MEMORANDUM EXPLAINING THE PROVISIONS IN THE FINANCE BILL, 1992

PROVISIONS RELATING TO DIRECT TAXES

The provisions in the Finance Bill, 1992, in the sphere of direct taxes relate to the following matters :

(*i*) Prescribing the rates of income-tax on incomes liable to tax for the assessment year 1992-93, the rates at which tax will be deductible at source during the financial year 1992-93 from interest (including interest on securities), dividends, salaries paid to employees, winnings from lotteries or crossword puzzles, winnings from horse-races, insurance commission and other categories of income liable to deduction of tax at source under the Income-tax Act ; rates for computation of "advance tax" and charging of income-tax on current incomes in certain cases for the financial year 1992-93.

(*ii*) The Finance (No.2) Act, 1991, provided that in the case of any income chargeable to tax under the head "Salaries" or in respect of which advance tax is to be paid, where the total income in such cases exceeds seventy-five thousand rupees, the amount of income-tax deducted or the advance tax paid, was to be increased by a surcharge calculated at the rate of 12 per cent. of such income-tax in the case of non-corporate taxpayers and 15 per cent. in the case of companies. Further, in respect of any payment by way of interest, dividends, winnings from lotteries or crossword puzzles, winnings from horse-races or payments to contractors and sub-contractors, the amount of tax deducted at source had to be increased by a surcharge calculated at the rate of 15 per cent. of the tax deducted in the case of companies and at the rate of 12 per cent. in other cases. However, surcharge was not to be paid or deducted at source in respect of any income or any payment made to a non-resident or a foreign company.

The provision for levy of surcharge has, therefore, been incorporated in Part I of the First Schedule to the Bill.

(*iii*) It is proposed to continue the levy of surcharge—

(*a*) in the case of a company, at the rate of 15 per cent. of the tax ;

(*b*) in the case of other taxpayers, at the rate of 12 per cent. of the tax,

for the purpose of deduction of tax at source, computation of advance tax and charging of tax on current income in certain cases during 1992-93. However, in the case of non-corporate persons, surcharge is proposed to be levied only where the total income exceeds one lakh rupees. No surcharge will

be leived on incomes in respect of which payment is made to a non-resident or a foreign company, or incomes on which advance tax is payable by the non-resident or the foreign company.

(*iv*) Amendment of the Income-tax Act, 1961, with a view to restructuring the tax system, promoting welfare, widening the tax base, rationalisation of certain provisions and on account of certain other matters.

(*v*) Amendment of the Wealth-tax Act, 1957, with a view to restricting the applicability of the provisions only to certain defined non-productive "assets" and to include all companies within its ambit.

(*vi*) Amendment of the Expenditure-tax Act, 1987, with a view to excluding air-conditioned restaurants from its scope, raising the limit of its applicability to hotels having room rent of Rs. 1,200 or more and withdrawing the exemption to expenditure incurred in foreign exchange.

(*vii*) Amendment of the Interest-tax Act, 1974, with a view to modifying the scope of the term "credit institution" in order to include residuary non-banking companies and to exclude co-operative societies engaged in the business of banking.

2. Subject to certain exceptions, which have been indicated while dealing with the relevant provisions, the Bill follows the principle that changes in the rates of tax, as also in the provisions of the tax laws, should ordinarily be made operative prospectively in relation to current incomes and not in relation to income of past years. The provisions relating to deduction of tax at source have been generally made applicable with effect from 1st June, 1992. The substance of the main provisions in the Bill relating to direct taxes is explained in the following paragraphs.

INCOME-TAX

I. Rates of income-tax in respect of incomes liable to tax for the assessment year 1992-93

In respect of incomes of all categories of taxpayers (corporate as well as non-corporate) liable to tax for the assessment year 1992-93, the rates of income-tax (including surcharge thereon) have been specified in Part I of the First Schedule to the Bill and are the same as those laid down in Part III of the First Schedule to the Finance (No. 2) Act, 1991, for the purposes of computation of "advance tax", deduction of tax at source from salaries and charging of tax payable in certain cases during the financial year 1991-92.

II. Rates for deduction of tax at source during the financial year from incomes other than "Salaries"

The rates for deduction of income-tax at source during the financial year 1992-93, from incomes other than "Salaries" have been specified in Part II of the First Schedule to the Bill. These rates apply to income by way of interest on securities, interest other than "interest on securities", dividends, insurance commission, winnings from lotteries, crossword puzzles and horse-races and income of non-residents (including non-resident Indians) other than salary income. These rates are basically the same as those specified in Part II of the First Schedule to the Finance (No. 2) Act, 1991, for purposes of deduction of tax at source during the financial year 1991-92.

III. Rates for deduction of tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 1992-93

The rates for deduction of tax at source from "Salaries" during the financial year 1992-93, and also for the computation of "advance tax" payable during that year in the case of all categories of taxpayers have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 1992-93, on current incomes in cases where accelerated assessments have to be made, e.g., provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year 1992-93, assessment of persons who are likely to transfer property to avoid tax or where an order has to be passed in a case of search and seizure for calculating the amount of tax on the estimated undisclosed income, etc. The salient features of the rates prescribed in the said Part III are indicated in the following paragraphs.

IV. Individuals, Hindu undivided families, etc.

Raising of exemption limit.—The exemption limit in the case of individuals, Hindu undivided families (other than those with one or more members having independent income exceeding the exemption limit), association of persons, etc., is proposed to be raised from Rs. 22,000 to Rs. 28,000.

Modification in the rates of income-tax.—It is proposed to restructure (a) the rate schedule applicable in the case of individuals, Hindu undivided families (other than those having at least one member with independent total income exceeding the exemption limit), associations of persons, bodies of individuals and artificial juridical persons ; and (b) the rate schedule applicable in the case of Hindu undivided families with one or more members having independent income exceeding the exemption limit. Table 1 and Table 2 below give the rates of income-tax applicable to the aforesaid categories of taxpayers

(a) as specified in Part I of the First Schedule to the Bill, i.e., the existing rates ; and (b) as specified in Part III of the First Schedule to the Bill, i.e., the proposed rates.

TABLE 1

Slabs of income with rates in the case of individuals, Hindu undivided families (other than those covered by Table 2), associations of persons, bodies of individuals, etc.

Income slab	Rates as specified in Part I of the First Schedule to the Bill (i.e., existing rates)	Income slab	Rates as specified in Part III of the First Schedule to the Bill (i.e., proposed rates)
Up to Rs. 22,000	Nil	Up to Rs. 28,000	Nil
Rs. 22,001- Rs. 30,000	20%	Rs. 28,001- Rs. 50,000	20%
Rs. 30,001- Rs. 50,000	30%	Rs. 50,001- Rs. 1,00,000	30%
Rs. 50,001- Rs. 1,00,000	40%	Above Rs. 1,00,000	40%
Above Rs. 1,00,000	50%		

TABLE 2

Slabs of income with rates in the case of Hindu undivided families having one or more members with independent income exceeding the exemption limit.

Income slab	Rates as specified in Part I of the First Schedule to the Bill (i.e., existing rates)	Income slab	Rates as specified in Part III of the First Schedule to the Bill (i.e., proposed rates)
Up to Rs. 12,000	Nil	Up to Rs. 18,000	Nil
Rs. 12,001- Rs. 20,000	25%	Rs. 18,001- Rs. 1,00,000	30%
Rs. 20,001- Rs. 40,000	30%	Above Rs. 1,00,000	40%
Rs. 40,001- Rs. 60,000	40%		
Rs. 60,001- Rs. 1,00,000	50%		
Above Rs. 1,00,000	55%		

V. Co-operative societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates are the same as those specified in the corresponding Paragraph of Part I of the First Schedule to the Bill.

VI. Firms

In the case of firms, rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. Income-tax will be levied in the case of every firm at the rate of forty per cent. on the whole of the total income. The distinction for income-tax rate purposes between firms deriving income mainly from profession and other firms is proposed to be deleted.

VII. Local Authorities

In the case of local authorities, the rate of income-tax has been specified in Paragraph D of Part III of the First Schedule to the Bill. In such cases, income-tax will be levied at the rate of thirty per cent., instead of at the rate of fifty per cent. as at present, on the whole of the total income.

VIII. Companies

In the case of companies, the rates of income-tax have been specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified in the corresponding Paragraph of Part I of the First Schedule to the Bill.

IX. Surcharge

Surcharge on income-tax for purposes of the Union is currently levied at the rate of twelve per cent. in the case of all the categories of resident non-corporate taxpayers having total income exceeding seventy-five thousand rupees. Surcharge at the aforesaid rate, for purposes of the Union, is now proposed to be levied on income exceeding one hundred thousand rupees in these cases. In the case of domestic companies, surcharge will, however, continue to be levied at the rate of fifteen per cent. of the amount of income-tax where the income exceeds seventy-five thousand rupees.

X. Partially integrated taxation of non-agricultural income with income derived from agriculture

As in the past, the Finance Bill provides that in the case of individuals, Hindu undivided families, associations of persons, etc., the net agricultural income will be taken into account for the computation of "advance tax" and charging of income-tax. The net agricultural income will be computed in

accordance with the rules contained in Part IV of the First Schedule. These provisions are broadly on the same lines as those in earlier years. [*Clause 2*]

WELFARE MEASURES

Relief in respect of medical treatment of handicapped dependants

Under the provisions of section 80DD of the Income-tax Act, a deduction of rupees six thousand is allowed in respect of expenditure incurred by a resident assessee being an individual or a Hindu undivided family, on the medical treatment, training and rehabilitation, etc., of handicapped dependants. The deduction is not allowed to a person whose total income exceeds one lakh rupees.

With a view to compensating for the increased cost of the aforesaid treatment and rehabilitation, as also to help the guardians provide better facilities to their handicapped dependants, it is proposed to amend section 80DD in order to provide for a higher deduction of twelve thousand rupees as against six thousand rupees allowed at present. Further, since treatment and rehabilitation of such persons is a heavy burden on all parents, no matter what the level of income be, it is proposed to remove the income ceiling of one lakh rupees for being eligible for this deduction.

The proposed amendments will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 45*]

Tax incentive to working women

In computing the income under the head "Salaries", a standard deduction of a sum equal to 33-1/3 per cent. of the salary or twelve thousand rupees, whichever is less, is allowed under section 16 of the Income-tax Act.

With a view to giving an incentive to women and to improve their socio-economic conditions, the Bill seeks to provide for an enhanced standard deduction of fifteen thousand rupees in respect of working women whose total income before making the standard deduction does not exceed seventy-five thousand rupees.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 7*]

Special relief for senior citizens

With a view to helping senior citizens meet the increased expenses in their old age, the Bill seeks to insert a new section 88B in the Income-tax Act

to provide for a special tax relief in the form of an additional rebate of ten per cent. from the tax payable by persons who have attained the age of 65 years and have a gross total income not exceeding fifty thousand rupees.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clauses 50 and 52*]

Modification of the provisions relating to exemption in respect of payments under voluntary retirement schemes

Section 10(10C) of the Income-tax Act exempts from income-tax any payment received by an employee of a public sector company at the time of his voluntary retirement in accordance with any scheme which the Central Government may, having regard to the economic viability of such company and other relevant circumstances, approve in this behalf. This exemption is available to any employee, whether a workman or an executive.

With a view to improving their productivity and efficiency and to make themselves economically viable, a number of companies in the private sector have formulated schemes for payment of lump sum compensation and some other terminal benefits to the workmen and the executives on voluntary retirement. It has been represented that the monetary benefit of the compensation received gets diluted as the compensation is subjected to income-tax.

The Bill, therefore, seeks to amend section 10(10C) of the Income-tax Act to provide income-tax exemption to any amount received by an employee of a public sector company or of any other company at the time of his voluntary retirement in accordance with any scheme or schemes of voluntary retirement. The schemes of the said companies are to be in accordance with the guidelines to be prescribed which may include the criteria of economic viability. In the case of companies other than public sector companies, the schemes are to be approved by the Chief Commissioner or Director-General.

This amendment will take effect from 1st April, 1993, and, accordingly, will apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 4*]

Enhanced incentive for savings by artistes, authors, sportsmen, actors, etc.

Under the provisions of section 88 of the Income-tax Act, a rebate, at the rate of 20 per cent. of the amount paid by way of life insurance premia, contribution to provident fund or subscription to certain notified schemes, etc., is allowed to an individual from the tax payable. This is subject to a limit of fourteen thousand rupees in the case of authors, playwrights, artistes, musicians, actors and sportsmen and of ten thousand rupees in all other cases.

The earning life of an author, playwright, artist, musician, actor or sportsman from his respective profession is substantially shorter than in most other cases. His earnings depend substantially on popularity, current trends and form. He, therefore, requires an incentive for higher than normal savings during the short but active and remunerative period of his career. With this end in view, the Bill seeks to provide for a higher tax rebate for authors, playwrights, artists, musicians, actors and sportsmen, at the rate of 25 per cent. of the contribution to life insurance premia, provident fund or subscription to certain notified schemes, etc., as against 20 per cent. allowed normally. It is also proposed to raise the ceiling of the maximum rebate in their case from fourteen thousand rupees to seventeen thousand five hundred rupees. With a view to allowing this concession only to a person who has a significant portion of his income from the aforesaid profession, it is proposed that the enhanced rebate will be allowed only to such persons in whose case the income from his profession as author, playwright, artist, musician, actor or sportsman is at least 25 per cent. of his total income.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 51*]

Exemption of perquisite in the form of medical benefits provided by employer in private hospitals

For the purpose of computing income under the head "Salaries", the taxable salary includes the value of any benefit or amenity granted free of charge or at concessional rate by the employer. The Finance (No.2) Act, 1991, amended section 17 of the Income-tax Act with a view to providing, in the law itself, exemption from tax in respect of perquisite in the form of medical facilities provided by the employer. Exemption from tax is available, inter alia, in respect of reimbursement, by the employer, of expenditure incurred by the employee in hospitals, dispensaries etc., maintained by the Government, local authority, or in a hospital approved by the Government for the purposes of medical treatment of its employees.

The restriction that, for claiming exemption, medical treatment should be in a hospital approved by the Government, leaves out all cases where the treatment has been undergone in a hospital not so approved. With a view to mitigating this hardship, the Bill seeks to liberalise the provisions relating to medical benefit provided by the employer in case of hospitalisation. It is, accordingly, proposed that exemption will be extended to expenses incurred by the employer on medical treatment of the employee or his family in hospitals

other than those approved by the Government for the medical treatment of its employees. However, to prevent misuse of the provision, it is proposed to provide that this concession will be allowed only where the payment in respect of the expenditure is made directly by the employer to the hospital and in respect of specified diseases or ailments to be prescribed in the Income-tax Rules. The tax concession will be extended to expenditure incurred in such hospitals and nursing homes as are approved by the Chief Commissioner of Income-tax in accordance with guidelines to be prescribed.

Under the existing provisions of section 17 of the Income-tax Act, there is a restriction that the expenditure on travel abroad for medical treatment would be exempt only in the case of employees whose gross total income is below Rs. 1,00,000. With a view to extending the scope of the exemption to a larger number of employees, the Bill proposes to amend section 17 to secure that the restriction does not apply to employees whose gross total income is below Rs. 2,00,000.

The proposed amendments will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 8*]

Increase in the tax relief in respect of medical insurance premia

Under the provisions of section 80D of the Income-tax Act, a deduction of Rs. 3,000 is allowed in respect of any sum paid by an assessee to effect an insurance on his health and that of members of his family (including dependent parents).

Since self-employed persons do not have the support of any employer for their medical treatment, it is necessary to provide adequate incentives to them for effecting medical insurance for themselves and for members of their families in order to cover unforeseen expenses on account of medical treatment. It is also desirable to encourage salaried persons who are not provided adequate medical facilities by their employers to take up medical insurance. In view of this, the Bill seeks to amend section 80D with a view to raising the monetary limit of deduction from Rs. 3,000 at present to Rs. 6,000.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 44*]

Exemption of compensation received by victims of Bhopal gas leak disaster

Pursuant to the decision of the Supreme Court, victims of Bhopal gas leak disaster, are to be paid compensation in accordance with the provisions of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985. With a view

to providing relief to these persons, it is proposed to insert a new clause (*10BB*) in section 10 of the Income-tax Act providing for exemption from income-tax on such compensation. However, compensation received by an assessee in respect of an expenditure which has been incurred and allowed as a deduction from taxable income will not be exempt from income-tax.

The proposed amendment will come into effect from 1st April, 1992, and will, accordingly, apply in relation to assessment year 1992-93 and subsequent assessment years. [*Clause 4*]

Income-tax exemption to co-operative societies promoting the interests of the members of the Scheduled Castes or the Scheduled Tribes

Section 10(*26B*) of the Income-tax Act provides for income-tax exemption in respect of income derived by any body, institution or association wholly financed by the Central or any State Government where such body, institution or association has been set up for promoting the interests of the members of the Scheduled Castes or Scheduled Tribes. Certain co-operative societies which are so set up, however, do not get this concession as these are not wholly financed by the Government. In order to provide income-tax exemption to the income of such co-operative societies, the Bill seeks to insert a new clause (*27*) in section 10 of the Income-tax Act to provide that any income of a co-operative society whose membership consists only of other co-operative societies, and such society is financed by the members thereof and the Government, will be exempt from income-tax.

This amendment will take effect retrospectively from 1st April, 1989, and will, accordingly, apply in relation to assessment year 1989-90 and subsequent assessment years. [*Clause 4*]

MEASURES AGAINST TAX AVOIDANCE

Clubbing of minors' income

Section 64 of the Income-tax Act provides that in computing the total income of any individual, there shall be included all such income as arises directly or indirectly to a minor child of such individual from,—

(*i*) the admission of the minor to the benefits of partnership in a firm,

(*ii*) assets transferred directly or indirectly to the minor child by such individual otherwise than for adequate consideration, and

(*iii*) assets transferred directly or indirectly by such individual to any person or association of persons otherwise than for adequate consideration, to the extent to which income from such assets is for the immediate or deferred benefit of such individual's minor child.

In reality as well as in law, the minor children cannot administer their property nor can they take decisions on the disposal of income arising there-

from. These responsibilities fall on the parents, who, for all practical purposes, treat and use this income as part of their own income. Exclusion of minor children's income from the income of their parents also leads to tax avoidance. The existing provisions of section 64 with regard to clubbing of minors' income have also led to litigation between the Income-tax Department and the assessees.

The Bill, therefore, seeks to amend section 64 of the Income-tax Act to provide that all income of a minor is to be included in the income of his parent. However, the income derived by the minor from manual work or from any activity involving his specialised knowledge or experience will not be included in the income of his parent. It is also being provided that the income of the minor will be included in the income of that parent whose total income is greater. Where the marriage of the parents does not subsist, the income of the minor will be includible in the income of that parent who maintains the minor child in the relevant previous year.

The Bill also seeks to insert a new clause *(32)* in section 10 of the Income-tax Act so as to provide that in case the income of an individual includes the income of his minor child in terms of section 64 of the Act, such individual shall be entitled to exemption of one thousand five hundred rupees in respect of each minor child if the income of such minor, as includible under section 64, exceeds that amount. However, where the income of any minor so includible is less than one thousand five hundred rupees, the aforesaid exemption shall be restricted to the income so included in the total income of the individual. This provision is proposed to provide relief to the individual in whose total income the income of the minor child is to be included.

These amendents will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clauses 4* and *35*]

Provision for taxation of benefit by way of remission or cessation of trading liability in the hands of recipient

Under the existing provisions of sub-section *(1)* of section 41 of the Income-tax Act, where an assessee who has been allowed deduction in respect of any loss, expenditure or trading liability in any year obtains any amount in respect of such loss or expenditure or any benefit in respect of trading liability by way of remission or cessation thereof, the amount obtained by him or the value of benefit accruing to him is deemed to be profits and gains of business or profession. However, it has been held by courts that such an amount or benefit can be charged to tax only if the assessee who receives the amount or benefit is the same person who was allowed the deduction earlier.

With a view to ensuring that there is no loss of revenue and undue enrichment, it is proposed to amend this provision so as to tax the amount or benefit, as the case may be, even if the recipient is a person other than the person who was allowed the deduction earlier under certain circumstances.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent assessment years. [*Clause 18*]

MODIFICATION OF TAX CONCESSIONS RELATING TO SAVINGS

Under the provisions of section 80CCA of the Income-tax Act, full deduction is allowed from the gross total income of a taxpayer in respect of deposits made under National Savings Scheme or payment to a specified annuity plan of the Life Insurance Corporation, subject to a limit of Rs. 40,000. When any amount standing to the credit of the taxpayer under the aforesaid schemes in respect of which a deduction has been allowed, together with interest accrued thereon, is withdrawn, it is deemed to be the income in the year of withdrawal. Similarly, any amount received on surrender of a policy or as annuity or bonus in accordance with the specified annuity plan of the Life Insurance Corporation is also deemed to be the income of the taxpayer in the year of receipt.

Likewise, the provisions of section 80CCB stipulate full deduction in relation to investment made in the units of any plan, framed in accordance with the Equity Linked Savings Scheme of specified Mutual Funds or of the Unit Trust of India, subject to a limit of Rs. 10,000. When an amount, in respect of which deduction has been allowed, is returned to the taxpayer, the same is deemed to be the income of the taxpayer in the year of its receipt.

Under the existing provisions of section 80L of the Income-tax Act, deduction in respect of income from interest on certain securities, deposits, debentures as well as income from dividends and from units of the Unit Trust of India is allowed up to Rs. 13,000.

As part of a package which includes raising of the exemption limit and reduction in the rates of personal taxation, the Bill seeks to withdraw the deduction under sections 80CCA and 80CCB in respect of payments made under the aforesaid schemes after 31st March, 1992. It is also proposed to withdraw the exemption available under section 80L in respect of unearned incomes like dividend, bank interest, etc.

These withdrawals are coupled with an enlargement of the scope of tax rebate under section 88. It is proposed to include for the purposes of tax rebate under section 88, schemes which are, at present, included for concession

under sections 80CCA and 80CCB as well as contributions to pension funds set up by the National Housing Bank and approved Mutual Funds. Thus, a person who has effected a contract for annuity plan will, if he continues with the annuity plan, henceforth be eligible for the tax rebate under section 88. However, in order to mitigate the hardship of any person who desires to opt out of the annuity plan of the Life Insurance Corporation before 1st October, 1992, as a result of the withdrawal of the tax concession under section 80CCA, the amount received on surrender of such annuity plan will not be deemed to be his income in the year of receipt.

The proposed amendments will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clauses 42, 43* and *48*]

MEASURES TO WIDEN THE TAX BASE

Special provisions for persons engaged in retail trade

For a country with a population above 800 millions, the total number of taxpayers is very small–less than one per cent. of the population. With a view to building an atmosphere of trust and confidence and also to widen the tax base by encouraging small retail traders to pay their taxes, the Bill seeks to introduce a new, simplified procedure for taxation. The salient features of the simplified procedure are as follows ;

(*a*) the scheme is optional ;

(*b*) it is open to individuals and Hindu undivided families, not assessed to tax earlier, who have income from the business of retail trade having an annual turnover up to five lakh rupees ;

(*c*) persons opting for the simplified procedure should not have any income chargeable to tax from any source other than retail trade ;

(*d*) such persons will not be required to file any income-tax return. Chapter XIV relating to "Procedure for assessment" will not apply in their case. Instead, a simple prescribed statement containing the name, address, nature of business, and a declaration that the person's turnover does not exceed five lakh rupees has to be furnished along with a verification ;

(*e*) the person opting for the simplified procedure will be deemed to have a turnover of five lakh rupees and his total income will be deemed to be 7 per cent. of this turnover. No deduction under Chapter VI-A or rebate under Chapter VIII will be made. Thus, in effect, his total income will be presumed to be Rs. 35,000, on which the tax works out to Rs. 1,400 ;

(*f*) the tax of Rs. 1,400 is required to be paid along with the prescribed statement by the 15th March of the financial year in which the income is earned ;

(*g*) there will be no enquiry nor assessment ;

(*h*) no proceeding under any other provision of the Income-tax Act will be initiated against a person opting for the scheme, in respect of his income from retail trade for the assessment year for which the statement under the scheme has been filed, unless the Department has evidence in its possession that the statement furnished by the person is untrue ;

(*i*) the scheme will be in force initially for two assessment years, viz., assessment years 1993-94 and 1994-95.

Thus, in effect, a retail trader opting for the scheme has only to file the simplified statement, pay the tax of Rs. 1,400 and be done with it. The proposed amendment will apply in relation to assessment years 1993-94 and 1994-95. [*Clause 58*]

Modifications relating to house property income

Under the provisions of the second proviso to sub-section (*1*) of section 23 of the Income-tax Act, a deduction of Rs. 3,600 is allowed from the annual value of a house property, in respect of new residential units. The deduction is allowed for a period of five years from the date of completion of such unit.

With the reduction in the rate of personal taxation, there is need for withdrawing many of the tax concessions and rationalising the provisions relating to house property income. The Bill, accordingly, seeks to amend section 23 in order to provide that no deduction will be allowed for new residential units completed after 31st March, 1992.

Under the provisions of section 24 of the Income-tax Act, deduction is allowed at the rate of 1/6th of the "annual value" towards repair of the house property. This is allowed irrespective of whether or not any expenditure is incurred on repairs. Another item under section 24 relates to deduction in respect of collection charges. This deduction is based on actuals subject to a maximum of 6% of the "annual value" of the property. In practice, however, many taxpayers claim deduction of the entire 6% of the "annual value" as collection charges, irrespective of the actual expenditure incurred. This leads to avoidable disputes and administrative work, without any significant revenue implication.

With a view to rationalising and simplifying the aforesaid deductions, the Bill seeks to provide that an amount equal to 1/5th of the "annual value" of the property will be allowed as a composite standard deduction both for repair of the house property and for collection of rent.

Section 24 of the Income-tax Act also provides for a deduction in respect of the current interest liability on money borrowed for the acquisition, construction, repair or renewal of the property. It has been noticed that in many cases, taxpayers show negative income from house property, largely because of the deduction allowed in respect of interest on money borrowed. This negative income is then set off against income from other sources such as salaries, business or professional income, etc. There is no justification in allowing negative income from house property to be set off against income from other heads.

The Bill, therefore, seeks to amend the provisions of the Income-tax Act relating to carry forward and set off, with a view to providing that the loss from house property will not be allowed to be set off against income under any other head of income. Further, the carry forward of loss of any year from house property will be allowed to be set off only against income from house property of subsequent years.

The proposed amendments will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clauses 9, 10, 37* and *38*]

MEASURES FOR SIMPLIFICATION AND RATIONALISATION

Enlarging the scope of definition of the expression "company in which the public are substantially interested"

The definition of the expression "company in which the public are substantially interested" is provided in clause (*18*) of section 2 of the Income-tax Act. The company fulfilling the requirements of any one of sub-clauses of clause (*18*) of section 2 is treated as a company in which the public are substantially interested and is taxed at a rate lower than the rate applicable to other companies. Under the existing provision, a company formed by co-operative societies cannot be treated as a company in which the public are substantially interested.

The proposed amendment seeks to insert a new sub-clause (*ad*) in clause (*18*) of section 2 of the Income-tax Act to provide that a company where shares carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and are throughout the relevant previous year held by one or more co-operative societies, shall be treated as a "company in which the public are substantially interested".

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 3*]

Modification of the provisions regarding "rates in force"

Under the existing schème of deduction of tax at source, even in cases where a lower rate of tax is provided with regard to an item of income in a tax treaty entered into by the Central Government with the Government of a country outside India, tax has to be deducted at the rate prescribed in the Income-tax Act or the relevant Finançe Act. As a result, in many cases, the amount of tax deducted from sums remitted tó the residents of tax treaty-partner countries is larger than the final tax liability, thus requiring filing of claims for refund.

With a view to correcting this position, the Bill seeks to amend section 2(*37A*) of the Income-tax Act to secure that deduction of tax at source from payments made to non-residents will be at the rate or rates of tax specified in an agreement entered into by the Central Government under section 90 of the Income-tax Act or the rate or rates of tax specified in the annual Finance Act, whichever is applicable.

This amendment will take effect from 1st June, 1992. [*Clause 3*]

Modification of the provisions of sections 10(6)(viia), 10(6A) and 115A of the Income-tax Act

Section 10(6)(viia) of the Income-tax Act provides for exemption from income-tax to the tax paid by the employer on behalf of the foreign technicians for a maximum period of 48 months from the date of his arrival in India, subject to certain conditions. One of the conditions is that the contract of service of the technician in India is approved by the Central Government.

Section 10(6A) of the Income-tax Act provides that where in the case of a foreign company deriving income by way of royalty or fees for technical services received from the Government or an Indian concern in pursuance of an agreement made after the 31st day of March, 1976, and approved by the Central Government, the tax on such income is payable, under the terms of such agreement, by Government or the Indian concern, the tax so paid is not to be included in the total income of the foreign company.

Section 115A of the Income-tax Act provides that where the total income of a foreign company includes any income by way of royalty or fees for technical services received from the Government or an Indian concern in pursuance of an agreement made after the 31st day of March, 1976, and where such agreement is with an Indian concern and the agreement is approved by the Central Government, the income-tax payable on income by way of royalty or fees for technical services is to be thirty per cent. thereof.

The Government tabled the Statement on Industrial Policy in both the Houses of Parliament on July 24, 1991. The statement has substantially liberalised the provisions and simplified the procedures regarding foreign technology agreements. No approval of the Government is henceforth necessary for hiring of foreign technicians. The powers of the Government have been delegated to the Reserve Bank of India for foreign testing of indigenous raw materials and products and indigenously developed technology.

The Bill, therefore, seeks to amend,—

(*i*) section 10(*6*)(*viia*) of the Income-tax Act, so as to omit the condition of approval by the Central Government of the contract of service of a foreign technician or extension of his employment after a period of 24 months commencing from the date of his arrival in India,

(*ii*) section 10(*6A*) of the Income-tax Act to provide that the agreement, under which royalty or fees for technical services are received by a foreign company, should either be approved by the Central Government or where the agreement relates to a matter included in the Industrial Policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy, and

(*iii*) section 115A of the Income-tax Act to provide that the agreement, under which royalty or fees for technical services are received by a foreign company from an Indian concern, should be either approved by the Central Government or where the agreement relates to a matter included in the Industrial Policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy.

These amendments will take effect from 1st June, 1992.

[*Clauses 4 and 54*]

Extension of benefit of section 33AC to Government shipping companies

Under the existing provisions of section 33AC of the Income-tax Act, a deduction of an amount credited to a reserve account for the purpose of utilisation in a specified manner is allowed, subject to certain conditions, in case of a public company formed and registered in India with the main object of carrying on the business of operation of ships.

The proposed amendment seeks to extend the benefit of deduction available under the provisions of section 33AC to a Government company as defined in section 617 of the Companies Act, 1956.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent assessment years. [*Clause 12*]

Deferment of unabsorbed carried forward depreciation and investment allowance

Under the existing provisions of the Income-tax Act, unabsorbed depreciation allowance and unabsorbed investment allowance are allowed as deductions in the computation of income from business or profession.

The Bill proposes to introduce a new section 34A in the Income-tax Act to provide that in the case of domestic companies, only sixty-six and two-thirds per cent. of unabsorbed depreciation allowance or unabsorbed investment allowance or the aggregate of such allowances carried forward from earlier years shall be allowed to be deducted from the business income of the previous year relevant to the assessment year commencing on the 1st day of April, 1992, and the balance shall be carried forward and allowed in the subsequent years until the same is absorbed. However, to ensure that marginal cases are not affected, it is proposed to restrict the operation of this amendment only to cases where such brought forward allowance is Rs. 1,00,000 or more.

This amendment will take effect from 1st April, 1992, and will, accordingly, apply in relation to the assessment year 1992-93 only. [*Clause 13*]

Enlarging the meaning of "financial corporation" to include "Government company"

Under the existing provisions of clause (*viii*) of sub-section (*1*) of section 36 of the Income-tax Act, a deduction in respect of a special reserve of an amount not exceeding 40 per cent. of the total income, as stipulated therein, carried to such reserve account is allowed, within specified limits, *inter alia*, to a financial corporation engaged in providing long-term finance for industrial or agricultural development.

The term "financial corporation" has been defined in the *Explanation* to the aforesaid clause to include a public company. It has been provided in clause (*b*) of the *Explanation* that public company shall have the meaning assigned to it in section 3 of the Companies Act, 1956. As the expression "public company" does not include "Government company", it is proposed to amend the definition of "financial corporation" so as to include "Government company" as defined in section 617 of the Companies Act, 1956, to become eligible for deduction under clause (*viii*) of sub-section (*1*) of section 36.

The proposed amendment will take effect retrospectively from 1st April, 1987, and will, accordingly, apply in relation to assessment year 1987-88 and subsequent assessment years. [*Clause 14*]

Increasing the limit of allowable business expenses

Under section 37 of the Income-tax Act, there are restrictions on the quantum of expenses allowable as entertainment expenditure. Similarly, there are restrictions under sub-section *(12)* of section 40A of the Income-tax Act on the admissible expenditure for services in connection with any proceeding under the Income-tax Act.

The Bill proposes to liberalise the allowable deductions as under :—

(*a*) In respect of entertainment expenditure, actual expenditure up to Rs. 10,000 and 50 per cent. of the balance ;

(*b*) In respect of expenditure for services in connection with any proceeding under the Income-tax Act, the actual expenses.

The proposed amendments will take effect from 1st April, 1993 and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent years. [*Clauses 15 and 17*]

Exclusion of persons assessed on presumptive basis from requirement of compulsory audit

Under section 44AB of the Income-tax Act, every person carrying on business or profession is required to get his accounts audited, if his total sales in business or gross receipts of profession exceed Rs. 40 lakhs or Rs. 10 lakhs respectively.

The purpose of compulsory audit under the provisions of section 44AB is to ensure that the true income is reflected in the return of income through the books of account duly audited. However, under sections 44AC, 44B, 44BB, 44BBA and 44BBB, income chargeable to tax is determined on presumptive basis and the provisions of sections 28 to 43C do not apply. Accordingly, it is proposed to exclude these assessees from the purview of compulsory audit.

The proposed amendment will take effect retrospectively from 1st April, 1985, and will, accordingly, apply in relation to assessment year 1985-86 and subsequent assessment years. [*Clause 20*]

Withdrawal of presumptive tax in respect of certain trades

Under section 44AC of the Income-tax Act, for computing profits and gains of persons engaged in trading in country liquor, timber obtained under forest lease, timber obtained by any other mode other than under a forest lease and any other forest produce not being timber, a prescribed percentage of the purchase price is deemed to be the profit in respect of trading in such specified goods.

Having regard to the controversy on the interpretation of the provisions of section 44AC and the administrative difficulties in the implementation of this provision, it is proposed to delete the section.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent years.

However, section 206C providing for collection of tax at source in respect of these cases shall continue to remain in force with certain amendments consequential to the deletion of section 44AC of the Income-tax Act. The amended section takes effect from 1st April, 1992. [*Clauses 21* and *81*]

Rationalisation of provisions relating to tax concession for export profits

Under the provisions of section 80HHC of the Income-tax Act, exporters are allowed, in the computation of their total income, a deduction of the entire profits derived from export. The Finance (No. 2) Act, 1991, amended section 80HHC in order to provide for a dual system of computation of export profits. In case where the export is of goods manufactured by the taxpayer, the export profit is computed in the ratio of export turnover to total turnover. Where the export is of goods purchased from third party, i.e., "trading goods", the export profit is calculated by deducting from the export turnover, the direct and indirect costs attributable to such export. "Trading goods" have been defined to mean goods not manufactured by the assessee. Thus, even where goods are processed they are treated as trading goods. To remove this anomaly, it is proposed to define trading goods as "goods not manufactured or processed by the assessee".

Another point relates to the disclaimer of the tax concession under section 80HHC by a recognised Export or Trading House in favour of supporting manufacturers. When an Export or Trading House disclaims the concession, the deduction in the case of the Export or Trading House is reduced by the amount which bears to the total export profits of the assessee the same proportion as the disclaimed export turnover bears to the total export turnover. With the adoption of the dual system for computing export profit, the computation of the disclaimed export turnover also requires modification. The Bill, accordingly, seeks to amend section 80HHC in order to provide that, where the Export or Trading House disclaims the concession in favour of the supporting manufacturer, the deduction to the Export or Trading House will be reduced by the amount which bears to the total export profits of trading goods the same proportion as the disclaimed export turnover bears to the total export turnover of trading goods.

The proposed amendments will take effect from 1st April, 1992, the date from which the dual system of computation of export profits comes into effect. [*Clause 46*]

Rationalisation of the definition of "small scale industrial undertaking" in the provisions relating to concessions for new industrial undertakings

Section 80-IA of the Income-tax Act provides for a deduction of 25 to 30 per cent. of the profits earned by a new industrial undertaking or a hotel or a ship, for a period of ten years. In the case of a hotel set up in a remote area, this deduction is allowed at the rate of 50 per cent. of the profits earned. The deduction is for an increased period of twelve years in the case of co-operative societies deriving income from a new industrial undertaking. However, no deduction is allowed if the industrial undertaking manufactures or produces any article listed in the Eleventh Schedule to the Income-tax Act. This condition, however, does not apply in the case of a small scale industrial undertaking.

The Bill seeks to amend section 80-IA with a view to bringing the definition of "small scale industrial undertaking" in the Income-tax Act in line with the industrial policy of the Government.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clause 47*]

Modification of the provisions relating to search and seizure

Section 132 of the Income-tax Act provides, *inter alia*, powers relating to search and seizure to the authorised officer. However, this provision does not provide for the continued presence of the person whose premises are being searched or of some person on his behalf, till the search is completed. The continued presence of the person whose premises are being searched is necessary for conducting the search and seizure operation smoothly and also to ensure that incriminating evidence of his concealed income or wealth is not tampered with.

The Bill, therefore, seeks to amend section 132 of the Income-tax Act, in order to provide that any person who is found in the building, place, vessel, vehicle or aircraft which is being searched, shall personally attend during such search. However, the authorised officer may, if he is of the opinion that it is necessary or expedient so to do, permit any such person to leave, subject to such conditions as he may deem fit. In case the authorised officer does not allow the person concerned to leave, such officer shall record reasons therefor and communicate the same to such person.

Similar amendment is proposed to the corresponding provisions in section 37A of the Wealth-tax Act.

These amendments will take effect from 1st June, 1992.

[*Clauses 59 and 101*]

Provision for income-tax exemption on winnings from horse races

The income-tax exemption available to income by way of winnings from races including horse races, to the extent such income does not exceed five thousand rupees, was withdrawn with effect from 1st October, 1991. It has been represented that it is difficult for the recipients of the aforesaid income to keep a record of small amounts received. Therefore, the Bill seeks to amend clause (*3*) of section 10 of the Income-tax Act, to provide that winnings from races including horse races will not be included in the total income of a person, to the extent such receipts do not exceed two thousand five hundred rupees in the aggregate in a previous year.

This amendment will take effect from 1st April, 1992. [*Clause 4*]

Raising of monetary ceiling of income and turnover for the purpose of maintenance of accounts

Under the existing provisions of section 44AA of the Income-tax Act, every person carrying on business or profession other than the profession specified in sub-section (*1*) thereof (legal, medical, engineering profession, etc.) is to keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act, if,—

(*i*) his income from business or profession exceeds rupees twenty five thousand or his total sales, turnover or gross receipts exceed rupees two hundred and fifty thousand in any one of the three years immediately preceding the previous year, or

(*ii*) his income from business or profession, where the business or profession is newly set up in any previous year, is likely to exceed twenty-five thousand rupees or his total sales, turnover or gross receipts are likely to exceed two hundred and fifty thousand rupees, during such previous year.

The aforesaid monetary limits were prescribed in 1976. As a measure of rationalisation, the Bill seeks to amend section 44AA of the Income-tax Act to provide that the monetary limits of income and total sales, etc., specified in sub-section (*2*) of section 44AA of the Income-tax Act, shall be revised from twenty-five thousand rupees to forty thousand rupees and from two hundred and fifty thousand rupees to five hundred thousand rupees respectively.

This amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent assessment years. [*Clause 19*]

Omission of waiver of requirement of furnishing the return of income in certain cases

Section 139(*1A*) of the Income-tax Act provides that if the total income of a person consists only of income chargeable under the head "Salaries" or income chargeable under that head and also income in the nature of dividends, interest or income from units referred to in clauses (*i*) to (*ix*) of sub-section (*1*) of section 80L, it is not necessary for such a person to furnish a voluntary return of income, subject to certain conditions.

As mentioned elsewhere, the Bill seeks to omit the provisions of section 80L of the Income-tax Act. The exemption limit for income-tax is also being increased to Rs. 28,000. It is also in order that the persons who pay income-tax are on the registers of the Income-tax Department. The Bill, therefore, seeks to omit sub-section (*1A*) of section 139 of the Income-tax Act.

The aforesaid amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent asssessment years. [*Clause 60*]

Modifications in the procedure for assessment

Under section 143(1A) of the Income-tax Act, an assessee is required to pay additional income-tax at the rate of 20 per cent. of the tax payable on the excess amount of the income determined over that returned by the assessee. In cases where, in the course of regular assessment proceedings under sub-section (*3*) of section 143, the additions made while processing a return of income under clause (*a*) of sub-section (*1*) of section 143 are not sustained, the additional income-tax levied under section 143(1A) is to be deleted or modified, as the case may be. With a view to making this deletion or modification beyond doubt, an amendment is proposed to be made to sub-section (1A) of section 143 of the Income-tax Act.

The above amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply to the assessment year 1989-90 and subsequent assessment years.

Under the existing provisions of the Income-tax Act, an assessee can file an application for rectifying any mistake in the intimation referred to in clause (*a*) of sub-section (*1*) of section 143. The assessee can go in appeal only against the order passed under section 154 in respect of the application for rectification, no right of appeal being available against such intimation. In

order to expedite the disposal of such applications and to provide a right of appeal within a fixed time frame, sub-section (*2*) of section 154 of the Income-tax Act is proposed to be amended. Under the proposed amendment, the Assessing Officer is required to take action on the application for rectification within a period of 3 months from the end of the month in which the application is filed. Where no order is made within the said period, the assessee will have a right to appeal to the Deputy Commissioner (Appeals) or, as the case may be, the Commissioner (Appeals).

This amendment will take effect from the date on which the Bill receives the assent of the President. [*Clauses 61 and 62*]

Reduction in the period for claiming refund

Under the existing provisions of section 239 of the Income-tax Act, a taxpayer claiming refund has to file a claim in the prescribed form within a period of two years from the last day of the assessment year to which the claim for refund relates. Every claim for refund has to be accompanied by a return of income unless the claimant has already filed such return. However, under the provisions of sub-section (*4*) of section 139, a return of income can be filed only within a period of one year from the last date of the relevant assessment year or before the completion of the assessment, whichever is earlier.

With a view to bringing the provisions of section 239 in conformity with those of section 139, the Bill seeks to reduce the period during which a taxpayer can claim refund from the present two years from the end of the assessment year concerned to one year from the end of that assessment year.

This amendment will take effect from the 1st day of April, 1993.

[*Clause 84*]

PROVISIONS RELATING TO CHARITABLE TRUSTS AND OTHER INSTITUTIONS

Under the existing provisions of section 13(1)(d) of the Income-tax Act, exemption from income-tax provided to a charitable or religious trust or institution will be forfeited if any funds of the trust or institution are invested or deposited after 28th February, 1983, otherwise than in any one or more of the forms or modes specified in section 11(5) of the Act. The specified forms or modes of investment, generally, are Government securities, units of the Unit Trust of India, bonds issued by certain financial corporations, deposits in Post Office Savings Bank or in any scheduled bank or in a co-operative bank and immovable property other than plant or machinery. However, the

proviso to section 13(1)(d) provides that the aforesaid provisions will not apply to,—

(*i*) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973, and such assets were not purchased by the trust or institution or acquired by it by conversion of, or in exchange for, any other asset, and

(*ii*) any debentures of a company or a corporation acquired before 1st March, 1983.

So far as the assets not conforming to the provisions of section 11(5) are concerned, the proviso to section 13(1)(d) also provides that holding such assets will not make the trust or institution lose the tax exemption if such assets are disposed of or converted into the permissible investments within one year from the end of the financial year in which such assets are received or 31st March, 1992, whichever is later.

Certain anomalies and hardships arising out of the requirements of the aforesaid investment pattern have been brought to the notice of the Government. With a view to removing these, the Bill seeks to,—

(*i*) amend clause (*i*) in the proviso to section 13(1)(d), to provide that the provisions of section 13(1)(d) shall not apply in relation to assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973, irrespective of the fact whether such assets are held originally by the trust or institution or they are acquired by conversion or exchange of the original assets or purchased out of the sale proceeds on transfer of the original assets, as the case may be,

(*ii*) to insert a new clause (*ia*) in the proviso to section 13(1)(d), to provide that the provisions of section 13(1)(d) shall not apply in relation to any accretion to the assets, being shares of a company forming part of the corpus of the trust or institution as on 1st June, 1973, where such accretion arises by way of allotment of bonus shares, and

(*iii*) to amend clause (*iia*) in the proviso to section 13(1)(d), to provide that where an asset, other than an investment or deposit mentioned in section 11(5), is held by the trust or institution, and can be disinvested by 31st day of March, 1992, it can now be disinvested by 31st day of March, 1993.

The amendments at (*i*) and (*ii*) above will take effect retrospectively from 1st April, 1983, and the amendment at (*iii*) will take effect from 1st April, 1992.

Under the existing provisions of section 10(21), section 10(23), clauses (*iv*) and (*v*) of section 10(23C) of the Income-tax Act, the notified scientific

research associations, the notified sports associations or institutions, the notified charitable funds or institutions and the notified wholly public religious and charitable trusts or institutions are required to invest or deposit their funds in any one or more of the forms and modes specified in section 11(5) of the Income-tax Act. If the aforesaid requirement is not complied with, the exemption from income-tax is denied to such associations, institutions, trusts, etc. It is also provided that where the funds are not so invested, such investments are to be converted into permissible investments by 30th March, 1992.

It has been represented that whereas the trusts or institutions which claim exemption under section 11 are allowed to retain the assets forming part of their corpus as on 1st June, 1973, or debentures of a company or corporation acquired before 1st March, 1983, this facility is not available to the associations, institutions, trusts, etc., referred to in section 10(21), 10(23) and clauses (*iv*) and (*v*) of section 10(23C).

The Bill, therefore, seeks to amend the aforesaid provisions to provide that in case of the associations, institutions, funds or trusts referred to in section 10(21), 10(23) and clauses (*iv*) and (*v*) of section 10(23C), the requirement of investment of funds in any one or more of the forms or modes specified in section 11(5) will not be insisted upon in certain cases. It provides that (*i*) funds held by these associations, institutions, etc., and forming part of their corpus as on 1st June, 1973, and any accretion thereto by way of bonus shares, and (*ii*) debentures acquired by them before 1st March, 1983, are not to be disinvested.

These amendments will take effect retrospectively from 1st April, 1990.

Further, the period of disinvestment of funds held otherwise than in the forms or modes specified in section 11(5) is proposed to be extended from 30th March, 1992, to 30th March, 1993.

These amendments will take effect from 1st April, 1992.

[*Clauses 4 and 5*]

STREAMLINING THE PROVISIONS RELATING TO DEDUCTION OF TAX AT SOURCE AND RECOVERY OF TAXES

Modification of the provisions regarding deduction of tax at source

Under the existing provisions of section 194A of the Income-tax Act, deduction of income-tax at source is to be made from interest in respect of time deposits with banks, etc., at the rates in force. Similarly, under the provisions of section 194H of the Income-tax Act, deduction of income-tax at source is to be made from income by way of commission (other than insurance

commission) or brokerage, at the rate of ten per cent. thereof. These changes came into force from 1st October, 1991.

A large number of representations had been received from members of public, representative bodies and banks pointing out various difficulties which had arisen on account of the operation of these provisions. Keeping in view these difficulties, the Bill seeks to amend,—

(*a*) section 194A of the Income-tax Act, to restore the position as obtaining before 1st October, 1991, in relation to deduction of income-tax at source in the case of income credited or paid in respect of deposits with a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or with a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank), and

(*b*) section 194H of the Income-tax Act, to provide that the deduction of income-tax at source from income by way of commission or brokerage will not be required to be made on or after 1st June, 1992.

Under the existing provisions of section 194C of the Income-tax Act, income-tax is deductible at source from income comprised in payments made by the persons stipulated therein to resident contractors engaged for carrying out any work (including supply of labour for carrying out any work) at the rate of two per cent. of such payments. Statutory authorities set up for the purpose of development or improvement of cities, etc., registered societies, trusts and universities, which award contracts for carrying out works involving substantial consideration are not referred to in section 194C.

The Bill, therefore, proposes to amend section 194C of the Income-tax Act, with a view to including therein the following categories of persons who will be required to deduct income-tax at source from payments made by them to contractors :

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

(*ii*) any society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India ; or

(*iii*) any trust ; or

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

Section 194G of the Income-tax Act provides for deduction of income-tax at source from income by way of commission, etc., on sale of lottery tickets, where such income exceeds one thousand rupees, at the rate of ten per cent. thereof.

In order to obviate the hardship in the cases of persons who have no tax liability or who have tax liability at a rate which is below the rate of deduction of tax at source prescribed in section 194G, the Bill seeks to amend section 194G of the Income-tax Act to provide that where the Assessing Officer is satisfied that the total income of a person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of income-tax at any lower rate or no deduction of tax, as the case may be, the Assessing Officer shall, on an application made by such person in this behalf, give to him such certificate as may be appropriate. It also seeks to provide that where any such certificate is given, the person responsible for paying the income by way of commission, remuneration or prize (by whatever name called) on lottery tickets shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such certificate or deduct no tax, as the case may be.

Section 197 of the Income-tax Act provides that the Assessing Officer can issue a certificate to a non-corporate person for deduction of income-tax at rates lower than the rates in force or for no deduction of tax at source, if he is satisfied that the income of the recipient so warrants.

Representations have been received to the effect that there is no justification for excluding from the ambit of section 197, the cases of companies which suffer losses or are not likely to have any income or the tax on their income is likely to be inadequate to absorb the full amount of tax deducted. As a measure of rationalisation, the Bill, therefore, seeks to amend section 197 of the Income-tax Act with a view to making the provisions thereof applicable to any person, including a company.

As all the persons are proposed to be covered within the ambit of section 197 of the Income-tax Act, the Bill also seeks to amend section 193 of the Income-tax Act relating to interest on securities, with a view to omitting the first proviso to section 193, which enabled the Central Government to specify a lower rate at which deduction of income-tax is to be made in respect of a scheduled bank.

Under the existing provisions of the proviso to sub-section (1) of section 194A, relating to deduction of tax at source from income by way of interest other than interest on securities, a person (other than a company or a registered firm) can furnish an affidavit or a statement in writing for non-deduction of income-tax at source in its case. The statement in writing has to be signed in the presence of a gazetted officer, etc. On the other hand, sub-section (1) of section 197A of the Income-tax Act also provides for furnishing of a declaration by a resident individual deriving income from interest other than interest on securities, for the purpose of non-deduction of tax at source. Therefore, as a measure of rationalisation, the Bill seeks to apply the provisions of sub-section (1) of section 197A to the persons (not being companies or firms) entitled to receive income by way of interest other than interest on securities referred to in section 194A.

The aforesaid amendments will take effect from 1st June, 1992.

[*Clauses 71, 72, 73, 75, 76, 78, 79 and 80*]

Modification of the provisions relating to advance payment of tax

Section 211 of the Income-tax Act provides that advance tax on the current income, calculated in the manner laid down in section 209 of the Act, shall be payable by all the assessees 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, are as follows :

Due date of instalment	Amount payable
On or before the 15th September	Not less than 20% of such advance tax.
On or before the 15th December	Not less than 50% 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.

Thus, in the first instalment of advance tax, an assessee is required to pay minimum of 20 per cent. of advance tax only, even though about six months have passed in the financial year. Similarly, in the second instalment, an assessee is required to pay minimum of 50 per cent. of advance tax only, even though about nine months have passed in the financial year.

Therefore, as a measure of rationalisation, the Bill seeks to amend section 211 of the Income-tax Act to provide that the advance tax payable in a financial year,—

(*a*) on or before the 15th day of September, shall not be less than thirty per cent., and

(*b*) on or before the 15th day of December, shall not be less than sixty per cent.,

of such advance tax.

This amendment will take effect from 1st April, 1992.

The Bill also seeks to amend sub-section (*1*) of section 234C of the Income-tax Act relating to interest for deferment of advance tax. It seeks to provide that the shortfall for the purpose of charging interest for deferment of advance tax shall be the difference between,—

(*i*) thirty per cent. of the tax due on the returned income and advance tax paid by the assessee on or before the 15th day of September, and

(*ii*) sixty per cent. of the tax due on the returned income and advance tax paid by the assessee on or before the 15th day of December.

The aforesaid amendment will take effect from 1st June, 1992.

The Bill also seeks to make an amendment of a clarificatory nature in the *Explanation* to sub-section (*1*) of section 234C to make it clear that interest under that section will be chargeable even in cases where no advance tax is paid.

This amendment will take effect retrospectively from 1st April, 1989.
[*Clauses 82* and *83*]

Provision of limitation for the sale of immovable property attached towards recovery of tax

Section 222 of the Income-tax Act prescribes the modes of recovery of tax from an assessee who is in default in making payment of tax, in accordance with the rules laid down in the Second Schedule to the Income-tax Act. One of the prescribed modes is attachment and sale of the assessee's immovable property. Part III of the Second Schedule to the Income-tax Act contains the rules for attachment and sale of immovable property. At present, no limitation of time is provided for sale of the immovable property attached towards recovery of tax.

The recovery provisions without the prescribed time limit for disposal of attached immovable properties have not proved as coercive and deterrent as they should have been.

The Bill, therefore, seeks to insert a new rule, i.e., rule 68B in the Second Schedule to the Income-tax Act to provide a time-limit of three years from the end of the financial year in which the order, giving rise to a demand of any tax, interest, fine, penalty or any other sum for the recovery of which

the immovable property has been attached, has become conclusive under the provisions of section 245-I or has become final, as the case may be, in terms of the provisions of Chapter XX of the Income-tax Act. The period of three years shall stand extended by one year in certain cases where the sale falls through. Further, certain periods during which the order is stayed by any court, are also to be excluded from the aforesaid period of limitation.

This amendment will take effect from 1st June, 1992. [*Clause 89*]

RESTRUCTURING THE TAXATION OF FIRMS

Under the existing provisions of the Income-tax Act, the tax liability of the firm and partners depends upon whether the firm is granted registration under the Income-tax Act or not. In the case of a registered firm, the firm is assessed to income-tax at special rates and the partners are assessed on their share income from the firm at the normal rates. However, the tax payable by the firm is allowed as a deduction before the apportionment of profits. The unregistered firm is taxed at the rates applicable to individuals, with the share income included in the hands of the partners for rate purposes only. This procedure results in complexities in the assessment of firm and partners, apart from double taxation of the same income.

With a view to avoiding the above criticism, a new scheme of income-tax assessment of firms is proposed. The salient features of the proposed scheme are as under :

(*a*) The firm will be taxed as a separate entity. There will be no distinction between registered and unregistered firms ;

(*b*) The share of the partner in the income of the firm will not be included in computing his total income ;

(*c*) Any salary, bonus, commission or remuneration, by whatever name called, which is due to or received by a partner will be allowed as a deduction subject to certain restrictions ;

(*d*) Where a firm pays interest to any partner, the firm can claim deduction of such interest from its total income. However, the maximum rate at which interest can be allowed to a partner will be 18 per cent. per annum ; and

(*e*) The income of the firm will be taxed at a flat rate of 40 per cent. A surcharge at the rate of 12 per cent. will be levied in case the firm's income exceeds Rs. 1,00,000.

The above changes are being brought about by amending the provisions of Chapter XVI of the Income-tax Act. Other consequential amendments have also been proposed.

The proposed amendments will come into effect from 1st April, 1993, and will, accordingly, be applicable for assessment year 1993-94 and subsequent assessment years.

[*Clauses 3, 4, 6, 11, 16, 35, 36, 39, 40, 41, 49, 63 to 70, 74, 85, 86, 88 and 90*]

RESTRUCTURING CAPITAL GAINS TAXATION

Under the existing provisions of the Income-tax Act, capital gains arising from the transfer of a capital asset are computed by deducting from the full value of consideration arising from the transfer,

(*a*) the cost of acquisition and improvement of the asset ; and

(*b*) the amount of expenditure incurred in connection with such transfer.

In the case of a non-resident Indian, protection against fluctuation of the rupee value against the foreign currency is provided in the case of transfer of shares or debentures of an Indian company acquired utilising foreign currency. In respect of capital gains arising from transfer of a long-term capital asset, an assessee is allowed an initial deduction of Rs. 15,000 and a further deduction which is a prescribed percentage of the balance amount depending on the nature of the asset and status of the assessee.

With a view to restructuring the provisions relating to the taxation of long-term capital gains, the Bill seeks to amend section 48 of the Income-tax Act and to provide the following procedure for computing such capital gains :—

(*a*) The cost of acquisition and cost of improvement of the asset will be linked to a Cost Inflation Index which will be notified by the Central Government. Long-term capital gains will be computed by deducting from the full value of the consideration, the expenditure incurred in connection with the transfer, the indexed cost of acquisition and the indexed cost of improvement.

(*b*) The cut-off date for valuing assets acquired in earlier years is proposed to be changed from 1st April, 1974, as at present, to 1st April, 1981.

(*c*) Starting with 1981-82 as the base year, the Central Government will notify the Cost Inflation Index for every year having regard to 75 per cent. rise in consumer price index for urban and non-manual employees. The cost of acquisition will be adjusted with reference to the rate applicable for the relevant year. There will be similar indexation of cost of improvement.

(*d*) The provisions for protection from fluctuation of rupee value against foreign currency in respect of capital assets being shares, or debentures of Indian companies, so far available to non-resident Indians, will now

be extended to all non-residents. However, in such cases, no indexation for cost will be available.

Section 53 of the Income-tax Act provides for total exemption from tax on capital gains arising out of transfer of a residential house property where the full value of consideration is up to Rs. 2 lakhs and proportionate exemption where the full value of the consideration exceeds Rs. 2 lakhs. As part of rationalisation, the Bill seeks to withdraw the exemption by omitting section 53.

Under the provisions of section 54E of the Income-tax Act, exemption from tax on capital gains is allowed if the entire consideration is invested in specified assets within six months from the date of transfer. Proportionate. exemption is also provided for in cases of partial investment. The Bill seeks to amend section 54E to provide that exemption from capital gains by investing in specified assets will not be available where the capital asset is transferred after 31st March, 1992.

Under the existing provisions of the Income-tax Act, income arising under the head "Capital gains" is included in the gross total income of the assessee and after allowing deductions under Chapter VI-A, the total income is subject to tax and surcharge at the rates in force. Rebate under section 88 is available from the tax computed on the total income in respect of deposits/payments made in approved schemes and instruments.

The Bill seeks to insert a new section 112 of the Income-tax Act to provide that long-term capital gains will be subject to a flat rate of income-tax. The rate of tax will be 20 per cent. in the case of individuals and Hindu undivided families, 40 per cent. in the case of a company, firm, association of persons and body of individuals and 30 per cent. in the case of other assessees.

Where the liability to tax arises in the case of an individual and a Hindu undivided family only because of the inclusion of long-term capital gains in the total income, tax will be levied at a flat rate of 20 per cent. on the excess over the minimum exemption limit. Surcharge at the appropriate rates in force will, however, apply, wherever applicable. Deductions under Chapter VI-A and rebate under section 88 will not be available in respect of long-term capital gains. Income other than long-term capital gains will be subject to tax at the rates in force.

The above amendments will take effect from 1st April, 1993, and will, accordingly, apply to the assessment year 1993-94 and subsequent assessment years. The amendment relating to section 54E takes effect from 1st April, 1992. However, in respect of transfers effected before 31st March, 1992, the relief under section 54E of the Act will be available till 30th September, 1992.

Under section 47(*vi*) of the Income-tax Act, transfer of a capital asset, in a scheme of amalgamation, is not regarded as a transfer when the amalgamated company is an Indian company for the purpose of capital gains tax. There have been representations for similar treatment on transfer of shares of Indian companies from one foreign company to another foreign company. Section 47 is proposed to be amended to insert a new clause (*via*). It provides that transfer of a capital asset, being shares in Indian companies, from one foreign company to another, in a scheme of amalgamation, would not be regarded as a transfer provided that at least 25 per cent. of the shareholders of the amalgamating company continue to be the shareholders of the amalgamated company and such transfer is not subject to capital gains tax in the country where the amalgamating company is incorporated.

The amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent assessment years. [*Clauses 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 53, 55* and *57*]

MEASURES TO PROMOTE CAPITAL MARKET

Enlarging the scope of the provision relating to exemption of income of specified Mutual Funds

Section 10(23D) of the Income-tax Act provides for exemption from income-tax to any such Mutual Fund set up by a public sector bank or a financial institution as the Central Government may, by notification in the Official Gazette, specify in this behalf. The Government has agreed in principle to allow Mutual Funds to be set up in the joint sector and in the private sector. With a view to providing exemption from income-tax to the income of such Mutual Funds, the Bill seeks to enlarge the scope of clause (23D) of section 10 by including therein the Mutual Funds authorised by the Securities and Exchange Board of India.

This amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to the assessment year 1993-94 and subsequent assessment years. [*Clause 4*]

Tax incentive for investment in bonds or shares of Indian companies issued abroad

Under section 115AB of the Income-tax Act, in the case of off-shore funds, income in respect of units purchased in foreign currency and income by way of long-term capital gains arising from the transfer of such units are charged to tax at the rate of ten per cent.

The Government has approved, in principle, the scheme of permitting issue abroad of foreign currency convertible bonds/equity by established Indian

companies. These bonds are to be denominated in foreign currencies with a view to bringing in foreign exchange. It is, therefore, necessary that the tax regime for the non-resident investors of these bonds/equities is competitive vis-a-vis the tax regimes of other such instruments of investment available in the international market. Accordingly, it is proposed to insert a new section 115AC in the Income-tax Act to provide for special rates of tax applicable to income from such bonds or shares purchased in foreign currency or long-term capital gains arising from their transfer.

The income by way of interest or dividends in respect of bonds issued by or shares in an Indian company purchased in foreign currency in accordance with the notified scheme of the Central Government in this behalf and income by way of long-term capital gains arising from the transfer of such bonds or shares is proposed to be charged to tax at the rate of ten per cent. However, this rate of tax will apply on the gross income of the nature specified above without allowing for any deduction under sections 28 to 44C, 48 and 57 and Chapter VI-A. The provisions for protection from fluctuation of rupee value against foreign currency for computing capital gains in the case of non-residents will not apply to the aforesaid shares. Further, when the said bonds or shares are transferred outside India, by a non-resident to another non-resident, it will not be regarded as a transfer for the purpose of capital gains tax.

These amendments will be made effective from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years.

In order to facilitate easy collection of tax from the non-resident investors of these bonds/equity, it is proposed to insert a new section 196C in the Income-tax Act to provide that any person responsible for paying any income payable by way of interest or dividends in respect of these bonds or shares, shall deduct income-tax at the rate of ten per cent. of such income. The tax is required to be deducted either at the time of payment or credit to the account of the payee, whichever is earlier.

This amendment will be made effective from 1st June, 1992.

[*Clauses 23, 56 and 77*]

MISCELLANEOUS PROVISIONS

Provision for exemption from income-tax on interest payable by SIDBI on monies borrowed by it from sources outside India

Section 10(*15*)(*iv*)(*d*) of the Income-tax Act provides that interest payable by certain financial institutions on monies borrowed by them from sources outside India, to the extent to which such interest does not exceed the amount

of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment, shall not be included in the total income of the payee. The effect of the aforesaid provision is that the cost of borrowing in the case of the financial institutions specified in the said section is reduced.

The Bill seeks to amend section 10(*15*)(*iv*)(*d*) of the Income-tax Act, with a view to including the Small Industries Development Bank of India among the financial institutions mentioned in the said item.

This amendment will take effect retrospectively from 1st April, 1992, and will, accordingly, apply in relation to the assessment year 1992-93 and subsequent assessment years. [*Clause 4*]

Increase in fees for filing appeals before Income-tax Appellate Tribunal

Under the existing provision of sub-section (*6*) of section 253 of the Income-tax Act, an assessee has to pay a fee of Rs. 200 for filing an appeal before the Income-tax Appellate Tribunal. The fee of Rs. 200 was prescribed in 1981. The filing fees are proposed to be enhanced to Rs. 1,500 in respect of all appeals where the income computed by the Assessing Officer exceeds Rs. 1 lakh, and Rs. 250 in respect of cases where such income does not exceed Rs. 1 lakh.

The amendment will take effect from 1st June, 1992. [*Clause 87*]

WEALTH-TAX

With a view to stimulating investment in productive assets, it is proposed to abolish wealth-tax on all assets except certain specified assets. The term "asset" will include guest houses and residential houses including farm houses within twenty-five kilometres from the local limits of any 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 but does not include a house which has been allotted by a company to an employee, or an officer, or a director who is in the whole-time employment, having a gross annual salary of less than two lakh rupees. It will also not include a house for residential purposes which forms part of stock-in-trade. Further, it will include motor cars other than those used in the business of running them on hire, jewellery, buillion (other than used as stock-in-trade) ; yachts and boats and aircrafts (other than those used for commercial purposes), cash in hand in excess of Rs. 50,000 held by individuals or HUFs and in case of any other person any amount not recorded in the books of account and urban land.

Only those debts which have been secured on, or which have been incurred in, relation to the aforementioned assets will be allowed as a deduction in the computation of net wealth. Further, in order to prevent tax avoidance,

it is proposed that wealth of a minor will be clubbed with the wealth of that parent whose net wealth (excluding the assets of the minor) is greater. It is proposed to introduce a new section 35HA in the Wealth-tax Act to provide for the person who would be held responsible in case of any offence by a company.

It is proposed that wealth-tax will be charged in respect of net wealth on the valuation date of every individual, Hindu undivided family and company at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees.

It is proposed to amend sections 2, 3, 4, 5, 7, 21, 21A, 21AA, 35, 45, Schedule I and Schedule III, omit Schedule II and insert section 35HA in the Wealth-tax Act and omit section 13 of the Finance Act, 1960, and section 40 of the Finance Act, 1983, respectively.

The proposed amendments will come into effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent years. [*Clauses 91 to 100, 102 to 105, 120 and 121*]

INTEREST-TAX

Under the provisions of the Interest-tax Act, 1974, which was revived by the Finance (No. 2) Act, 1991, tax is levied at the rate of 3 per cent. on the gross interest income accruing or arising to a credit institution. "Credit institution" has been defined in clause (*5A*) of section 2 of the Act to include, *inter alia,* a banking company or a co-operative society engaged in the business of banking not being a co-operative society providing credit facilities to farmers or artisans.

With a view to encouraging the growth of the co-operative movement in the country, the Bill seeks to exempt from the levy of interest-tax, co-operative societies engaged in the business of banking.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years.

When the Interest-tax Act was revived last year, the intention was to cover non-banking financial companies. It has, however, been found that there are a number of finance and investment companies which earn substantial income from interest on loans and advances and are yet not covered by the definition given in section 2(*5B*). These companies receive deposits under schemes or other arrangements, in one lump sum or in instalments by way of contributions or subscriptions or by sale of units or certificates or other instruments. The Reserve Bank of India has, under Notification No. DFC. 55/

DG/(O)-87, issued on 15th May, 1987, treated such financial companies as residuary non-banking companies.

In view of the fact that the Government's intention is to impose tax on the gross amount of interest earned by all banks, financial institutions and non-banking financial companies, in respect of loans and advances made in India, the Bill seeks to include in the definition of "financial company", all residuary non-banking companies.

The proposed amendment will take effect from 1st April, 1993, and will, accordingly, apply in relation to assessment year 1993-94 and subsequent assessment years. [*Clauses 106 and 107*]

EXPENDITURE-TAX

Under the provisions of the Expenditure-tax Act, 1987, a tax at the rate of 20 per cent. is levied on expenditure incurred in hotels where the room charge for any unit of accommodation is Rs. 400 or more per day per individual. This tax is charged on expenditure on food or drink, accommodation and other services incurred in a hotel. However, expenditure for which payment is made in foreign exchange or any expenditure incurred by persons within the purview of the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963, are exempt from the levy of expenditure-tax.

With the room tariff going up substantially in the last few years, hotels with ordinary facilities are now charging tariff of Rs. 400 and more. Inflation adjustment has, thus, become imperative in fixing the category of hotels, expenditure in which will be chargeable to tax. In view of this, the Bill seeks to raise the chargeability criterion to expenditure incurred in hotels where the room charge for any unit of accommodation is Rs. 1,200 or more per day per individual.

While it is necessary, on grounds of reciprocity and international commitments, to maintain the exemption for persons enjoying diplomatic immunities, there is no justification in allowing exemption in respect of payment made in foreign exchange especially after the exchange rate adjustments made last year. In view of this, the Bill seeks to withdraw the exemption granted in respect of payment made in foreign exchange.

By the Finance (No. 2) Act, 1991, the scope of expenditure-tax has been extended to expenditure incurred in air-conditioned restaurants. The tax is levied at the rate of 15 per cent. on the expenditure incurred in, or any payment made to such restaurants for the provision of food and drink.

The expenditure-tax on air-conditioned restaurants has attracted adverse reaction from a large cross-section of the public. It has also been represented that it has affected the restaurant business. In view of this, the Bill seeks to withdraw the levy of expenditure-tax on air-conditioned restaurants.

The proposed amendments will take effect from 1st June, 1992.

[*Clauses 108* to *111*]