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Finance Act 1972

Chapter III - Direct Taxes-income-tax

In section 2 of the Income-tax Act, -

(a) in clause (14), for sub-clause (ii), the following sub-clause shall be substituted with effect from the 1st day of April, 1973, namely :-

(ii) personal effects, that is to say, movable property (including wearing apparel and furniture, but excluding jewellery) held for personal use by the assessee or any member of his family dependent on him.

Explanation : For the purposes of this sub-clause, "jewellery" includes -

(a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;";

(b) in clause (24), -

(i) after sub-clause (ii), the following sub-clause shall be inserted with effect from the 1st day of April, 1973, namely :-

(iia) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes, not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution.

Explanation : For the purposes of this sub-clause, "trust" includes any other legal obligation;;

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

"(ix) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever;";

(c) in clause (37A), in sub-clause (ii), for the figures and letter "194A", the figures and letters "194A, 194B" shall be substituted.

Section 4 - Amendment of Section 10

In section 10 of the Income-tax Act, -

(a) for clause (3), the following clause shall be substituted, namely :-

"(3) any receipts which are of a casual and non-recurring nature, not being winning from lotteries, to the extent such receipts do not exceed one thousand rupees in the aggregate :

Provided that this clause shall not apply to -

(i) capital gains chargeable under the provisions of section 45; or

(ii) receipts arising from business or the exercise of a profession or occupation; or

(iii) receipts by way of addition to the remuneration of an employee;;

(b) in clause (10), with effect from the 1st day of April, 1973, -

(i) for the words ",a local authority or a corporation established by a Central, State or Provincial Act", the words "or a local authority" shall be substituted;

(ii) for the portion beginning with the words "or any other gratuity" and ending with the words "whichever is less;", the following shall be substituted, namely :-

"any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month salary for each year of completed service, calculated on the basis of the average salary for the three years immediately preceding the year in which the gratuity is paid, subject to a maximum of twenty-four thousand rupees or 15 months salary so calculated, whichever is less;";

(c) in clause (25), after sub-clause (iii), the following sub-clause shall be inserted with effect from the 1st day of April, 1973, namely :-

"(iv) any income received by the trustees on behalf of an approved gratuity fund;".

Section 5 - Amendment of Section 11

In section 11 of the Income-tax Act, in clause (c) of sub-section (1), for the words "income from property held under trust", the words "income derived from property held under trust" shall be substituted with effect from the 1st day of April, 1973.

Section 6 - Substitution of new sections for Section 12

For section 12 of the Income-tax Act, the following sections shall be substituted with effect from the 1st day of April, 1973, namely :-

"12. Income of trusts or institutions from contributions. -Any voluntary contributions received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.

12A. Conditions as to registration of trusts, etc. - The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely :-

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form and in the prescribed manner to the Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, whichever is later :

Provided that the Commissioner may, in his discretion, admit an application for the registration of any trust or institution after the expiry of the period aforesaid;

(b) where the total income of the trust or institution as computed under this Act without giving effect to the provisions of section 11 and section 12 exceeds twenty-five thousand rupees in any previous year, the accounts of the trust or institution for that year have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.".

Section 7 - Amendment of Section 13

In section 13 of the Income-tax Act, with effect from the 1st day of April, 1973, -

(a) in sub-section (1), -

(i) in the opening portion, for the words and figures "Nothing contained in section 11", the words and figures "Nothing contained in section 11 or section 12" shall be substituted;

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

"Explanation : For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.";

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

"(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3) :

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

(c) in sub-section (3), -

(i) after clause (c), the following clause shall be inserted, namely :-

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

(ii) in clause (d), for the words "or member", the words "member, trustee or manager" shall be substituted;

(iii) in clause (e), for the brackets and letter "(c)", the brackets and letters "(c), (cc)" shall be substituted;

(d) in sub-section (4), for the word and figures "section 11", the words and figures "section 11 or section 12" shall be substituted;

(e) for Explanation 1, the following Explanation shall be substituted, namely :-

Explanation 1 : For the purposes of section 11, 12, 12A and this section," trust" includes any other legal obligation and for the purposes of this section "relative", in relation to an individual, means -

(i) spouse of the individual;

(ii) brother or sister of the individual;

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

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

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

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

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

Section 8 - Amendment of Section 45

In section 45 of the Income-tax Act, for the words, figures and letter "sections 53, 54 and 54B", the words, figures and letters "sections 53, 54, 54B and 54C" shall be substituted with effect from the 1st day of April, 1973.

Section 9 - Insertion of New Section 54C

In the Income-tax Act, after section 54B, the following section shall be inserted with effect from the 1st day of April, 1973, namely :-

54C. Capital gain on transfer of jewellery held for personal use not to be charged in certain cases. - Where the capital gain arises from the transfer of a capital asset, being jewellery held for personal use by the assessee or any member of his family dependent on him, and the assessee has, within a period of six months after such transfer, acquired any other jewellery for personal use by the assessee or any member of his family dependent on him, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say, -

(i) if the cost of the jewellery so acquired is not less than full value of the consideration received or accruing in respect of the transferred jewellery, the whole of such capital gain shall not be charged under section 45; or

(ii) if the cost of the jewellery so acquired is less than the full value of the consideration received or accruing in respect of the transferred jewellery, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the jewellery so acquired bears to the full value of the consideration received or accruing in respect of the transferred jewellery shall not be charged under section 45.

Explanation : For the purposes of this section, "jewellery" shall have the same meaning as is assigned to it in the Explanation to sub-clause (ii) of clause (14) of section 2..

Section 10 - Amendment of Section 56

In section 56 of the Income-tax Act, in sub-section (2), after clause (ia), the following clause shall be inserted, namely :-

"(ib) income referred to in sub-clause (ix) of clause (24) of section 2;".

Section 11 - Insertion of New Section 74A

In the Income-tax Act, after section 74, the following section shall be inserted, namely :-

74A. Losses from certain specified sources falling under the head "Income from other sources". - (1) Where the net result of the computation made for any assessment year in respect of any source falling under the head "Income from other sources" and being a source specified in sub-section (2), is a loss, such loss shall not be set off except against income, if any, from the same source.

(2) The sources referred to in sub-section (1) are -

(a) lotteries;

(b) crossword puzzles;

(c) races including horse races;

(d) card games;

(e) other games of any sort;

(f) gambling or betting of any form or nature whatsoever not falling under any of the foregoing clauses..

Section 12 - Amendment of Section 75

In section 75 of the Income-tax Act, in sub-section (1), for the figures and word "73 and 74", the figures, word and letter "73, 74 and 74A" shall be substituted.

Section 13 - Amendment of Section 77

In section 77 of the Income-tax Act, in clause (a) of sub-section (2), for the words, brackets and figures" or sub-section (1) of section 73", the words, brackets, figures and letter ", sub-section (1) of section 73 or section 74A" shall be substituted.

Section 14 - Amendment of Section 80A

In section 80A of the Income-tax Act, in sub-section (3), for the word, figures and letter "section 80T,", the words, figures and letters "section 80T or section 80TT," shall be substituted.

Section 15 - Amendment of Section 80B

In section 80B of the Income-tax Act, clause (7) shall be omitted with effect from the 1st day of April, 1973.

Section 16 - Amendment of Section 80C

In section 80C of the Income-tax Act, with effect from the 1st day of April, 1973, -

(a) in sub-section (2), -

(i) in clause (a), in sub-clauses (iii) and (iv), the word "or" shall be inserted at the end and after sub-clause (iv) as so amended, the following sub-clause shall be inserted, namely :-

"(v) as a contribution for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) made under section 19(1)(cc) of the Unit Trust of India Act, 1963 (52 of 1963);";

(ii) in sub-clause (i) of clause (g), in item (3), the word "or" shall be inserted at the end and after item (3) as so amended, the following item shall be inserted, namely :-

"(4) as a contribution for participation by any one member of such association or body in the Unit-

linked Insurance Plan;";

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

"(5) if the assessee participating in the Unit-linked Insurance Plan, or in the case of an assessee being an association of persons or a body of individuals referred to in clause (g) of sub-section (2), the members thereof participating in the Plan, terminates his participation in the Plan (by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation) before contribution in respect of such participation have been paid for five years, then -

(a) no deduction shall be allowed to the assessee under this section in respect of the contribution, if any, paid in the previous year in which the participation is so terminated; and

(b) the deductions allowed in respect of the contributions paid in the previous years preceding the previous year referred to in clause (a) shall be deemed to be the income of the assessee of that previous year and shall be chargeable to tax accordingly.

Explanation : For the purposes of this sub-section, the deduction allowed under this section in respect of the contribution paid in any previous year shall be the amount by which the deduction allowed under this section for that year exceeds the deduction which would have been allowed for that year if no such contribution had been paid during that year.".

Section 17 - Amendment of Section 80G

In section 80G of the Income-tax Act, in Explanation 2, below sub-section (5), with effect from the 1st day of April, 1973, -

(a) in clause (i), for the word and figures "section 11", the words, figures and letter "section 11, section 12 or section 12A" shall be substituted;

(b) in clause (ii), for the word and figures "section 11", the words and figures "section 11 or section 12" shall be substituted.

Section 18 - Omission of Section 80-I

Section 80-I of the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Section 19 - Amendment of Section 80J

In section 80J of the Income-tax Act, with effect from the 1st day of April, 1973, -

(a) in sub-section (1), for the brackets, words, figures and letters "(reduced by the aggregate of the deductions, if any, admissible to the assessee under section 80H and section 80-I)", the brackets, words, figures and letter "(reduced by the deduction, if any, admissible to the assessee under section 80H)" shall be substituted;

(b) in sub-section (3), the word, figures and letter ", section 80-I" shall be omitted.

Section 20 - Amendment of Section 80L

In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1973, -

(a) in clause (vii), the word "or" at the end shall be omitted;

(b) in clause (viii), for the words, "member of the society,", the words "member of the society; or" shall be substituted;

(c) after clause (viii), the following clause shall be inserted, namely :-

"(ix) dividends from any co-operative society,".

Section 21 - Omission of Section 80Q

Section 80Q of the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Section 22 - Insertion of New Section 80TT

After section 80T of the Income-tax Act, and before the heading "D. - Other deductions", the following section shall be inserted, namely :-

"80TT. Deduction in respect of winnings from lottery. -Where the gross total income of an assessee, not being a company, includes any income by way of winnings from any lottery (such income being hereafter in this section referred to as winnings), there shall be allowed, in computing the total income of the assessee, a deduction from the winnings of an amount equal to, -

(a) in a case where the gross total income does not exceed ten thousand rupees or where the winnings do not exceed five thousand rupees, the whole of such winnings;

(b) in any other case, five thousand rupees as increased by a sum equal to fifty per cent. of the amount by which the winnings exceed five thousand rupees.".

Section 23 - Substitution of new section for Section 90

For section 90 of the Income-tax Act, the following section shall be substituted, namely :-

"90. Agreement with foreign countries. - The Central Government may enter into an agreement with the Government of any country outside India -

(a) for the granting of relief in respect of income on which have been paid both income-tax under this Act and income-tax in that country, or

(b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country, or

(c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country, or investigation of cases of such evasion or avoidance, or

(d) for recovery of income-tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.".

Section 24 - Amendment of Section 125

In section 125 of the Income-tax Act, in the proviso to sub-section (1), after the figures "228,", the figures and letter "228A," shall be inserted.

Section 25 - Amendment of Sections 132A, 201, 213 TO 217, 220, 243 and 244 and Second Schedule

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In section 132A, section 201, sections 213 to 217, section 220, section 243 and section 244 of the Income-tax Act and in rule 60 of the Second Schedule to that Act, for the words "nine per cent.", wherever they occur, the words "twenty per cent." shall be substituted.

Section 26 - Amendment of Section 139

In section 139 of the Income-tax Act, -

(a) in clause (a) of sub-section (1), for the words "six months", the words "four months" shall be substituted;

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

"Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8).";

(c) for sub-section (4A), the following sub-section shall be substituted with effect from the 1st day of April, 1973, namely :-

"(4A) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purposes being computed under

this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).";

(d) in sub-section (8)(a), -

(i) for the portion beginning with the words, brackets and figure "Where the return under sub-section (1)" and ending with the words "waive the interest payable by any person under this sub-section.", the following shall be substituted, namely :-

Where the return under sub-section (1) or sub-section (2) or sub-section (4) for an assessment year is furnished after the specified date, or is not furnished, then [whether or not the Income-tax Officer has extended the date for furnishing the return under sub-section (1) or sub-section (2)], the assessee shall be liable to pay simple interest at 12 per cent. per annum, reckoned from the day immediately following the specified date to the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source :

Provided that the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any assessee under this sub-section.

Explanation 1 : For the purposes of this sub-section, "specified date", in relation to a return for an assessment year, means, -

(a) in the case of every assessee whose total income, or the total income of any person in respect of which he is assessable under this Act, includes any income from business or profession, the date of the expiry of four months from the end of the previous year or where there is more than one previous year, from the end of the previous year which expired last before the commencement of the assessment year, or the 30th day of June of the assessment year, whichever is later;

(b) in the case of every other assessee, the 30th day of June of the assessment year.;

(ii) the existing Explanation shall be re-numbered as Explanation 2.

Section 27 - Amendment of Section 164

In section 164 of the Income-tax Act, with effect from the 1st day of April, 1973, -

(a) in sub-section (2), for the words and figures "tax shall be charged on so much of the relevant income as is not exempt under section 11", the words, brackets, figures and letter "or which is of the nature referred to in sub-clause (iia) of clause (24) of section 2, tax shall be charged on so much of the relevant income as is not exempt under section 11 or section 12" shall be substituted;

(b) in sub-section (3), for the words "In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes", the words, brackets, figures and letter "In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes or is of the nature referred to in sub-clause (iia) of clause (24) of section 2" shall be substituted.

Section 28 - Insertion of New Sections 194B and 194C

After section 194A of the Income-tax Act, the following sections shall be inserted, namely :-

"194B. Winnings from lottery or crossword puzzle. - The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle in an amount exceeding one thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any payment made before the 1st day of June, 1972.

194C. Payments to contractors and sub-contractors. - (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply or labour for carrying out any work) in pursuance of a contract between the contractor and -

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or provincial Act; or

(d) any company,

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to 2 per cent. of such sum as income-tax on income comprised therein.

(2) Any person (being a contractor and not being an individual or a Hindu undivided family) responsible for paying any sum to any resident (hereafter in this section referred to as the sub-contractor) in pursuance of a contract with the sub-contractor for carrying out, or for the supply of labour for carrying out, the whole or any part of the work undertaken by the contractor or for supplying whether wholly or partly any labour which the contractor has undertaken to supply shall, at the time of credit of such sum to the account of the sub-contractor or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax on income comprised therein.

(3) No deduction shall be made under sub-section (1) or sub-section (2) from -

(i) any sum credited or paid in pursuance of any contract the consideration for which does not exceed five thousand rupees; or

(ii) any sum credited or paid before the 1st day of June, 1972.

(4) Where the Income-tax Officer is satisfied that the total income of the contractor or the sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Income-tax Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate may be appropriate.

(5) Where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2) shall, until such certificate is cancelled by the Income-tax Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.".

Section 29 - Amendment of Section 197

In section 197 of the Income-tax Act, in clause (a) of sub-section (1), for the figures, letter and word "194A and 195", the figures, letters and word "194A, 194B and 195" shall be substituted.

Section 30 - Amendment of Sections 198, 199, 200, 202 and 203

In section 198, section 199, section 200, section 202 and section 203 of the Income-tax Act, for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194B, section 194C and" shall be substituted.

Section 31 - Amendment of Section 204

In section 204 of the Income-tax Act, after the word, figures and letter "section 194A,", the words, figures and letters "section 194B, section 194C," shall be inserted.

Section 32 - Amendment of Section 205

In section 205 of the Income-tax Act, for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194B, section 194C and" shall be substituted.

Section 33 - Amendment of Section 207

In section 207 of the Income-tax Act, in sub-section (1), for the words in the case of income other than income chargeable under the head "Capital gains"., the following shall be substituted, namely :-

in the case of income other than -

(a)OP1.5in income chargeable under the head "Capital gains"; and

(b) income referred to in sub-clause (ix) of clause (24) of section 2..

Section 34 - Amendment of Section 208

In section 208 of the Income-tax Act, in clause (a) of sub-section (1), for the words "exclusive of capital gains,", the words, brackets and figures "exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2," shall be substituted.

Section 35 - Amendment of Section 209

In section 209 of the Income-tax Act, in clause (a), -

(a) in sub-clause (ii), for the words "the amount of capital gains", the words, brackets and figures "the amount of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2" shall be substituted;

(b) in sub-clause (iii), for the words, figures and letter "section 194A and", the words, figures and letters "section 194A, section 194C and" shall be substituted.

Section 36 - Amendment of Section 211

In section 211 of the Income-tax Act, in the Explanation below sub-section (1), for the words "by the capital gains", the words, brackets and figures "by the amount of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2" shall be substituted.

Section 37 - Amendment of Section 212

In section 212 of the Income-tax Act, in sub-section (1), for the brackets and words "(exclusive of capital gains if any)", the brackets, words and figures "[exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2, if any]" shall be substituted.

Section 38 - Amendment of Section 215

In section 215 of the Income-tax Act, in sub-section (5), for the word, figures and letter "section 194A", the words, figures and letters "section 194A, section 194C" shall be substituted.

Section 39 - Insertion of new Section 228A

After section 228 of the Income-tax Act, the following section shall be inserted, namely :-

"228A. Recovery of tax in pursuance of agreement with foreign countries. - (1) Where an agreement is entered into by the Central Government with the Government of any country outside India for recovery of income-tax under this Act and the corresponding law in force in that country and the Government of that country or any authority under that Government which is specified in this behalf in such agreement sends to the Board a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board may forward such certificate to any Tax Recovery Officer within whose jurisdiction such property is situated and thereupon such Tax Recovery Officer shall -

(a) proceed to recover the amount specified in the certificate in the manner in which he would proceed to recover the amount specified in a certificate received from an Income-tax Officer; and

(b) remit any sum so recovered by him to the Board after deducting his expenses in connection with the recovery proceedings.

(2) Notwithstanding the issue of a certificate under section 222 to the Tax Recovery Officer, where an assessee is in default or is deemed to be in default in making a payment of tax, the Income-tax Officer amy, if the assessee has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of income-tax under this Act and the corresponding law in force in that country), forward to the Board a certificate specifying the amount of arrears due from the assessee and the Board may take such action thereon as it may deem appropriate having regard to the terms of the agreement with such country.".

Section 40 - Amendment of Section 252

In section 252 of the Income-tax Act, after sub-section (3), the following sub-section shall be inserted, namely :-

"(4) The Central Government may appoint one or more members of the Appellate Tribunal to be the vice-president or, as the case may be, vice-presidents thereof.

(5) A vice-president shall exercise such of the powers and perform such of the functions of the president as may be delegated to him by the president by a general or special order in writing.".

Section 41 - Amendment of Section 295

In section 295 of the Income-tax Act, in sub-section (2), after clause (m), the following clause shall be inserted, namely :-

"(mm) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Income-tax Officer;".

Section 42 - Amendment of Fourth Schedule

In the Fourth Schedule to the Income-tax Act, in Part C, for the brackets, words and figures "[see sections 2(5), 17(1)(iii), 36(1)(v)]", the brackets, words and figures "[see sections 2(5), 10(25)(iv), 17(1)(iii), 36(1)(v)]" shall be substituted with effect from the 1st day of April, 1973.

Section 43 - Omission of Sixth Schedule

The Sixth Schedule to the Income-tax Act shall be omitted with effect from the 1st day of April, 1973.

Wealth-Tax

Section 44 - Amendment of Section 2

In section 2 of the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), -

(a) after clause (h), the following clause shall be, and shall be deemed always to have been, inserted, namely :-

"(ha) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies;";

(b) existing clause (ha) shall be deemed to have been re-lettered as clause (hb) with effect from the 1st day of April, 1965.

Section 45 - Amendment of Section 5

In section 5 of the Wealth-tax Act, -

(a) in sub-section (1), -

(i) after clause (xviia), the following clauses shall be, and shall be deemed always to have been, inserted, namely :-

"(xviib) any property held by the trustees on behalf of any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies or which is a recognised provident fund within the meaning of clause (38) of section 2 of the Income-tax Act;

(xviic) any property held by the trustees on behalf of any gratuity fund which is an approved gratuity fund within the meaning of clause (5) of section 2 of the Income-tax Act;

(xviid) any property held by the trustees on behalf of any superannuation fund which is an approved superannuation fund within the meaning of clause (6) of section 2 of the Income-tax Act;";

(ii) after clause (xxx), the following clauses shall be inserted with effect from the 1st day of April, 1973, namely :-

(xxxi) the value, as determined in the prescribed manner, of assets (not being any land or building or any rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to the assessee.

Explanation : For the purposes of this clause and clause (xxxii), the term "industrial undertaking" means an undertaking enganged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining;

(xxxii) the value, as determined in the prescribed manner, of the interest of the assessee in the assets (not being any land or building or any rights in any land or building or any asset referred to in any other clause of this sub-section) forming part of an industrial undertaking belonging to a firm or an association of persons of which the assessee is a partner or, as the case may be, a member.;

(b) in sub-section (1A), for the brackets, figures and word "(xxviii) and (xxix)", the brackets, figures and word " (xxviii), (xxix), (xxxi) and (xxxii)" shall be substituted with effect from the 1st day of April, 1973;

(c) in sub-section (3), after the proviso, the following Explanation shall be inserted with effect from the 1st day of April, 1973, namely :-

"Explanation : For the purposes of clause (a) or clause (b) of this sub-section, in computing the period of six months in relation to any asset (not being any share or security held as stock-in-trade for the purposes of the business of the assessee) in a case where such asset (hereafter in this Explanation referred to as the relevant asset) was acquired by the assessee by conversion of, or in exchange for, or with the proceeds of, or with the money constituting, any other asset exempt from wealth-tax under sub-section (1) or sub-section (2), there shall be included, if the assessee acquired the relevant asset within thirty days after he ceased to hold such other asset, so much of the period for which the assessee held such other asset as falls within the period of twelve months ending with the relevant valuation date.".

Section 46 - Insertion of New Section 21A

After section 21 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of April, 1973, namely :-

21A. Assessment in cases of diversion of property, or of income from property, held under trust for public charitable or religious purposes. - Notwithstanding anything contained in clause (i) of sub-section (1) of section 5, where any property is held under trust for any public purposes of a charitable or religious nature in India, and

(i) any part of such property or any income of such trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act] is used or applied, or

(ii) any part of the income of the trust [whether derived from such property or from voluntary contributions referred to in sub-clause (iia) of clause (24) of section 2 of the Income-tax Act], being a trust created on or after the 1st day of April, 1962, enures,

directly or indirectly, for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, wealth-tax shall be leviable upon and recoverable from the trustee or manager (by whatever name called) in the like manner and to the same extent as if the property were held by an individual who is a citizen of India and resident in India for the purposes of this Act and -

(a) at the rates specified in Part I of the Schedule in the case of an individual; or

(b) at the rate of one-half per cent.

whichever course is more beneficial to the revenue :

Provided that in the case of a trust created before the 1st day of April, 1962, the provisions of clause (i) shall not apply to any use or application, whether directly or indirectly, of any part of such property or any income of such trust for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act, if such use or application is by way of compliance with a mandatory term of the trust :

Provided further that in a case where the aggregate of the funds of the trust invested in a concern in which any person referred to in sub-section (3) of section 13 of the Income-tax Act has a substantial interest as provided in Explanation 3 to that section does not exceed 5 per cent. of the capital of that concern, the exemption under clause (i) of sub-section (1) of section 5 shall not be denied in relation to any property other than such investment, by reason only that the funds of the trust have been invested in a concern in which any person referred to in the aforesaid sub-section (3) has such substantial interest.

Explanation : For the purposes of this section, -

(a) any part of the property or income of a trust shall be deemed to have been used or applied for the benefit of any person referred to in sub-section (3) of section 13 of the Income-tax Act in every case in which it can be so deemed to have been used or applied within the meaning of clause (c) of sub-section (1) of that section at any time during the period of twelve months ending with the relevant valuation date;

(b) "trust" includes any other legal obligation.

Section 47 - Amendment of Sections 31 and 34A

In sections 31 and 34A of the Wealth-tax Act, for the words "nine per cent.", the words "twelve per cent." shall be substituted.

Section 48 - Amendment of Section 32

In section 32 of the Wealth-tax \Act, for the words and figures "sections 221 to 227", the words, figures and letter "sections 221 to 227, 228A" shall be substituted.

Section 49 - Amendment of Section 44A

In section 44A of the Wealth-tax Act, for the portion beginning with the words "the Central Government may" and ending with the words "for implementing the agreement.", the following shall be substituted, namely :-

"The Central Government may enter into an agreement with the Government of any reciprocating country -

(a) for the avoidance or relief of double taxation with respect to wealth-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

(b) for exchange of information for the prevention of evasion or avoidance of wealth-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(c) for recovery of tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.".

Section 50 - Amendment of Section 45

In section 45 of the Wealth-tax Act, -

(a) for the words "The provisions of this Act shall not be apply to -", the words "No tax shall be levied under this Act in respect of the net wealth of -" shall be substituted;

(b) after clause (f), the following clause shall be, and shall be deemed always to have been, inserted, namely :-

"(g) any co-operative society.".

Section 51 - Amendment of Section 46

In section 46 of the Wealth-tax Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely :-

"(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Wealth-tax Officer;".

Gift-Tax

Section 52 - Amendment of Sections 32 and 33A

In section 32 and 33A of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the Gift-tax Act), for the words "nine per cent.", the words "twelve per cent." shall be substituted.

Section 53 - Amendment of Section 33

In section 33 of the Gift-tax Act, for the words and figures "sections 221 to 227", the words, figures and letter "section 221 to 227, 228A" shall be substituted.

Section 54 - Amendment of Section 44

In section 44 of the Gift-tax Act, for the portion beginning with the words "The Central Government may" and ending with the words "for implementing the agreement.", the following shall be substituted, namely :-

"The Central Government may enter into an agreement with the Government of any reciprocating country -

(a) for the avoidance or relief of double taxation with respect to gift-tax payable under this Act and under the corresponding law in force in the reciprocating country, or

(b) for exchange of information for the prevention of evasion or avoidance of gift-tax chargeable under this Act or under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(c) for recovery of tax under this Act and under the corresponding law in force in that country,

and may, by notification in the Official Gazette, make such provision as may be necessary for implementing the agreement.".

Section 55 - Amendment of Section 45

In section 45 of the Gift-tax Act, with effect from the 1st day of April, 1973, -

(a) in clause (e), for the word and figures "section 11", the words and figures "section 11 or section 12" shall be substituted;

(b) in Explanation 3, -

(i) in clause (i), for the word and figures "section 11", the words, figures and letter "section 11 or section 12 or section 12A" shall be substituted;

(ii) in clause (ii), for the word and figures "section 11", the words and figures "section 11 or section 12" shall be substituted.

Section 56 - Amendment of Section 46

In section 46 of the Gift-tax Act, in sub-section (2) after clause (c), the following clause shall be inserted, namely :-

"(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Gift-tax Officer;".

Surtax

Section 57 - Substitution of new section for Section 24A

For section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964) [hereinafter referred to as the Companies (Profits) Surtax Act], the following section shall be substituted, namely :-

"24A. Agreement with foreign countries. - The Central Government may enter into an agreement with the Government of any country outside India -

(a) for the granting of relief in respect of chargeable profits on which have been paid both surtax under this Act and tax of a similar character or income-tax on such profits in that country, or

(b) for the avoidance of double taxation of chargeable profits under this Act and under any law relating to the taxation of income or profits in force in that country, or

(c) for exchange of information for the prevention of evasion or avoidance of surtax chargeable under this Act or the tax chargeable under the corresponding law in force in that country or investigation of cases of such evasion or avoidance, or

(d) for recovery of tax under this Act and under any law relating to the taxation of income or profits in force

in that country.

and may, by notification in the Official Gazette make such provision as may be necessary for implementing the agreement.".

Section 58 - Amendment of Section 25

In section 25 of the Companies (Profits) Surtax Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely :-

"(cc) the circumstances in which, the conditions subject to which and the manner in which, the Appellate Assistant Commissioner may permit an appellant to produce evidence which he did not produce or which he was not allowed to produce before the Income-tax Officer;".

Miscellaneous

Section 59 - certain casual and non-recurring receipts not to be included in the total income for the assessment year 1972-73

Notwithstanding the amendments made by this Act to the Income-tax Act, in computing, in the case of any person, the total income of a previous year relevant to the assessment year commencing on the 1st day of April, 1972, any income falling within clause (3) of section 10 of the Income-tax Act as it stood immediately before the 1st day of April, 1972, shall not be included.

Section 60 - Applicability of revised rate of interest

For the removal of doubts, it is hereby declared that where interest if payable under -

(a) section 139 of the Income-tax Act or any other provision of that Act referred to in section 25 of this Act; or

(b) section 31 or section 34A of the Wealth-tax Act; or

(c) section 32 or section 33A of the Gift-tax Act; or

(d) section 18 of the Companies (Profits) Surtax Act,

in respect of any period commencing on or before the 31st day of March, 1972, and ending after that date, such interest shall, in respect of so much of such period as falls that date, be calculated at the rate of twelve per cent. per annum.