub-section (4) of section 15 or this section or to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Explanation.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

(1A) No notice under sub-section (1) shall be issued for the relevant assessment year,—

(a) in a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section has been made for such assessment year,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment years, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees one lakh or more for that year;

(b) in any other case,—

(i) if four years have elapsed from the end of the relevant assessment year, unless the case falls under sub-clause (ii) or sub-clause (iii);

(ii) if four years, but not more than seven years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees twenty-five thousand or more for that year;

(iii) if seven years, but not more than ten years, have elapsed from the end of the relevant assessment year, unless the value of taxable gifts chargeable to tax which have escaped assessment amounts to or is likely to amount to rupees fifty thousand or more for that year.

Explanation.—For the purposes of sub-section (1) and sub-section (1A), the following shall also be deemed to be cases where taxable gifts chargeable to tax have escaped assessment, namely:—

(a) where no return of taxable gifts has been furnished by the assessee although the taxable gifts made by him or the taxable gifts made by any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to gift-tax;

(b) where a return of taxable gifts has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the amount or value of the taxable gifts or has claimed excessive exemption or deduction in the return.

(1B) (a) In a case where an assessment under sub-section (3) of section 15 or sub-section (1) of this section has been made for the relevant assessment year, no notice shall be issued under sub-section (1) except by an Assessing Officer of the rank of Assistant Commissioner or Deputy Commissioner:

Provided that, after the expiry of four years from the end of the relevant assessment year, no such notice shall be issued unless the Chief Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer aforesaid, that it is a fit case for the issue of such notice.

(b) In a case other than a case falling under clause (a), no notice shall be issued under sub-section (1) by an Assessing Officer, who is below the rank of Deputy Commissioner, after the expiry of

four years from the end of the relevant assessment year, unless the Deputy Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.”;

(b) in sub-section (2), the words “or by a court in any proceedings under any other law” shall be added at the end.

172. In section 16A of the Gift-tax Act,—

Amend-
ment of
section
16A.

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) No order of assessment shall be made under section 15 at any time after the expiry of one year from the end of the assessment year in which the gifts were first assessable:

Provided that where the gifts were first assessable in the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment may be made on or before the 31st day of March, 1990.

(2) No order of assessment or reassessment shall be made under section 16 after the expiry of two years from the end of the financial year in which the notice under sub-section (1) of that section was served:

Provided that,—

(i) where the notice under clause (a) of sub-section (1) of section 16 was served during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990;

(ii) where the notice under clause (b) of sub-section (1) of section 16 relates to the assessment for the assessment year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, such assessment or reassessment may be completed on or before the 31st day of March, 1990, or the expiry of two years from the end of the financial year in which such notice was served, whichever is later.

Explanation.—References to section 16 in the proviso shall be construed as references to that section as it stood before its amendment by the Direct Tax Laws (Amendment) Act, 1987.”;

(b) in sub-section (3),—

(i) for the words “four years”, the words “two years” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that where the order setting aside or cancelling the assessment was passed during the financial year commencing on the 1st day of April, 1985, or the 1st day of April, 1986, the order of fresh assessment may be made on or before the 31st day of March, 1990.”.

173. After section 16A of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion of new section 16B.

‘16B. (1) Where a return of gifts for any assessment year under sub-section (1) of section 13 or section 14, or in response to a notice under clause (i) of sub-section (4) of section 15, is furnished after the 30th day of June of such year, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the 1st day of July of the assessment year, and,—

Interest for defaults in furnishing return of gifts.

(a) where the return is furnished after the 30th day of June ending on the date of furnishing of the return; or

(b) where no return has been furnished, ending on the date of completion of the assessment under sub-section (5) of section 15,

on the amount of tax payable on the taxable gifts as determined on regular assessment.

Explanation 1.— In this sub-section and sub-section (3), “tax payable on the taxable gifts as determined on regular assessment” shall not include the additional gift-tax, if any, payable under section 18B.

Explanation 2. — Where in relation to an assessment year the assessment is made for the first time under section 16, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(2) The interest payable under sub-section (1) shall be reduced by the interest, if any, paid under section 14B towards the interest chargeable under this section.

(3) Where the return of gifts for any assessment year, required by a notice under sub-section (1) of section 16 issued after the completion of an assessment under sub-section (3) or sub-section (5) of section 15 or section 16, is furnished after the expiry of the time allowed under such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent. for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time allowed as aforesaid, and,—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) where no return has been furnished, ending on the date of completion of the reassessment under section 16,

on the amount by which the tax on the taxable gifts determined on the basis of such reassessment exceeds the tax on the taxable gifts as determined on the basis of the earlier assessment aforesaid.

Explanation.—In this sub-section, “tax on the taxable gifts determined on the basis of the reassessment under section 16” shall not include the additional gift-tax, if any, payable under section 18B.

(4) Where, as a result of an order under section 22 or section 23 or Section 24 or section 26 or section 28 or section 34, the amount of tax on which interest was payable under this section has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly, and,—

(i) in a case where the interest is increased, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall

be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly, and

(ii) in a case where the interest is reduced, the excess interest paid, if any, shall be refunded.

(5) The provisions of this section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years;

174. For sections 17 and 17A of the Gift-tax Act, the following sections shall be substituted, namely :—

Substitution of new sections for sections 17 and 17A

17. (1) If the Assessing Officer, in the course of any proceedings under this Act, is satisfied that any person has failed to comply with the notice under sub-section (2) or sub-section (4) of section 15, the Assessing Officer may, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one thousand rupees but which may extend to twenty-five thousand rupees for each such failure.

Penalty for failure to comply with notices

Provided that —

(a) no penalty shall be imposed under this section if the person proves that there was reasonable cause for the failure referred to in this subsection;

(b) no order imposing a penalty under this section shall be made —

(i) by the Income-tax Officer where the penalty exceeds ten thousand rupees;

(ii) by the Assistant Commissioners, where the penalty exceeds twenty thousand rupees except with the prior approval of the Deputy Commissioner.

(2) No order shall be made under sub-section (1) unless the person concerned has been heard or has been given a reasonable opportunity of being heard.

(3) No order imposing a penalty under subsection (1) shall be passed after the expiry of the financial year in which the proceedings, in the course

of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later.

Explanation — In computing the period of limitation for the purposes of this section,—

(i) the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 38; and

(ii) any period during which a proceeding under this section for the levy of the penalty is stayed by an order or injunction of any court.

shall be excluded.

Penalty for failure to answer questions, sign statements, furnish information, allow inspections, etc.

17A. (1) If a person —

(a) being legally bound to state the truth of any matter touching the subject of his assessment, refuses to answer any question put to him by a gift-tax authority in the exercise of his powers under Act; or

(b) refuses to sign any statement made by him in the course of any proceedings under this Act, which a gift-tax authority may legally require him to sign; or

(c) to whom a summons is issued under subsection (1) of section 36, hitherto attend to give evidence or produce books of account or other documents at a certain place and time, omits to attend or produce the books of account or documents at the place and time.

he shall pay, by way of penalty, a sum which shall not be less than five hundred rupees but which may extend to ten thousand rupees for each such default or failure:

Provided that no penalty shall be imposable under clause (c) if the person proves that there was reasonable cause for the said failure.

(2) If a person fails to furnish in due time any statement or information which such person is bound to furnish to the Assessing Officer under section 37, he shall pay, by way of penalty, a sum which not be less than one hundred rupees but which may extend to two hundred rupees for every day during which the failure continues.

Provided that no penalty shall be imposable under this sub-section if the person proves that there was reasonable cause for the said failure.

(3) Any penalty imposable under sub-section (1) or sub-Section (2) shall be imposed —

(a) in a case where the contravention, failure or default in respect of which such penalty is imposable occurs in the course of any proceeding before a gift-tax authority not lower in rank than a Deputy Director or a Deputy Commissioner, by such gift-tax authority;

(b) in any other case, by the Deputy Director or the Deputy Commissioner.

(4) No order under this section shall be passed by any gift-tax authority referred to in sub-section (3) unless the person on whom penalty is proposed to be imposed has been heard or has been given a reasonable opportunity of being heard in the matter by such authority.

Explanation.—In this section, “gift-tax authority” includes a Director General, Director, Deputy Director, Assistant Director or Valuation Officer while exercising the powers vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the matters specified in sub-section (1) of section 36.

5 of 1908.

175. In the Gift-tax Act, after section 18A, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter
IVA.

CHAPTER IVA

CHARGE OF ADDITIONAL GIFT-TAX IN CERTAIN CASES

18B. (1) Where, in the case of any person, the value of taxable gifts determined in the regular assessment for any assessment year (hereafter in this section referred to as assessed taxable gift) exceeds the value of taxable gifts declare in the return of taxable gifts furnished by such person for that assessment year (hereafter in this section referred to as returned taxable gifts) by any amount, the Assessing Officer shall make an order in writing that such person shall, apart from the sum determined as paya-

Additional
gift-tax.

ble by him on the basis of the assessment under section 15, be liable to pay, by way of additional gift-tax in respect of the said assessment year, a sum calculated on such excess amount at the rate of twenty per cent.

(2) For the purposes of sub-section (1),—

(a) where such persons has furnished two or more returns of taxable gift for the same assessment year, the value of taxable gift declared in the return furnished last before the service of a notice under sub-section (2) of section 15 on such person shall be treated as the returned taxable gifts;

(b) where such person fails to furnish the return of taxable gifts in respect of any assessment year and the assessment for that year is made under sub-section 5 of section 15, the returned taxable gifts shall be taken to be nil;

(c) where such person fails to furnish a return of taxable gifts for any assessment year under section 13 or section 14, but furnishes such return after he is served with a notice under section 16, the returned taxable gifts shall be taken to be nil.

(3) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the additional gift-tax is payable under sub-section (1) has been increased or reduced, as the case may be, the additional gift-tax shall be increased or reduced accordingly, and,—

(i) in a case where the additional gift-tax is increased, Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly;

(ii) in a case where the additional gift-tax is reduced, the excess amount paid, if any, shall be refunded.

(4) The Chief Commissioner or Commissioner may, in his discretion, whether on his own motion or otherwise, waive or reduce the amount of additional gift-tax payable under sub-section (1) by any person, if he is satisfied that the whole or, as the

case may be, any part of the excess amount referred to in that sub-section is attributable to any amount added or disallowed in computing the assessed taxable gifts, as a result of the rejection of any explanation (by way of interpretation of any provision of this Act or otherwise) offered by such person, if such explanation is bona fide and all the facts relating to the same and material to the computation of the assessed taxable gifts have been disclosed by him

Provided that,—

(i) where an appeal before the Deputy Commissioner (Appeals) or Commissioner (Appeals) or the Appellate Tribunal has also been filed by the assessee against the order of assessment, the petition for waiver or reduction of the amount of additional gift-tax can be filed by the assessee only after the decision on such appeal;

(ii) the petition for waiver or reduction of the amount of additional gift-tax shall be accompanied by a fee of one hundred rupees.

(5) The additional gift-tax payable under this section shall not be included in the amount of tax payable on the taxable gifts as determined on regular assessment, for the purposes of section 16B.”

Amend-
ment of
section 22.

176. In section 22 of the Gift-tax Act,—

(a) in sub-section (1),—

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

“(d) objecting to any penalty imposed by the Assessing Officer under section 17 as it stood immediately before the 1st day of April, 1989 or under section 17 as amended by the Direct Tax Laws (Amendment) Act, 1987;”

(ii) clause (h) shall be omitted;

(b) in sub-section (IA), for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

“(b) objecting to any assessment or order referred to in clauses (a) to (g) (both inclusive) of sub-

section (1), where such assessment or order has been made by the Deputy Commissioner in exercise of the powers or functions conferred on or assigned to him under section 7 or section 10; or

(c) objecting to any penalty imposed under clause (c) of sub-section (1) of section 17 as it stood immediately before the 1st day of April, 1989 in respect of any assessment year commencing on the 1st day of April, 1988 or any earlier assessment year where such penalty has been imposed with the previous approval of the Deputy Commissioner under sub-section (3) of that section; or

(d) objecting to any penalty imposed by the Deputy Director or the Deputy Commissioner under section 17A; or”;

(c) for sub-section (IB) and (IC), the following sub-section shall be substituted, namely:—

“(IB) Notwithstanding anything contained in sub-section (1), the Board or the Director General or the Chief Commissioner or the Commissioner, if so authorised by the Board, may, by order in writing, transfer any appeals which is pending before a Deputy Commissioner (Appeals), and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals), if the Board or, as the case may be, the Director General, the Chief Commissioner or the Commissioner (at the request of the appellant or otherwise) is satisfied that it is necessary or expedient so to do having regard to the nature of the case, the complexities involved and other relevant considerations and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was before it was so transfereed:

Provided that the appellant may demand that before proceeding further with the appeal or matter the previous proceeding or any part thereof be reopened or that he be reheard.”.

177. After section 22 of the Gift-tax Act, the following section shall be inserted, namely:—

Insertion of new section 22A.

“22A. (1) Where before furnishing a return of taxable gifts under sub-section (1) of section 13 or section 14 or sub-section (4) of section 15 for any assessment year, any question arises as to whether,—

Applica-
tion
the
assessee

in
certa
case

(a) any amount is includible or not in computing the amount of taxable gifts (hereafter in this section referred to as the disputed amount), or

(b) any exemption or deduction is admissible or not in computing taxable gifts (hereafter in this section referred to as the disputed deduction), the assessee shall, after furnishing such return, make an application under sub-section (2) :

Provided that the assessee,—

(i) shall include in such return the disputed amount and shall not claim the disputed deduction; and

(ii) shall also pay thirty per cent. of the tax due on the dsiputed amount and in respect of the amount of disputed deduction.

(2) The application under sub-section (1) may be made within thirty days of furnishing the afore-said return to the Deputy Commissioner (Appeals) or, as the case may be, to the Commissioner (Appeals).

(3) For the purpose of disposing of an application under sub-section (1), the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals) may—

(a) conduct such inquiry or call for such books of account, other documents or information which he deems necessary; or

(b) direct the Assessing Officer to conduct such inquiry and furnish the report thereon, and thereafter decide the question raised in the application and pass such orders thereon as he thinks fit.

(4) The provisions relating to filling of appeals under this Act shall so far as may be, apply to the making of an application under this section as if such application were an appeal.”.

Amendment
of section
32.

178. In section 32 of the Gift-tax Act,—

(a) in sub-section (1), for the words “thirty-five days”, wherever they occur, the words “thirty days” shall be substituted;

(b) in sub-section (2),—

(i) for the words, brackets and figure “fifteen per cent. per annum from the day commencing after the end of the period mentioned in sub-section (1)”, the words, brackets and figure “one and one half percent. for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid” shall be substituted;

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

“Provided further that in respect of any period commencing on or before the 31st day of March, 1989 and ending after that date, such interest shall, in respect of so much of such period as falls after that date, be calculated at the rate of one and one half per cent. for every month or part of a month.”

179. In section 33 of the Gift-tax Act,—

(a) for the words “and to Gift-tax Officer and Commissioner of Gift-tax instead of to Income-tax Officer and Commissioner of Income-tax”, the words “and to the corresponding gift-tax authorities instead of to the income-tax authorities specified therein” shall be substituted;

Amend-
ment of
section 33.

(b) for Explanation II, the following Explanation shall be substituted, namely:—

“Explanation II.—The Chief Commissioner or Commissioner and the Tax Recovery Officer referred to in the Income-tax Act shall be deemed to be the corresponding gift-tax authorities for the purpose of recovery of gift-tax and sums imposed by way of penalty, fine and interest under this Act.”.

180. In section 33A of the Gift-tax Act,—

(i) to sub-section (1), the following proviso shall be added, namely:—

Amend-
ment of
section
33A.

“Provided that where, by the order aforesaid,

(a) an assessment is set aside or cancelled and an order of fresh assessment is directed to be made, the refund, if any, shall become due only on the making of such fresh assessment;

(b) the assessment is annulled, the refund shall become due only of the amount if any, of the tax paid in excess of the tax chargeable on the total income returned by the assessee.”;

(ii) after sub-section (4), the following sub-sections shall be inserted, namely:

“(4A) The provisions of sub-sections (3), (3A) and (4) shall not apply in respect of any assessment for the assessment year commencing on the 1st day of April, 1989, or any subsequent assessment year.

(4B) (a) Where, in pursuance of any order passed under this Act, the refund of any amount becomes due to the assessee he shall, subject to the provisions of this sub-section, be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one and a half per cent. for every month or part of a month comprised in the period or periods from the date or, as the case may be, dates of payment of the tax or penalty to the date on which the refund is granted.

Explanation.—For the purposes of this clause, “date of payment of the tax or penalty” means the date on and from which the amount of tax or penalty specified in the notice of demand issued under section 31 is paid in excess of such demand.

(b) If the proceedings resulting in the refund are delayed for reasons attributable to the assessee, whether wholly or in part, period of the delay so attributable to him shall be excluded from the period for which interest is payable, and where any question arises as to the period to be excluded, it shall be decided by the Chief Commissioner or Commissioner whose decision thereon shall be final.

(c) Where, as a result of an order under section 16 or section 22 or section 23 or section 24 or section 26 or section 28 or section 34, the amount on which the interest was payable under clause (a) has been increased or reduced, as the case may be, interest shall be increased or reduced accordingly, and in a case where the interest is reduced, the Assessing Officer shall serve on the assessee a notice of demand in the prescribed form specifying the amount of the excess interest paid and requiring him to pay such amount; and such notice of demand shall be deemed to be a notice under section 31 and the provisions of this Act shall apply accordingly,

(d) The provisions of this sub-section shall apply in respect of assessments for the assessment year commencing on the 1st day of April, 1989, and subsequent assessment years.”.

181. In section 34 of the Gift-tax Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) a gift-tax authority may amend any intimation sent by it under sub-section (1) of section 15 or enhance or reduce the amount of refund granted by it under that sub-section.”.

182. In section 36 of the Gift-tax Act,—

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

“(1A) If the Director General or Director has reason to suspect that any gifts chargeable to tax under this Act have been concealed, or are likely to be concealed by any person or class of person within his jurisdiction, then, for the purposes of making any inquiry or investigation relating thereto it shall be competent for him to exercise the powers conferred under sub-section (1) on the gift-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of person are pending before him or any other gift-tax authority.”;

(b) sub-section (2) shall be omitted.

183. In section 37 of the Gift-tax Act,—

(a) for the words “Where, for the purposes of determining the gift-tax payable by any person, it appears necessary for the Gift-tax Officer to obtain any statement or information from any person,” the words “Where, for the purposes of this Act, it appears necessary for any gift-tax authority to obtain any statement or information from any persons or banking company,” shall be substituted;

(b) for the words “the Gift-tax Officer”, in the second and third places where they occur, the words “such gift-tax authority” shall be substituted.

184. In section 45 of the Gift-tax Act,—

Amend-
ment of
section 4

(a) for the words “The provisions of this Act shall not apply to gifts made by”, the words “No tax shall be levied under this Act in respect of gifts made by”, shall be substituted;

(b) for clauses (a), (b), (c), (d) and (da), the following clauses shall be substituted, namely:—

“(a) a company in which the public are substantially interested;

(b) any company to an Indian company in a scheme of amalgamation;”;

(c) for clause (e), the following clause shall be substituted, namely:—

“(e) any institution or fund, which is eligible for the deduction under section 80F of the Income-tax Act.”;

(d) for Explanations 1, 2 and 3, the following Explanations shall be substituted, namely:—

‘Explanation 1.—For the purposes of clause (b) the term “amalgamation” shall have the meaning assigned to it in clause (1A) of section 2 of the Income-tax Act.

Explanation 2.—For the removal of doubts, it is hereby declared that the exemption admissible under clause (e) in relation to gifts made by an institution or fund referred to in that clause shall not be denied merely on either or both of the following grounds, namely:—

(i) that, subsequent to the gift, the institution or fund has become ineligible to the deduction under section 80F of the Income-tax Act due to non-compliance with any of the provisions of that section;

(ii) that the deduction under section 80F of the Income-tax Act is denied to the institution or fund in relation to any income arising to it from any investment referred to in clause (h) of sub-section (4) of that section where the aggregate of the funds invested by it in a concern referred to in the said clause (h) does not exceed five per cent. of the capital of that concern.’

185. After section 46A of the Gift-tax Act, the following section shall be inserted with effect from the 1st day of April, 1988 namely —

Insertion of new section 47

“47. (1) If any difficulty arises in giving effect to the provisions of this Act, as amended by the Direct Tax Laws (Amendment) Act, 1987, the Central Government may, by order, do anything not inconsistent with such provisions for the purpose of removing the difficulty.

Power to remove difficulties

Provided that no such order shall be made after the expiration of three years from the 1st day of April, 1988.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.”

186. The following amendments (being amendments of a consequential nature) shall be made in the Gift-tax Act with effect from the 1st day of April, 1989, namely:—

(1) in section 19A,—

(a) in sub-section (4),—

(i) for the words, brackets and figures “a return under sub-section (2) of section 13”, the words, brackets and figures “a return under sub section (1) of section 13” shall be substituted;

(ii) for the words, brackets and figures “as if the notice were a notice issued under sub-section (2) of section 13”, the words, brackets and figures “as if the notice were a notice issued under clause (i) of sub-section (4) of section 15” shall be substituted;

(b) in sub-section (6), for the words, brackets and figures “sub-section (2) of section 13”, at both the places where they occur, the words, brackets and figures “clause (i) of sub-section (4) of section 15” shall be substituted;

(2) in section 23, in sub-section (1), after the word and figures “section 22”, the words, figures and letter “or section 22A” shall be inserted;

(3) in section 34, in sub-section (1), for clause (b), (c), (d) and (e), the following clauses shall be substituted, nameiy.—

“(b) the Deputy Director or Deputy Commissioner or Director or Commissioner or Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 17A;

(c) the Deputy Commissioner (Appeals) or Commissioner (Appeals) may amend any order passed by him under section 22 or section 22A;

(d) the Commissioner may amend any order passed by him under section 24 ;

(e) the Appellate Tribunal may amend any order passed by it under section 23 or section 25.”.

CHAPTER V

A mendments to the Companies (Profits) Surtax Act, 1964.

Substitution of new authorities.

187. In the Companies (Profits) Surtax Act, 1964 (hereafter in this Chapter referred to as the Surtax Act) save as otherwise expressly provided in this Act, and unless the context otherwise requires, reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of April, 1988 by references to the authority or authorities specified in the corresponding entry in column (2) of the said Table, and such consequential changes as the rules of grammar may require, shall also be made:

7 of 1964

TABLE

| (1) | (2) |
|-----------------------------------|------------------------------------|
| Commissioner | Chief Commissioner or Commissioner |
| Inspecting Assistant Commissioner | Deputy Commissioner |
| Income-tax Officer | Assessing Officer |

188. For section 3 of the Surtax Act, the following section shall be substituted, with effect from the 1st day of April, 1988, namely:—

Substitution of new section for section 3.

“3. (1) The income-tax authorities specified in section 116 of the Income-tax Act shall be the Tax authorities. such authority shall exercise the powers and perform the functions of a tax authority under this Act in respect of any company, and for this purpose his jurisdiction under this Act shall be the same as he has under the Income-tax Act by virtue of orders or directions issued under section 120 of that Act (including orders or directions assigning concurrent jurisdiction) or under any other provision of that Act.

(2) The Board may, from time to time, issue such orders, instructions and directions to other tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.”.

189. In section 18 of the Surtax Act,—

(a) for the figures, brackets letter and word “2 (43B) and 44”, the figures and brackets “2 (44)” shall be substituted;

(b) for the figures and letters “118, 125, 125A, 129, 130, 130A”, the figures “116, 117, 118, 119, 120, 129” shall be substituted with effect from the 1st day of April, 1988.

Amend-
ment of
section 18.