

## Finance Act 1994

### Chapter 3 - Direct Taxes

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#### Section 3 - Amendment of Section 2

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In section 2 of the Income-tax Act, -

(a) in clause (19A), after the words "Deputy Commissioner of Income-tax", the words "or an Additional Commissioner of Income-tax" shall be inserted with effect from the 1st day of June, 1994;

(b) in clause (19B), after the words and brackets "Deputy Commissioner of Income-tax (Appeals)", the words and brackets "or an Additional Commissioner of Income-tax (Appeals)" shall be inserted with effect from the 1st day of June, 1994;

(c) after clause (19B), the following clause shall be inserted with effect from the 1st day of June, 1994, namely :-

'(19C) "Deputy Director" means a person appointed to be a Deputy Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;';

(d) in clause (21), after the words "that sub-section to be", the words "an Additional Director of Income-tax or" shall be inserted with effect from the 1st day of June, 1994;

(e) in clause (42A), with effect from the 1st day of April, 1995, -

(i) in the proviso, after the words "share held in a company", the words, figures, brackets and letter "or any other security listed in a recognised sk exchange in India or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or a unit of a Mutual Fund specified under clause (23D) of section 10" shall be inserted;

(ii) the existing Explanation shall be renumbered as Explanation 1 and in Explanation 1 as so renumbered, in clause (i), after sub-clause (c), the following sub-clauses shall be inserted, namely :-

"(d) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset;

(e) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer;";

(iii) after Explanation 1 as so renumbered, the following Explanation shall be inserted, namely :-

'Explanation 2 : For the purposes of this clause, the expression "security" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);'.

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#### Section 4 - Insertion of New Section 5A

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After section 5 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1963, namely :-

'5A. Apportionment of income between spouses governed by Portuguese Civil Code. - (1) Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as "COMMUNIAO DOS BENS") in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife under each head of income (other than under the head "Salaries") shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.

(2) Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head "Salaries", such income shall be included in the total income of the spouse who has actually earned it.'

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#### Section 5 - Amendment of Section 6

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In section 6 of the Income-tax Act, in clause (1), in sub-clause (c), in the Explanation, in clause (b), for the words "one hundred and fifty days", the words "one hundred and eighty-two days" shall be substituted with effect from the 1st day of April, 1995.

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#### Section 6 - Amendment of Section 10

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In section 10 of the Income-tax Act, -

(1) in clause (10C), with effect from the 1st day of April, 1995, -

(a) in sub-clause (iv), for the word "authority,", the words "authority; or" shall be substituted;

(b) after sub-clause (iv), the following sub-clauses shall be inserted, namely :-

"(v) a co-operative society; or

(vi) a 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 (3 of 1956); or

(vii) an Indian Institute of Technology within the meaning of clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961); or

(viii) such institute of management as the Central Government may, by notification in the Official Gazette, specify in this behalf;";

(c) in the first proviso, -

(i) after the word "authorities", the words, brackets and figures "or societies or Universities or the Institutes referred to in sub-clauses (vii) and (viii)" shall be inserted;

(ii) after the word, brackets and figures "sub-clause (ii)", the words, brackets and figure "or co-operative societies referred to in sub-clause (v)" shall be inserted;

(2) after clause (22A), the following clause shall be inserted, namely :-

"(22B) any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification in the Official Gazette, specify in this behalf :

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members :

Provided further that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification;";

(3) in clause (26), with effect from the 1st day of April, 1995,-

(i) in the opening portion, for the words "State of Nagaland, Manipur and Tripura or in the Union territories of Arunachal Pradesh and Mizoram", the words "States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura" shall be substituted;

(ii) in sub-clause (a), for the words ", States or Union territories aforesaid", the words "or States aforesaid" shall be substituted;

(4) in clause (26B), the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 1993, namely :-

(a) for the words "members of either the Scheduled Castes or the Scheduled Tribes or of both", the words "members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them" shall be substituted;

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

'Explanation : For the purposes of this clause, -

(a) "Scheduled Castes" and "Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of articles 366 of the Constitution;

(b) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified -

(i) by the Central Government; or

(ii) by any State Government,

as the case may be, from time to time.'

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## Section 7 - Amendment of Section 10B

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In section 10B of the Income-tax Act, -

(a) in sub-section (2), after clause (i), the following clause shall be inserted, with effect from the 1st day of April, 1995, namely :-

"(ia) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day of April, 1994, its exports of such articles and things are not less than seventy-five per cent. of the total sales thereof during the previous year;";

(b) in the Explanation occurring at the end, after clause (iii), the following clause shall be inserted, namely :-

'(iv) "produce", in relation to any article or thing referred to in clause (i) of sub-section (2) includes production of computer programmes.'

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**Section 8 - Amendment of Section 12A**

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In section 12A of the Income-tax Act, in clause (b), for the words "twenty-five thousand", the words "fifty thousand" shall be substituted with effect from the 1st day of April, 1995.

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**Section 9 - Amendment of Section 13**

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In section 13 of the Income-tax Act, in sub-section (3) in clause (b), for the words "twenty-five thousand", the words "fifty thousand" shall be substituted with effect from the 1st day of April, 1995.

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**Section 10 - Amendment of Section 17**

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In section 17 of the Income-tax Act, in clause (2), in the proviso, for clause (ii), the following clause shall be substituted and shall be deemed to have been substituted, with effect from the 1st day of April, 1993, namely :-

"(ii) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family -

(a) in any hospital maintained by the Government or any local authority or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(b) in respect of the prescribed diseases or ailments, in any hospital approved by the Chief Commissioner having regard to the prescribed guidelines :

Provided that, in a case falling in sub-clause (b), the employee shall attach with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital."

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**Section 11 - Amendment of Section 24**

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In section 24 of the Income-tax Act, in sub-section (2), in the proviso, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1995.

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**Section 12 - Amendment of Section 33AB**

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In section 33AB of the Income-tax Act, with effect from the 1st day of April, 1995, -

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

(i) for the portion beginning with the words "whichever is earlier, deposited with the National Bank" and ending with the words "the assessee shall, subject to the provisions of this section," the following shall be substituted, namely :-

"whichever is earlier, -

(a) deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Tea Board; or

(b) deposited any amount in an account (thereafter in this section referred to as the Tea Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board (hereafter in this section referred to as the deposit scheme) with the previous approval of the Central Government,

the assessee shall, subject to the provisions of this section,";

(ii) in the second proviso, after the words "in the special account", the words "or in the Tea Deposit Account" shall be inserted;

(2) in sub-section (3), for the words "the special account shall not be allowed to be withdrawn except for the purposes specified in the scheme", the words "the special account or the Tea Deposit Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme" shall be substituted;

(3) in sub-section (5), after the words "the special account", the words "or in the Tea Deposit Account" shall be inserted;

(4) in sub-section (6), -

(i) after the words "the special account", the words "or in the Tea Deposit Account" shall be inserted;

(ii) after the words "the scheme", the words "or the deposit scheme" shall be inserted;

(5) in sub-section (7), -

(i) after the words "special account", the words "or in the Tea Deposit Account" shall be inserted;

(ii) after the words "National Bank", the words "or which is withdrawn by the assessee from the Tea Deposit Account" shall be inserted;

(iii) after the words "the scheme", the words "or the deposit scheme" shall be inserted;

(6) in sub-section (8), after the words "the scheme", at both the places where they occur, the words "or the deposit scheme" shall be inserted.

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### Section 13 - Amendment of Section 35

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In section 35 of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1995, -

(a) in the opening portion, after the words "a National Laboratory", the words "or a University or an Indian Institute of Technology" shall be inserted;

(b) in the first proviso, after the words "every National Laboratory", the words "or University or Indian Institute of Technology" shall be inserted;

(c) in the second proviso, -

(i) after the words "the National Laboratory", the words "or the University or the Indian Institute of Technology" shall be inserted;

(ii) after the words "such Laboratory", the words "or University or Institute, as the case may be" shall be inserted;

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

'Explanation : For the purposes of this section, -

(a) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the India Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed;

(b) "University" shall have the same meaning as in Explanation to clause (xi) of section 47;

(c) "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961).'

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### Section 14 - Amendment of Section 36

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In section 36 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1995, -

(a) in clause (viia), in sub-clause (a), -

(i) the words, brackets, figures and letter "a bank approved by the Central Government for the purposes of clause (viia) or" shall be omitted;

(ii) for the words "four per cent.", the words "ten per cent." shall be substituted;

(b) clause (viiiia) shall be omitted.

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### Section 15 - Amendment of Section 37

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In section 37 of the Income-tax Act, in sub-section (2), for the words, figures and letters "any previous year commencing on the 1st day of April, 1992", the words, figures and letters "any previous year commencing on or after the 1st day of April, 1992" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1993.

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### Section 16 - Insertion of New Sections 44AD and 44AE

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In the Income-tax Act, before section 44B, the following sections shall be inserted, namely :-

'44AD. Special provision for computing profits and gains of business of civil construction, etc. -

(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in the business of civil construction or supply of labour for civil construction, a sum equal to eight per cent. of the gross receipts paid or payable to the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that nothing contained in this sub-section shall apply in case the aforesaid gross receipts paid or payable exceed an amount of forty lakh rupees.

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

(3) The written down value of any asset for the purposes of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44 and 44AB shall not apply insofar as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(5) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-section (1), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation : For the purposes of this section, the expression "civil construction" includes -

- (a) the construction or repair of any building, bridge, dam or other structure or of any canal or road;
- (b) the execution of any works contract.

44AE. Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages. -

(1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

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

- (i) being a heavy goods vehicle, shall be an amount equal to two thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income;
- (ii) other than a heavy goods vehicle, shall be an amount equal to one thousand eight hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or, as the case may be, an amount higher than the aforesaid amount as declared by him in his return of income.

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

(4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(5) The provisions of sections 44 and 44AB shall not apply insofar as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business are lower than the profits and gains specified in sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.

Explanation : For the purposes of this section, -

(a) the expressions "goods carriage" and "heavy goods vehicle" shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.'

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## Section 17 - Amendment of Section 44D

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In section 44D of the Income-tax Act, clauses (c) and (d) shall be omitted with effect from the 1st day of April, 1995.

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## Section 18 - Amendment of Section 55

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In section 55 of the Income-tax Act, in sub-section (2), for clause (a), the following clauses shall be substituted, with effect from the 1st day of April, 1995, namely :-

"(a) in relation to a capital asset, being goodwill of a business, tenancy rights, stage carriage permits or loom hours,-

- (i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and
- (ii) in any other case [not being a case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49], shall be taken to be nil;

(aa) in a case where, by virtue of holding a capital asset, being a share or any other security within the meaning of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee becomes entitled to subscribe to any additional financial asset, then, subject to the provisions of sub-clauses (i) and (ii) of clause (b), -

- (i) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset; and
- (ii) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be nil in the case of such assessee;
- (iii) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset;

(iv) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset;".

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### Section 19 - Amendment of Section 57

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In section 57 of the Income-tax Act, the proviso shall be omitted with effect from the 1st day of April, 1995.

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### Section 20 - Amendment of Section 64

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In section 64 of the Income-tax Act, in sub-section (1A), in the opening portion, after the words "arises or accrues to his minor child", the words, figures and letter ", not being a minor child suffering from any disability of the nature specified in section 80U" shall be inserted with effect from the 1st day of April, 1995.

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### Section 21 - Amendment of Section 71

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In section 71 of the Income-tax Act, for sub-section (4), the following sub-section shall be substituted with effect from the 1st day of April, 1995, namely :-

'(4) Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995, and the 1st day of April, 1996, such loss shall be first set off under sub-sections (1) and (2) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.'

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### Section 22 - Substitution of New Section for Section 71A

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For section 71A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1995, namely :-

'71A. Transitional provisions for set off of loss under the head "Income from house property". -

Where in respect of the assessment year commencing on the 1st day of April, 1993, or the 1st day of April, 1994, the net result of the computation under the head "Income from house property" is a loss, such loss insofar as it relates to interest on borrowed capital referred to in clause (vi) of sub-section (1) of section 24 and to the extent it has not been set off shall be carried forward and set off in the assessment year commencing on the 1st day of April, 1995, and the balance, if any, in the assessment year commencing on the 1st day of April, 1996, against the income under any head.'

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### Section 23 - Insertion of New Section 80E

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After section 80DD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1995, namely :-

'80E. Deduction in respect of repayment of loan taken for higher education. -

(1) In computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, any amount paid by him in the previous year, out of his income chargeable to tax, by way of repayment of loan, taken by him from any financial institution or any approved charitable institution for the purpose of pursuing his higher education, or interest on such loan :

Provided that the amount which may be so deducted shall not exceed twenty-five thousand rupees.

(2) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the initial assessment year and seven assessment years immediately succeeding the initial assessment year or until the loan referred to in sub-section (1) together with interest thereon is paid by the assessee in full, whichever is earlier.

(3) For the purposes of this section, -

(a) "approved charitable institution" means an institution specified in, or, as the case may be, an institution established for charitable purposes and notified by the Central Government under clause (23C) of section 10 or an institution referred to in clause (a) of sub-section (2) of section 80G;

(b) "financial institution" means a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act); or any other financial institution which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(c) "higher education" means full-time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate course in applied sciences or pure sciences including mathematics and statistics;

(d) "initial assessment year" means the assessment year relevant to the previous year, in which the assessee starts repaying the loan or interest thereon.'

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### Section 24 - Amendment of Section 80G

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In section 80G of the Income-tax Act, -

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter "on in sub-clause (iiif)", the words, brackets, figures and letter "or in sub-clause (iiig)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiif), the following sub-clause shall be inserted, namely :-

"(iiig) the Maharashtra Chief Minister's Relief Fund during the period beginning on the 1st day of October, 1993, and ending on the 6th day of October, 1993, or to the Chief Minister's Earthquake Relief Fund, Maharashtra; or";

(c) sub-section (3) shall be omitted;

(d) in sub-section (5), -

(i) the word "and", occurring at the end of clause (iv), shall be omitted;

(ii) in clause (v), the word "and" shall be inserted at the end.

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#### **Section 25 - Amendment of Section 80HHD**

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In section 80HHD Income-tax Act, with effect from the 1st day of April, 1995, -

(a) in sub-section (2), in the Explanation, for the words "from a tour operator or, as the case may be, a travel agent", the words "from another hotelier, tour operator or travel agent, as the case may be," shall be substituted;

(b) in sub-section (3), after the word, brackets and figure "sub-section (2)", the brackets, words, figure and letter "[as reduced by any payment, referred to in sub-section (2A), made by the assessee]" shall be inserted;

(c) in sub-section (6), -

(i) the words "aggregate of the" shall be omitted;

(ii) after the words "foreign tourists", the words, brackets, figure and letter, "payments made by him to any assessee referred to in sub-section (2A)" shall be inserted.

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#### **Section 26 - Amendment of Section 80HHE**

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In section 80HHE of the Income-tax Act, in sub-section (1), in the proviso, for the figures "1995", the figures "1996" shall be substituted.

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#### **Section 27 - Amendment of Section 80-IA**

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In section 80-IA of the Income-tax Act, -

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

(i) in clause (iii), in the proviso, after the words "a small scale industrial undertaking", the words, brackets, letters and figures "or an industrial undertaking referred to in sub-clause (b) of clause (iv) which begins to manufacture or produce an article or thing during the period beginning on the 1st day of April, 1993, and ending on the 31st day of March, 1998" shall be inserted;

(ii) in clause (iv), with effect from the 1st day of April, 1995, -

(1) in sub-clause (a), after the word, brackets and letter "sub-clause (b)", the words, brackets and letter "or sub-clause (c)" shall be inserted;

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

"(c) in the case of an industrial undertaking located in such industrially backward district as the Central Government may, having regard to the prescribed guidelines, by notification in the Official Gazette, specify in this behalf, it begins to manufacture or produce articles or things or to operate its cold storage plant or plants at any time during the period beginning on the 1st day of October, 1994, and ending on the 31st day of March, 1999;";

(b) in sub-section (5), in clause (i), in sub-clause (b), after the words, brackets and letter "sub-clause (b)", the words, brackets and letter "or sub-clause (c)" shall be inserted with effect from the 1st day of April, 1995.

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#### **Section 28 - Omission of Section 80V**

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80V of the Income-tax Act shall be omitted with effect from the 1st day of April, 1995

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#### **Section 29 - Amendment of Section 88**

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In section 88 of the Income-tax Act, the following amendments [except amendment by sub-clause (iii) of clause (1)] shall be made and shall be deemed to have been made with effect from the 1st day of April, 1991, namely :-

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

(i) in clause (xii), for the words "by any person", the words "in the name of any person" shall be substituted;

(ii) in clause (xiii), for the words "by any individual", the words, brackets and figure "in the name of any person specified in sub-section (4)" shall be substituted;

(iii) in clause (xiiic), after the word and figures "section 10", the words and figures "or by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963)" shall be inserted with effect from the 1st day of April, 1995;

(2) in sub-section (4), -

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

"(a) for the purposes of clauses (i), (v), (xii) and (xiii) of that sub-section, -

(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a Hindu undivided family, any member thereof;"

(ii) in clause (b), sub-clause (ii) shall be omitted;

(iii) in clause (c), -

(a) for the words, brackets and figures "clauses (v) and (viii)", the word, brackets and figures "clause (viii)" shall be substituted;

(b) sub-clause (iii) shall be omitted;

(iv) clause (d) shall be omitted.

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### Section 30 - Amendment of Section 88B

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In section 88B of the Income-tax Act, with effect from the 1st day of April, 1995, -

(a) for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted;

(b) for the words "twenty per cent.", the words "forty per cent." shall be substituted.

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### Section 31 - Amendment of Section 112

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In section 112 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1995, -

(i) in clause (a), after the words "Hindu undivided family,", the words "being a resident," shall be inserted;

(ii) in clause (b), -

(a) for the word "company", the words "domestic company" shall be substituted;

(b) for the words "forty per cent.", wherever they occur, the words "thirty per cent." shall be substituted;

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

"(c) in the case of a non-resident (not being a company) or a foreign company, -

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains at the rate of twenty per cent.";

(iv) the existing clause (c) shall be relettered as clause (d), and in clause (d) as so relettered, after the words "in any other case", the words "of a resident" shall be inserted.

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### Section 32 - Amendment of Section 115A

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In section 115A of the Income-tax Act, with effect from the 1st day of April, 1995, -

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

'(1) Where the total income of -

(a) a non-resident (not being a company) or of a foreign company, includes any income by way of -

(i) dividends; or

(ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency; or

(iii) income received in respect of units, purchased in foreign currency, of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India,

the income-tax payable shall be aggregate of -

(A) the amount of income-tax calculated on the amount of income by way of dividends, if any, included in the total income, at the rate of twenty per cent.;

(B) the amount of income-tax calculated on the amount of income by way of interest referred to in sub-clause (ii), if any, included in the total income, at the rate of twenty per cent.;

(C) the amount of income-tax calculated on the income in respect of units referred to in sub-clause (iii), if any, included in the total income, at the rate of twenty per cent.; and

(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause (i), sub-clause (ii) and sub-clause (iii);

(b) a foreign company, includes any income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976, and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy, then, subject to the provisions of sub-sections (1A) and (2), the income-tax payable shall be the aggregate of, -

(A) the amount of income-tax calculated on the income by way of royalty, if any, included in the total income, at the rate of thirty per cent.;

(B) the amount of income-tax calculated on the income by way of fees for technical services, if any, included in the total income, at the rate of thirty per cent.; and

(C) the amount of income-tax with which it would have been chargeable had its total income been reduced by the amount of income by way of royalty and fees for technical services.

Explanation : For the purposes of this section, -

(a) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(b) "foreign currency" shall have the same meaning as in the Explanation below item (g) of sub-clause (iv) of clause (15) of section 10;

(c) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963).'

(ii) in sub-section (1A), for the words "approved by the Central Government or where the agreement relates to a matter", the words "the agreement is approved by the Central Government or where it relates to a matter" shall be substituted;

(iii) after sub-section (2), the following sub-sections shall be inserted, namely :-

"(3) No deduction in respect of any expenditure or allowance shall be allowed to the assessee under sections 28 to 44C and section 57 in computing his or its income referred to in sub-section (1).

(4) Where in the case of an assessee referred to in sub-section (1), -

(a) the gross total income consists only of the income referred to in clause (a) of that sub-section, no deduction shall be allowed to him or it under Chapter VI-A;

(b) the gross total income includes any income referred to in clause (a) of that sub-section, the gross total income shall be reduced by the amount of such income and the deduction under Chapter VI-A shall be allowed as if the gross total income as so reduced were the gross total income of the assessee.

(5) It shall not be necessary for an assessee referred to in sub-section (1) to furnish under sub-section (1) of section 139 a return of his or its income if -

(a) his or its total income in respect of which he or it is assessable under this Act during the previous year consisted only of income referred to in clause (a) of sub-section (1); and

(b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income."

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### Section 33 - Amendment of Section 115K

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In section 115K of the Income-tax Act, with effect from the 1st day of April, 1995, -

(i) in sub-section (1), for the portion beginning with the words "to whom this section applies, carrying on -", and ending with the words "from such business or vacation", the following shall be substituted, namely :-

"to whom this section applies and who is -

(a) carrying on the business of retail trade in any goods or merchandise; or

(b) carrying on the business of running an eating place or of operating, hiring or leasing a motor cab, a maxicab or a three-wheeled motor vehicle or any other business as may be prescribed; or

(c) engaged in any vocation,

and submits a statement in accordance with the provisions of sub-section (4), a sum of forty-two thousand rupees shall be deemed to be the profits and gains of such person from such business or vocation";

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

(a) in clause (b), -

(1) in sub-clause (i), for the words "thirty-seven thousand rupees", the words "forty-two thousand rupees" shall be substituted;

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

"(ii) clause (b) or clause (c) of sub-section (1), his income from the said business or vocation, during the relevant previous year does not exceed forty-two thousand rupees; and";

(b) in clause (c), for the words "of retail trade or from the business of running the eating or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle or from the vocation", the words, brackets, letters and figure "or vocation referred to in clause (a), clause (b) or, as the case may be, clause (c) of sub-section (1)" shall be substituted;

(iii) in sub-section (4), -

(a) in clause (a), -

(1) in sub-clause (i), for the words "thirty-seven thousand", the words "forty-two thousand" shall be substituted;

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

"(ii) where he is carrying on the business or vocation referred to in clause (b) or, as the case may be, clause (c) of that sub-section, his income during the relevant previous year from such business or vocation does not exceed forty-two thousand rupees,";

(b) in clause (b), the proviso shall be omitted;

(iv) sub-section (6) shall be omitted;

(v) in the Explanation, in clause (a), the words "goods carriage," shall be omitted.

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#### **Section 34 - Amendment of Section 115N**

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In section 115N of the Income-tax Act, the words "in respect of his income from the business of retail trade or from the business of running an eating place or from the business of operating, hiring or leasing a goods carriage, a motor cab, a maxicab or a three-wheeled motor vehicle or from any vocation" shall be omitted with effect from the 1st day of April, 1995.

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#### **Section 35 - Amendment of Section 116**

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In section 116 of the Income-tax Act, after clause (c), the following clause shall be inserted with effect from the 1st day of June, 1994, namely :-

"(cc) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),".

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#### **Section 36 - Amendment of Section 139**

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In section 139 of the Income-tax Act, in the sub-section (1), in the Explanation, in clause (a), for the figures, letters and words "31st day of December", the figures, letters and words "30th day of November" shall be substituted.

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#### **Section 37 - Amendment of Section 143**

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In section 143 of the Income-tax Act, in the Explanation, for the word and figures "section 264", the words and figures "sections 246 and 264" shall be substituted with effect from the 1st day of June, 1994.

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#### **Section 38 - Amendment of Section 154**

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In section 154 of the Income-tax Act, in sub-section (2), the proviso shall be omitted with effect from the 1st day of June, 1994.

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#### **Section 39 - Amendment of Section 194C**

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In section 194C of the Income-tax Act, the Explanation occurring below sub-section (2) shall be renumbered as Explanation II, and before Explanation II as so renumbered, the following Explanation shall be inserted, with effect from the 1st day, of June, 1994, namely :-

'Explanation I : For the purposes of sub-section (2), the expression "contractor" shall also include a contractor who is carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and the Government of a foreign State or a foreign enterprise or any association or body established outside India.'

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#### **Section 40 - Insertion of New Section 194-I**

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After section 194H of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 1994, namely :-

'194-I. Rent. - Any person, not being an individual or a Hindu undivided family, who is responsible for paying to any person any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time

of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent. :

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed one hundred and twenty thousand rupees.

Explanation : For the purposes of this section, -

(i) "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or any building (including factory building), together with furniture, fittings and the land appurtenant thereto, whether or not such building is owned by the payee;

(ii) where any income is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

#### Section 41 - Amendment of Section 196A

In section 196A of the Income-tax Act, in sub-section (2), for the words "twenty-five per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of June, 1994.

#### Section 42 - Amendment of Section 197

In section 197 of the Income-tax Act, in sub-section (1), after the figures and letter "194D", the figures and letter ", 194-I" shall be inserted with effect from the 1st day of June, 1994.

#### Section 43 - Amendment of Sections 198 to 200 and 202 to 205

In sections 198, 199, 200, 202, 203, 203A, 204 and 205 of the Income-tax Act, after the words, figures and letter "section 194H," the word, figures and letter "section 194-I," shall be inserted with effect from the 1st day of June, 1994.

#### Section 44 - Amendment of Section 211

In section 211 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted, with effect from the 1st day of April, 1994, namely :-

"(1) Advance tax on the current income calculated in the manner laid down in section 209 shall be payable by -

(a) all the companies, who are liable to pay the same, in four installments during each financial year and the due date of each installment and the amount of such installment shall be as specified in Table I below :

TABLE I

Due date of installment	Amount payable
On or before the 15th June	Not less than fifteen per cent. of such advance tax.
On or before the 15th September	Not less than forty-five per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier installment.
On or before the 15th December	Not less than seventy-five per cent. of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier installment or installments.
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 installment or installments.

(b) all the assessees (other than companies), who are liable to pay the same, in three installments during each financial year and the due date of each installment and the amount of such installment shall be as specified in Table II below :

TABLE II

Due date of installment	Amount payable
On or before the 15th September	Not less than thirty per cent. of such advance tax.
On or before the 15th December	Not less than sixty per cent. of such advance tax, as reduced by the amount, if any, paid in the earlier installment.
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 installment or installments :

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

## Section 45 - Amendment of Section 234C

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In section 234C of the Income-tax Act, in sub-section (1), for the portion beginning with the words "Where in any financial year" and ending with the words "as the case may be, sixty per cent. of the tax due on the returned income :", the following shall be substituted, with effect from the 1st day of April, 1995, namely :-

"Where in any financial year, -

(a) the company which is liable to pay advance tax under section 208 has failed to pay such tax or -

(i) the advance tax paid by the company on its current income on or before 15th day of June is less than fifteen per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of September is less than forty-five per cent. of the tax due on the returned income or the amount of such advance tax paid on or before the 15th day of December is less than seventy-five per cent. of the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent. per month for a period of three months on the amount of the shortfall from fifteen per cent. or forty-five per cent. or seventy-five per cent., as the case may be, of the tax due on the returned income;

(ii) the advance tax paid by the company on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the company shall be liable to pay simple interest at the rate of one and one-half per cent. on the amount of the shortfall from the tax due on the returned income :

Provided that if the advance tax paid by the company on its current income on or before the 15th day of June or the 15th day of September, is not less than twelve per cent. or, as the case may be, thirty-six per cent. of the tax due on the returned income, then, it shall not be liable to pay any interest on the amount of the shortfall on those dates;

(b) the assessee, other than a company, who is liable to pay advance tax under section 208 has failed to pay such tax or, -

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

(ii) the advance tax paid by the assessee on his current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one and one-half per cent. on the amount of the shortfall from the tax due on the returned income :".

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## Section 46 - Amendment of Section 246

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In section 246 of the Income-tax Act, with effect from the 1st day of June, 1994, -

(a) in sub-section (1), in clause (a), after the words "under this Act", the words, brackets, figures and letter ", or an intimation under sub-section (1) or sub-section (1B) of section 143, where the assessee objects to the making of adjustment," shall be inserted;

(b) in sub-section (2), in clause (a), for the words, brackets and figure "an order specified in sub-section (1) where such order", the words, brackets and figure "an intimation or order specified in sub-section (1) where such intimation is sent or such order" shall be substituted.

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## Section 47 - Amendment of Section 269

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In section 269 of the income-tax Act, with effect from the 1st day of April, 1995, -

(a) clause (iii) shall be omitted;

(b) in clause (vi), the word "Goa", shall be omitted.

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## Section 48 - Amendment of Section 273A

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In section 273A of the Income-tax Act, after sub-section (6), the following sub-section shall be inserted, with effect from the 1st day of June, 1994, namely :-

"(7) Notwithstanding anything contained in sub-section (6), the provisions of sub-section (1), sub-section (2) or, as the case may be, sub-section (4) [as they stood immediately before their amendment by the Direct Tax Laws (Amendment) Act, 1989 (3 of 1989)], shall apply in the case of reduction or waiver of penalty or interest in relation to any assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year, with the modifications that the power under the said sub-section (1) shall be exercisable only by the Commissioner and instead of the previous approval of the Board, the Commissioner shall obtain the previous approval of the Chief Commissioner or Director General, as the case may be, while dealing with such case."

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## Section 49 - Amendment of Section 296

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In section 296 of the Income-tax Act, after the words "every rule made under this Act", the words, brackets, figures and letters ", the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255" shall be inserted with effect from the 1st day of June, 1994.

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## Section 50 - Consequential Amendments

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The following amendments (being consequential in nature) shall be made in the Income-tax Act, -

- (a) in section 44AB, in the Explanation, in clause (ii), in sub-clause (a), for the figures, letters and words "31st day of December", the figures, letters and words "30th day of November" shall be substituted;
- (b) in section 80CC, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1978;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1978;
- (c) in section 80CCA, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1988;
- (d) in section 80CCB, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;
- (e) in section 80D, in sub-section (2), clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1987;
- (f) in section 80L, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1968;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1968;
- (g) in section 88, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;
- (h) in section 88A, in sub-section (1), -
  - (i) in clause (b), the word "or", occurring at the end, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991;
  - (ii) clause (c) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1991.

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## Section 51 to 53 - Wealth-Tax

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### Section 51 - Amendment of Section 2

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

- (i) in clause (ea), in the Explanation, in clause (b), for the words "period of three years", the words "period of five years" shall be substituted with effect from the 1st day of April, 1995;
- (ii) in clause (s), after the word "'Director'", the words and brackets "'Additional Director of Income-tax", "Additional Commissioner of Income-tax", "Additional Commissioner of Income-tax (Appeals)", "Deputy Director",' shall be inserted with effect from the 1st day of June, 1994.

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### Section 52 - Amendment of Section 4

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In section 4 of the Wealth-tax Act, in sub-section (1), in clause (a), in sub-clause (ii), after the words "not being", the words, figures and letter "a minor child suffering from any disability of the nature specified in section 80U of the Income-tax Act or" shall be inserted with effect from the 1st day of April, 1995.

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### Section 53 - Amendment of Section 46

---

In section 46 of the Wealth-tax Act, in sub-section (4), after the words "every rule made under this Act", the words, brackets, figures and letter "and the rules of procedure framed by the Settlement Commission under sub-section (7) of section 22F" shall be inserted with effect from the 1st day of June, 1994.

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## Section 54 to 55 - Gift-Tax

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**Section 54 - Amendment of Section 2**

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In section 2 of the Gift-tax Act, 1958 (18 of 1958) (hereinafter referred to as the Gift-tax Act), in clause (xxv), after the word "Director", the words and brackets "Additional Director of Income-tax", "Additional Commissioner of Income-tax", "Additional Commissioner of Income-tax (Appeals)", "Deputy Director", shall be inserted with effect from the 1st day of June, 1994.

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**Section 55 - Amendment of Section 5**

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In section 5 of the Gift-tax Act, in sub-section (i), in clause (vii), for the words "thirty thousand", the words "one hundred thousand" shall be substituted with effect from the 1st day of April, 1995.

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**Section 56 - Amendment of Section 3 of Act 45 of 1974**

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**Interest-Tax**

In section 3 of the Interest-tax Act, 1974, in sub-section (3), with effect from the 1st day June, 1994, -

- (i) after the words "Income-tax Officer", the words "or Assistant Commissioner" shall be inserted;
  - (ii) for the words "Director of Inspection", the word "Director" shall be substituted;
  - (iii) for the words "Inspecting Assistant Commissioner", the words "Additional Commissioner of Income-tax or the Deputy Commissioner" shall be substituted.
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**Section 57 to 59 - Expenditure-Tax**

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**Section 57 - Amendment of Section 4**

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In the Expenditure-tax Act, 1987 (35 of 1987) (hereinafter referred to as the Expenditure-tax Act), in section 4, in clause (a), for the words "twenty per cent.", the words "ten per cent." shall be substituted with effect from the 1st day of June, 1994.

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**Section 58 - Amendment of Section 6**

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In the Expenditure-tax Act, in section 6, with effect from the 1st day of June, 1994, -

- (i) in sub-section (1), for the words "Deputy Director", the words "Additional Director of Income-tax, Additional Commissioner of Income-tax Act, Deputy Director" shall be substituted;
  - (ii) in sub-section (3), for the words "Deputy Commissioner", the words "Additional Commissioner of Income-tax or Deputy Commissioner" shall be substituted.
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**Section 59 - Amendment of Section 17**

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In section 17 of the Expenditure-tax Act, in the proviso, for the words "Deputy Commissioner", the words "Additional Commissioner or, as the case may be, of the Deputy Commissioner" shall be substituted with effect from the 1st day of June, 1994.

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