

Finance Act, 1983

Chapter III - Direct Taxes

Section 3 - Amendment Of Section 2

In section 2 of the Income-tax Act, -

(a) in clause (15), the words "not involving the carrying on of any activity for profit" shall be omitted with effect from the 1st day of April, 1984;

(b) sub-clause (18), in sub-clause (b), for item (B), the following item shall be substituted with effect from the 2nd day of April, 1983, namely :-

'(B) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by -

(a) the Government, or

(b) a corporation established by a Central, State or Provincial Act, or

(c) any company to which this clause applies or any subsidiary company of such company where such subsidiary company fulfils the conditions laid down in clause (b) of section 108.

Explanation : In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (B) shall have effect as if for the words "not less than fifty per cent.", the word "not less than forty per cent." had been substituted;'

Section 4 - Amendment Of Section 9

In section 9 of the Income-tax Act, in sub-section (1), -

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

"(c) in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India;";

(b) to clause (ii), the following Explanation shall be added and shall be deemed to have been added with effect from the 1st day of April, 1979, namely :-

Explanation : For the removal of doubts, it is hereby declared that income of the nature referred to in this clause payable for service rendered in India shall be regarded as income earned in India;".

Section 5 - Amendment Of Section 10

In section 10 of the Income-tax Act, -

(a) after clause (6), the following clause shall be inserted with effect from the 1st day of April, 1984, namely :-

'(6A) where in the case of a foreign company deriving income by way of royalty or fees for technical services received Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after 31st day of March, 1976 and approved by the Central Government the tax on such income is payable, under the terms of such agreement, Government or the Indian concern to the Central Government, the tax so paid.

Explanation : For the purposes of this clause, -

(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 company" shall have the same meaning as in section 80B;

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

(b) in clause (10), -

(i) for the words "thirty thousand rupees", at the three place where they occur, the words "thirty-six thousand rupees" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1982;

(ii) after the proviso and before the Explanation, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1982, namely :-

'Provided also that the Central Government may, having regard to the maximum amount which may for the time being be exempt under sub-clause (i), increase, by notification in the Official Gazette, the limit of thirty-six thousand rupees, for all the three purposes for which it has been mentioned in the foregoing provisions of this clause, up to such maximum amount :

Provided also that in relation to cases in which the event (that is to say, retirement of the employee or his becoming incapacitated or termination of his employment or his death, as the case may be) on which gratuity is received had taken place before the 31st day of January, 1982, the proviso immediately preceding this proviso shall not apply and the remaining provisions of this clause shall have effect as if for the words "thirty-six thousand rupees", at the three places where they occur, the words "thirty thousand rupees" had been substituted.';

(c) in clause (15), -

(i) in sub-clause (iib) [directed to be inserted by clause (d) of section 4 of the Finance Act, 1982 (14 of 1982)], for the words "inserted on such Capital Investment Bonds", the words "in

the case of an individual or a Hindu undivided family, interest on such Capital Investment Bonds" shall be substituted;

(ii) in sub-clause (iv), -

(1) for item (a), the following item shall be substituted namely :-

"(a) by Government or a local authority on moneys borrowed by it from, or debts owed by it to, sources outside India;"

(2) in item (c), -

(A) after the words "raw materials", the words "or components" shall be inserted;

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

'Explanation : For the purposes of this item, "purchase of capital plant and machinery" includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery;;

(3) in item (d), after the words and figures "Industrial Development Bank of India Act, 1964 (18 of 1964)", the words and figures "or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981)" shall be inserted;

(4) after item (f) and before the Explanation, the following item shall be inserted, namely :-

"(g) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36, on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.";

(5) in the Explanation, for the words "this item", the words, brackets and letters "items (f) and (g)" shall be substituted;

(d) in clause (21), the following proviso shall be inserted at the end with effect from the 1st day of April, 1984, namely :-

"Provided that nothing contained in this clause shall apply if for any period during the previous year -

(i) any sums by way of contributions received by the association are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the association invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

(iii) any shares in a company (not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a corporation established by or under a Central, State or Provincial Act) are held by the association after the 30th day of November, 1983;"

(e) in clause (26A), -

(i) for the figures, letters and words "1st day of April, 1983", the figures, letters and words "1st day of April, 1986" shall be substituted;

(ii) the Explanation shall be numbered and shall be deemed to have been numbered with effect from the 1st day of April, 1980 as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1980, namely :-

"Explanation 2 : In this clause, references to the district of Ladakh shall be construed as references to the areas comprised if the said district on the 30th day of June, 1979;"

Section 6 - Amendment Of Section 11

In section 11 of the Income-tax Act, -

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

"(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5).";

(b) after sub-section (4), the following sub-section shall be inserted with effect from the 1st day of April, 1984, namely :-

"(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income, being profits and gains of business, unless -

(a) the business is carried on by a trust wholly for public religious purposes and the business consists of printing and publication of books or publication of books or is of a kind notified by the Central Government in this behalf in the Official Gazette; or

(b) the business is carried on by an institution wholly for charitable purposes and the work in connection with the business is mainly carried on by the beneficiaries of the institution,

and separate books of account are maintained by the trust or institution in respect of such business.";

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

'(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely :-

(i) investment in savings certificates as defined in clause (c) of section 2 of the Government Saving Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(ii) deposit in any account with the Post Office Savings Bank;

(iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation : In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(v) investment in any security for money created and issued by the Central Government or a State Government;

(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(vii) investment or deposit in any Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);

(viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;

(ix) deposit with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;

(x) investment in immovable property.

Explanation : "Immovable property" does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even, though attached to, or permanently fastened to anything attached to, the earth.'

Section 7 - Amendment Of Section 13

In section 13 of the Income-tax Act, -

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

(i) clause (bb) shall be omitted with effect from the 1st day of April, 1984;

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

"(d) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year -

(i) any funds of the trust or institution are invested or deposited after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds of the trust or institution invested or deposited before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

(iii) any shares in a company (not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a corporation established by or under a Central, State or Provincial Act) are held by the trust or institution after the 30th day of November, 1983 :

Provided that nothing in this clause shall apply in relation to -

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

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

(iii) any funds representing the Profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation : Where the trust or instituted has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.";

(b) in sub-section (2), in the opening portion, for the words, brackets and letter "provisions of clause (c)", the words, brackets and letters "provisions of clause (c) and clause (d)" shall be substituted;

(c) in sub-section (4) in the opening portion for the words "in a case where", the words, brackets and letter "but without prejudice to the provisions contained in clause (d) of that sub-section in a case where" shall be substituted;

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

Section 8 - Amendment Of Section 16

In section 16 of the Income-tax Act, in clause (i), for the words "five thousand rupees", the words "six thousand rupees" shall be substituted with effect from the 1st day of April, 1984.

Section 9 - Amendment Of Section 24

In section 24 of the Income-tax Act, in sub-section (1), to clause (vi), the following Explanation shall be added with effect from the 1st day of April, 1984, namely :-

"Explanation : Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital for the period prior to the previous year in which the property has been acquired or constructed, as reduced by part thereof allowed as a deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years;".

Section 10 - Amendment Of Section 32

In section 32 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1984, -

(a) in clause (ii), in the first proviso, for the words "seven hundred and fifty rupees" the words "five thousand rupees" shall be substituted;

(b) in clause (iv), the words, brackets and figures "but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii) of sub-section (1);" shall be omitted;

(c) in clause (v), the words, brackets and figures "but any such sum shall not be deductible in determining the written down value for the purposes of clause (ii);" shall be omitted.

Section 11 - Amendment Of Section 32a

In section 32A of the Income-tax Act, -

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

(i) after clause (b) and before the Explanation, the following clause shall be inserted with effect from the 1st day of April, 1984, namely :-

"(c) any new machinery or plant installed after the 31st day of March, 1983, but before the 1st day of April, 1988, for the purposes of business of repairs to ocean-going vessels or other powered craft if the business is carried on by an Indian company and the business so carried on is for the time being approved for purposes of this clause by the Central Government.";

(ii) in the Explanation, for the words, brackets, figures and letter "this sub-section and sub-sections (2B) and (4)", the words, brackets, figures and letters "this sub-section and sub-sections (2B), (2C) and (4)" shall be substituted with effect from the 1st day of June, 1983;

(b) after sub-section (2B), the following sub-section shall be inserted with effect from the 1st day of June, 1983 namely :-

'(2C) Where any new machinery or plant, being machinery or plant which would assist in control of pollution or protection of environment and which has been notified in this behalf by the Central Government in the Official Gazette, is installed after the 31st day of May, 1983 in any industrial undertaking referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (2), the provisions of sub-section (1) shall have effect in relation to such machinery or plant as if for the words "twenty-five per cent.", the words "thirty five per cent." had been substituted.'

Section 12 - Amendment Of Section 35

In section 35 of the Income-tax Act, in sub-section (2A), after the words "pays any sum" the brackets and words "(being any sum paid with a specified direction that the sum shall not be used for the acquisition of any land or building or construction of any building)" shall be inserted with effect from the 1st day of April, 1984.

Section 13 - Amendment Of Section 35b

In section 35B of the Income-tax Act, in sub-section (1), in clause (a), after the words, figures and letters "after the 29th day of February, 1968", the words, figures and letters "but before the 1st day of March, 1983" shall be inserted.

Section 14 - Amendment Of Section 35c

In section 35C of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1984, -

- (a) in clause (a), the words "a sum equal to one and one-fifth times" shall be omitted;
 - (b) in the Explanation, for the words "expenditure with reference to which deduction under this section is to be allowed", the words "expenditure which is to be allowed as deduction under this section" shall be inserted.
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Section 15 - Amendment Of Section 35cc

In section 35CC of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely :-

"Provided further that the prescribed authority shall not approve any programme unless such programme is a programme falling within any such class or category of programmes of rural development as may be specified by the Central Government in this behalf."

Section 16 - Amendment Of Section 35cca

In section 35CCA of the Income-tax Act, -

- (a) in sub-section (1), -
 - (i) in clause (b), the word "or" shall be added at the end;
 - (ii) after clause (b), the following clause shall be inserted, namely :-
 - "(c) to a rural development fund set up and notified by the Central Government in this behalf,";
- (b) for sub-section (2), the following sub-sections shall be substituted, namely :-
 - "(2) The deduction under clause (a) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution referred to in the said clause unless the assessee furnishes a certificate from such association or institution to the effect that -

- (a) the programme of rural development had been approved by the prescribed authority before the 1st day of March, 1983; and

(b) where such payment is made after the 28th day of February, 1983, such programme involves work by way of construction of any building or other structure (whether for use as a dispensary, school, training or welfare centre, workshop or for any other purposes) or the laying of any road or the construction or boring of a well or tube well or the installation of any plant or machinery, and such work has commenced before the 1st day of March, 1983.

(2A) The deduction under clause (b) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution unless the assessee furnishes a certificate from such association or institution to the effect that -

(a) the prescribed authority had approved the association or institution before the 1st day of March, 1983; and

(b) the training of persons for implementing any programme of rural development had been started by the association or institution before the 1st day of March, 1983.

(2B) No certificate of the nature referred to in sub-section (2) or sub-section (2A) shall be issued by any association or institution unless such association or institution has obtained from the prescribed authority authorisation in writing to issue certificates of such nature."

Section 17 - Amendment Of Section 37

In section 37 of the Income-tax Act, -

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

(i) for clauses (iii) and (iv), the following shall be substituted with effect from the 1st day of April, 1984, namely :-

(iii) on the balance of the	at the rate of
profit and gain	
of the buisness	
of profession	1/8 percent
(computed in the manner aforesaid)	

(ii) the Explanation shall be numbered and shall be deemed to have been numbered with effect from the 1st day of April, 1976 as Explanation 1 and after Explanation 1 as so numbered, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely :-

'Explanation 2 : For the removal of doubts, it is hereby declared that for the purposes of this sub-section and sub-section (2B), as it stood before the 1st day of April, 1977, "entertainment expenditure" includes expenditure on provision of hospitality of every kind by the assessee to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade, but does not include expenditure on food or beverages provided by the assessee to his employees in office, factory or other place of their work.';

(b) after sub-section (3), the following sub-sections shall be inserted with effect from the 1st day of April, 1984, namely :-

'(3A) Notwithstanding anything contained in sub-section (1), where the expenditure or, as the case may be, the aggregate expenditure incurred by an assessee on any one or more of the items specified in sub-section (3B) exceeds one hundred thousand rupees, twenty per cent. of such excess shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession".

(3B) The expenditure referred to in sub-section (3A) is that incurred on -

- (i) advertisement, publicity and sales promotion; or
- (ii) running and maintenance of aircraft and motor cars; or
- (iii) payments made to hotels.

Explanation : For the purposes of sub-sections (3A) and (3B), -

(a) the expenditure specified in clause (i) to clause (iii) of sub-section (3B) shall be the aggregate amount of expenditure incurred by the assessee as reduced by so much of such expenditure as is not allowed under any other provision of this Act;

(b) expenditure on advertisement, publicity and sales promotion shall not include remuneration paid to employees of the assessee engaged in one or more of the said activities;

(c) expenditure on running and maintenance of aircraft and motor cars shall include, -

- (i) expenditure incurred on chartering any aircraft and expenditure on hire charges for engaging cars plied for hire;
- (ii) conveyance allowance paid to employees and, where the assessee is a company, conveyance allowance paid to its directors also.

(3C) Nothing contained in sub-section (3A) shall apply in respect of expenditure incurred by an assessee, being a domestic company as defined in clause (2) of section 80B, or a person (other than a company), who is resident in India in respect of expenditure incurred wholly and exclusively on -

- (i) advertisement, publicity and sales promotion outside India in respect of the goods, services or facilities which the assessee deals in or provides in the course of his business;
- (ii) running and maintenance of motor cars in any branch, office or agency maintained outside India for the promotion, of the sale outside India of such goods, services or facilities.

(3D) No disallowance under sub-section (3A) shall be made -

- (i) in the case of an assessee engaged in the business of operation of aircraft, in respect of expenditure incurred on running and maintenance of such aircraft;
- (ii) in the case of an assessee engaged in the business of running motor cars on hire, in respect of expenditure incurred in running and maintenance of such motor cars.;

(c) after sub-section (4) the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1979, namely :-

"(5) For the removal of doubts, it is hereby declared that any accommodation, by whatever name called, maintained, hired, reserved or otherwise arranged by the assessee for the purpose of providing lodging or boarding and lodging to any person (including any employee or, where the assessee is a company, also any director of, or the holder of any other office in, the company) on tour or visit to the place at which such accommodation is situated, is accommodation in the nature of a guest house within the meaning of sub-section (4)."

Section 18 - Insertion Of New Section 43b

In the Income-tax Act, after section 43A, the following section shall be inserted with effect from the 1st day of April, 1984, namely :-

"43B. Certain deductions to be only on actual payment. - Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of -

(a) any sum payable by the assessee by way of tax or duty under any law for the time being in force, or

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees,

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him.

Explanation : For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (a) or clause (b) of this section is allowed in computing the income referred to in 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1983 or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him."

Section 19 - Amendment Of Section 44d

In section 44D of the Income-tax Act, with effect from the 1st day of June, 1983, -

(a) in clauses (a) and (b), for the portion beginning with the words "from an Indian concern" and ending with the words "with the Indian concern", the following shall be substituted, namely :-

"from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern";

(b) after clause (b) and before the Explanation, the following clause shall be inserted, namely :-

"(c) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing income by way of interest received from Government or an Indian concern on moneys borrowed or debt incurred by the Government or the Indian concern in foreign currency.";

(c) in the Explanation, in clause (d), for the portion beginning with the words "from an Indian concern" and ending with the words "with the Indian concern", the following shall be substituted, namely :-

"from Government or an Indian concern in pursuance of an agreement made by a foreign company with Government or the Indian concern."

Section 20 - Amendment Of Section 54e

In section 54E of the Income-tax Act, -

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

(i) after clause (b) and before Explanation 1, the following proviso shall be inserted, namely :-

"Provided that in a case where the original asset is transferred after the 28th day of February, 1983, the provisions of this sub-section shall not apply unless the assessee has invested or deposited the whole or as the case may be any part of the net consideration in the new asset by initially subscribing to such new asset.";

(ii) in Explanation 1, -

(A) in clause (b), after the words, figures and letters "after the 28th day of February, 1979", the words, figures and letters "but before the 1st day of March, 1983" shall be inserted;

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

"(c) in a case where the original asset is transferred after the 28th day of February, 1983, any of the following assets, namely :-

(i) securities of the Central Government which that Government may, by notification in the Official Gazette, specify in this behalf;

(ii) special series of units of Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(iii) such National Rural Development Bonds as have been notified under clause (b) of Explanation 1 or as may be notified in this behalf under this clause by the Central Government;

(iv) such debentures issued by the Housing and Urban Development Corporation Limited (a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), as the Central Government may, by notification in the Official Gazette, specify in this behalf.";

(b) in sub-section (2), the Explanation shall be numbered as Explanation 1 and after Explanation 1 as so numbered, to following Explanation shall be inserted, namely :-

"Explanation 2 : In a case where the original asset is transferred after the 28th day of February, 1983 and the assessee invests the whole or any part of the net consideration in respect of the original asset in any new asset and such assessee takes any loan or advance on the security of such new asset, he shall be deemed to have converted (otherwise than by

transfer) such new asset on the date on which such loan or advance is taken.";

(c) in sub-section (3), in the Explanation, in clause (iiia), after sub-clause (b), the following sub-clause shall be inserted, namely :-

"(c) in relation to any additional compensation or additional consideration received after the 28th day of February, 1983, in any of the assets referred to in clause (c) of Explanation 1 below sub-section (1) by way of initial subscription thereto;"

Section 21 - Amendment Of Section 80c

In section 80C of the Income-tax Act, with effect from the 1st day of April, 1984, -

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

(i) for clause (b) (occurring before the Explanation), the following clause shall be substituted, namely :-

"(b) where the assessee is a Hindu undivided family, -

(i) any sums paid in the previous year by the assessee out of its income chargeable to tax -

(1) to effect or to keep in force an insurance on the life of any member of the family; or

(2) as a contribution to any provided fund referred to in sub-clause (iv) of clause (a), where such contribution is to an account standing in the name of any member of the family; or

(ii) any sums deposited in the previous year by the assessee out of its income chargeable to tax in a ten-year account or a fifteen-year account under the Post Office Saving Bank (Cumulative Time Deposits) Rules, 1959, as amended from time to time, where such sums are deposited in an account standing in the name of any member of the family.";

(ii) in the Explanation below clause (b), for the word, brackets and letter "clause (b)", the words, brackets, figures and letter "sub-clause (i) of clause (b)" shall be substituted;

(b) in sub-section (4), for clauses (i) to (iv), the following clauses shall be substituted, namely :-

"(i) in the case of an individual, being an author, playwright, artist, musician, actor or sportsman (including an athlete), sixty thousand rupees;

(ii) in the case of any other individual or a Hindu undivided family or any such association of persons or a body of individuals as is referred to in clause (g) of sub-section (2), forty thousand rupees."

Section 22 - Amendment Of Section 80gg

In section 80GG of the Income-tax Act, for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 1984, namely :-

"Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is, -

(i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family, at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under clause (i) or, as the case may be, clause (ii) of sub-section (2) of section 23."

Section 23 - Amendment Of Section 80gga

In section 80GGA of the Income-tax Act, in sub-section (2), -

(a) in clause (b), for the proviso, the following proviso shall be substituted, namely :-

"Provided that the assessee furnishes the certificate referred to in sub-section (2) or, as the case may be, sub-section (2A) of section 35CCA from such association or institution.";

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

"(d) any sum paid by the assessee in the previous year to a rural development fund set up and notified by the Central Government for the purposes of clause (c) of sub-section (1) of section 35CCA.".

Section 24 - Insertion Of New Section 80hhc

In the Income-tax Act, after section 80HHB [directed to be inserted by section 18 of the Finance Act, 1982 (14 of 1982)], the following section shall be inserted, namely :-

'80HHC. Deduction in respect of export turnover. -

(1) Where the assessee, being an Indian company or a person (other than a company) who is resident in India, exports out of India during the previous year relevant to an assessment year any goods or merchandise to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of assessee, the following deductions, namely :-

(a) a deduction of an amount equal to one per cent. of the export turnover of such goods or merchandise during the previous year; and

(b) a deduction of an amount equal to five per cent. of the amount by which the export turnover of such goods or merchandise during the previous year exceeds the export turnover of such goods or merchandise during the immediately preceding previous year.

(2) (a) This section applies to all goods or merchandise [other than those specified in clause (b)] if the sale proceeds of such goods or merchandise exported out of India are receivable by the assessee in convertible foreign exchange.

(b) The goods or merchandise referred to in clause (a) are the following, namely :-

(i) agricultural primary commodities, not being product of plantations;

(ii) mineral oil;

(iii) minerals and ores; and

(iv) such other goods or merchandise as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(3) No deduction under clause (b) of sub-section (1) shall be allowed unless the assessee had, during the immediately preceding previous year, exported out of India goods or merchandise to which this section applies.

Explanation : For the purposes of this section, -

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder;

(b) "export turnover" means the sale proceeds of any goods or merchandise exported out of India, but does not include freight or insurance attributable to the transport of the goods or merchandise beyond the customs station as defined in the Customs Act, 1962 (52 of 1962).'

Section 25 - Amendment Of Section 80-I

In section 80-I of the Income-tax Act, with effect from the 1st day of April, 1984, -

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

(i) in the opening portion, after the words "business of a hotel", the words "or the business of repairs to ocean-going vessels or other powered craft" shall be inserted;

(ii) in the proviso, for the words "shall have effect", the words "shall have effect in relation to profits and gains derived from an industrial undertaking or a ship or the business of a hotel" shall be substituted;

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

"(4A) This section applies to the business of repairs to ocean-going vessels or other powered craft which fulfils all the following conditions, namely :-

(i) the business is not formed by the splitting up, or the reconstruction, of a business already in existence;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose;

(iii) it is carried on by an Indian company and the work by way or repairs to ocean-going vessels or other powered craft has been commenced by such company after the 31st day of March, 1983 but before the 1st day of April, 1988; and

(iv) it is for the time being approved for the purposes of this sub-section by the Central Government.";

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

(i) in the opening portion, after the words "hotel starts functioning", the words "or the company commences work by way of repairs to ocean-going vessels or other powered craft" shall be inserted;

(ii) after the proviso, the following proviso shall be inserted, namely :-

'Provided further that in the case of an assessee carrying on the business of repairs to ocean-going vessels or other powered craft, the provisions of this sub-section shall have

effect as if for the words "seven assessment years", the words "four assessment years" had been substituted.;

(d) in sub-section (6), after the word "hotel", at both the places where it occurs, the words "or the business of repairs to ocean-going vessels or other powered craft" shall be inserted;

(e) in sub-section (8), after the words "operation of the ship", wherever they occur, the words "or the business of repairs to ocean-going vessels or other powered craft" shall be inserted;

(f) in sub-section (9), after the words "ship", wherever it occurs, the words "or the business of repairs to ocean-going vessels or other powered craft" shall be inserted.

Section 26 - Amendment Of Section 80jj

In section 80JJ of the Income-tax Act, with effect from the 1st day of April, 1984, -

(a) in clause (b), for the word "one-fifth", the words "fifteen per cent." shall be inserted;

(b) in the proviso, for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted.

Section 27 - Omission Of Section 80jja

Section 80JJA of the Income-tax Act shall be omitted with effect from the 1st day of April, 1984.

Section 28 - Amendment Of Section 80l

In section 80L of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1984, -

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

"(via) interest on deposits with any such bank, not being a banking company or a co-operative society referred to in clause (vi) but being a bank established by or under any law made by Parliament, as may be approved by the Central Government for the purposes of this clause;";

(b) for the portion beginning with the words "a deduction as specified hereunder" and ending with the words "shall not exceed two thousand rupees" (directed to be substituted by section 19 of the Finance Act, 1982 (14 of 1982), the following shall be substituted, namely :-

"a deduction as specified hereunder, namely :-

(1) in a case where the amount of such income does not exceed in the aggregate seven thousand rupees, the whole of such amount; and

(2) in any other case, seven thousand rupees".

Section 29 - Omission Of Section 80mm

Section 80MM of the Income-tax Act shall be omitted with effect from the 1st day of April, 1984.

Section 30 - Amendment Of Section 80p

In section 80P of the Income-tax Act, in sub-section (2), for clause (b), the following clause shall be substituted with effect from the 1st day of April, 1984, namely :-

"(b) in the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits or vegetables raised or grown by its members to -

(i) a federal co-operative society, being a society engaged in the business of supplying milk, oilseeds, fruits or vegetables, as the case may be; or

(ii) the Government or a local authority; or

(iii) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public),

the whole of the amount of profits and gains of such business;" .

Section 31 - Amendment Of Section 80r

In section 80R of the Income-tax Act, for the words "such other association or body established outside India as may be notified in this behalf by the Central Government in the Official Gazette", the words "any other association or body established outside India" shall be substituted with effect from the 1st day of April, 1984.

Section 32 - Insertion Of New Chapter Vii-B

In the Income-tax Act, after Chapter VI-A, the following Chapter shall be inserted with effect from the 1st day of April, 1984, namely :-

"CHAPTER VI-B

Restriction On Certain Deductions In The Case Of Companies

80VVA. Restriction on certain deductions in the case of companies. -

(1) Notwithstanding anything contained in any other provision of this Act, where In The case of an assessee being a company, the amount or, as the case may be, the aggregate amount which, but for the provisions of this section, would have been admissible as deduction for any assessment year under any one or more of the provisions of this Act specified in sub-section (2) exceeds seventy per cent. of the amount of total income as computed had no deduction been allowed under any of the said provisions (such total income being hereinafter referred to as the preincentive total income), the amount or, as the case may be, the aggregate amount to be allowed as deduction for that year in respect of any one or more of the said provisions shall be restricted, in the manner specified in sub-section (3), to seventy per cent. of the preincentive total income.

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

(i) clause (iii) of sub-section (1) of section 35;

(ii) clause (ia) of sub-section (2) section 35;

(iii) sub-section (2A) of section 35, to the extent to which the deduction under the said sub-section exceeds the sum paid by the assessee;

- (iv) sub-section (2B) of section 35, to the extent to which the deduction under the said sub-section exceeds the expenditure incurred by the assessee;
- (v) section 35C;
- (vi) section 35CC;
- (vii) section 35CCA;
- (viii) section 35CCB;
- (ix) clause (ii) of sub-section (2) of section 33;
- (x) clause (ii) of sub-section (2) of section 33A;
- (xi) sub-section (1), or, as the case may be, sub-section (1), read with clause (i) of sub-section (2), of section 33A;
- (xii) clause (ii) of sub-section (3) of section 32A;
- (xiii) sub-section (1), or, as the case may be, sub-section (1), read with clause (i) of sub-section (3), of section 32A;
- (xiv) section 80G;
- (xv) clause (b) of sub-section (2) of section 80GGA;
- (xvi) clause (c) of sub-section (2) of section 80GGA;
- (xvii) section 80HH;
- (xviii) section 80HHA;
- (xix) section 80HHB;
- (xx) section 80HHC;
- (xxi) section 80-I;
- (xxii) section 80J;
- (xxiii) section 80JJ;
- (xxiv) section 80K;
- (xxv) section 80M;
- (xxvi) section 80N;
- (xxvii) section 80-O; and
- (xxviii) section 80QQ.

(3) The deduction under the provisions specified in sub-section (2) shall, for the purposes or restricting under sub-section (1), the amount or, as the case may be, the aggregate amount of deduction, under those provisions, be allowed in the order in which the said provisions have been specified in sub-section (2), and accordingly -

(a) deduction shall first be allowed under the provision specified in clause (i) of sub-section (2); and

(b) if no deduction is allowable under the provision specified in the said clause (i) or the deduction allowable under that provision is less than seventy per cent. of the pre-incentive total income, deduction shall next be allowed under the provision specified in clause (ii) of sub-section (2); and

(c) if no deduction is allowable under the provision specified in the said clause (ii), or the deduction under that provision together with the deduction allowed under the provision referred to in the said clause (i), is less than seventy per cent. of the pre-incentive total income, deduction shall next be allowed under the provision specified in clause (iii) of sub-section (2) and so on until the aggregate deduction so allowed is equal to seventy per cent. of the pre-incentive total income.

(4) To the extent to which full deduction cannot be allowed in the assessment year in respect of any provision specified in sub-section (2), by virtue only of the restriction under sub-section (1) (and not by virtue of anything contained in any other section), the amount remaining unallowed shall be added to the amount, if any, to be allowed to the assessee under the said provision for the next following assessment year and be deemed to be part of the deduction admissible to the assessee under the said provision for that year or, if no such deduction is admissible to the assessee for that year, be deemed to be the deduction admissible to the assessee for that year, and so on for succeeding assessment years."

Section 33 - Omission Of Section 89a

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

Section 34 - Amendment Of Section 109

In section 109 of the Income-tax Act, in clause (ib), for the Explanation, the following Explanation shall be substituted with effect from the 1st day of April, 1984, namely :-

'Explanation : In this clause and in sub-clause (3) of clause (iii), the expression "provision of technical know-how" means, -

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design secret formula or process or similar property;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or similar property;

(iii) the use of any patent, invention, model, design, secret formula or process or similar property;

(iv) the imparting of any information concerning industrial, commercial or scientific knowledge, experience or skill;'

Section 35 - Amendment Of Section 115a

In section 115A of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 1983,

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

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

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

"(b) 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 31st day of March, 1976, and where such agreement is with an Indian concern, such agreement is approved by the Central Government,";

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

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

(d) in clause (iv), for the words, brackets and letters 'and clause (b)', the words, brackets and letters "clause (aa) and clause (b)" shall be substituted;

(e) in the Explanation, after clause (b), the following clause shall be inserted, namely :-

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

Section 36 - Insertion Of New Chapter Xii-A

In the Income-tax Act, after Chapter XII, the following Chapter shall be inserted with effect from the 1st day of June, 1983, namely :-

'CHAPTER XII-A

Special Provisions Relating To Certain Incomes Of Non-Residents

115c. Definitions. - In This Chapter, Unless The Context Otherwise Requires, -

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder;

(b) "foreign exchange asset" means any specified asset which the assessee has acquired or purchased with, or subscribed to in, convertible foreign exchange;

(c) "investment income" means any income derived from a foreign exchange asset;

(d) "long-term capital gains" means income chargeable under the head "Capital gains" relating to a capital asset, being a foreign exchange asset which is not a short-term capital asset;

(e) "non-resident Indian" means an individual, being a citizen of India or a person of Indian origin who is not a "resident".

Explanation : A person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India;

(f) "specified asset" means any of the following assets, namely :-

(i) shares in Indian company;

(ii) debentures issued by an Indian company which is not a private company as defined in the Companies Act, 1956 (1 of 1956);

(iii) deposits with an Indian company which is not a private company as defined in the Companies Act, 1956 (1 of 1956);

(iv) any security of the Central Government as defined in clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944);

(v) such other assets as the Central Government may specify in this behalf by notification in the Official Gazette.

115D. Special provision for computation of total income of non-residents. -

(1) No deduction in respect of any expenditure or allowance shall be allowed under any provision of this Act in computing the investment income of a non-resident Indian.

(2) Where in the case of an assessee, being a non-resident Indian, -

(a) the gross total income consists only of investment income or income by way of long-term capital gains or both, no deduction shall be allowed to the assessee under Chapter VI-A;

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

115E. Tax on investment income and long-term capital gains. -

(1) Where the total income of an assessee, being a non-resident Indian, consists only of investment income or income by way of long-term capital gains or both, the tax payable by him on his total income shall be the amount of income-tax calculated on such total income at the rate of twenty per cent. of such income as increased by a surcharge for purposes of the Union at the rate of twelve and half per cent. of such income-tax.

(2) Where the total income of an assessee, being a non-resident Indian includes any income of the nature referred to in sub-section (1), the tax payable by him on his total income shall be -

(i) the aggregate of the income-tax and surcharge payable by him in accordance with the provisions of sub-section (1) on income of the nature referred to in that sub-section included in the total income; plus

(ii) the amount of income-tax chargeable on the total income as reduced by the amount of income of the nature referred to in sub-section (1), had total income so reduced been his total income.

115F. Capital gains on transfer of foreign exchange assets not to be charged in certain cases. -

(1) Where, in the case of an assessee being a non-resident Indian, any long-term capital gains arise from the transfer of a foreign exchange asset (the asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested or deposited the whole or any part of the net consideration in any specified asset or in an Account referred to in clause (4A), or in any savings certificates referred to in clause (4B), of section 10 (such specified asset or such deposit in the Account aforesaid or such saving certificates being hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say, -

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

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

Explanation : For the purposes of this sub-section, -

(i) "cost", in relation to any new asset, being a deposit referred to in clause (4A) of section 10 or referred to in sub-clause (iii), or specified under sub-clause (v), of clause (f) of section 115C, means the amount of such deposit;

(ii) "net consideration", in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the new asset is transferred or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.

115G. Return of income not to be filed in certain cases. -

It shall not be necessary for a nonresident Indian to furnish under sub-section (1) of section 139 A return of his income if -

(a) his total income in respect of which he is assessable under this Act during the previous year consisted only of investment income or income by way of long-term capital gains or both; and

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

115H. Benefit under Chapter to be available in certain cases even after the assessee becomes resident. -

Where a person, who is a non-resident Indian In Any previous year, becomes assessable as resident in India in respect of the total income of any subsequent year, he may furnish to the Income-tax Officer a declaration in writing along with his return of income under section 139 for the assessment year for which he is so assessable, to the effect that the provisions of this Chapter shall continue to apply to him in relation to the investment income derived from any foreign exchange asset being an asset of the nature referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of clause (f) of section 115C; and if he does so, the provisions of this Chapter shall continue to apply to him in relation to such income for that assessment year and for every subsequent assessment year until the transfer or conversion (otherwise than by transfer) into money of such assets.

115-I. Chapter not to apply if the assessee so chooses. -

A non-resident Indian may elect not to be governed by the provisions of this Chapter for any assessment year by furnishing to the Income-tax Officer his return of income for that assessment year under section 139 together with a declaration in writing to the effect that the provisions of this Chapter shall not apply to him for that assessment year and if he does so, the provisions of this

Chapter shall not apply to him for that assessment year his total income for that assessment year shall be computed and tax on such total income shall be charged in accordance with the other provisions of this Act.'

Section 37 - Amendment Of Section 164

In section 164 of the Income-tax Act, with effect from the 1st day of April, 1984, -

43 in sub-section (2), after the word and figure "section 2,", the words, brackets and figures "or which is of the nature referred to in sub-section (4A) of section 11," shall be inserted;

(b) in sub-section (3), in the opening portion, after the word and figure "section 2", the words, brackets and figures "or is of the nature referred to in sub-section (4A) of section 11," shall be inserted.

Section 38 - Amendment Of Section 280za

In section 280ZA of the Income-tax Act, with effect from the 1st day of April, 1984, -

43 in sub-section (2), for the portion beginning with the words "arising from the transfer" and ending with the words "shifting its machinery", the following shall be substituted, namely :-

"arising from the transfer of capital assets, being machinery or plant or buildings or lands or any rights in buildings or lands used for the purposes of the business of the said undertaking in the urban area, effected in the course of or in consequence of the shifting of such industrial undertaking, namely :-

43 the amount of expenditure incurred by the company in -

43 purchasing new machinery or plant for the purposes of the business of the company in the area to which the undertaking is shifted;

(ii) acquiring lands or constructing building for the purposes of its business in the said area; and

(iii) shifting its machinery";

(b) in sub-section (4), for the portion beginning with the words "Where a capital asset" and ending with the words "completion of construction", the following shall be substituted, namely :-

"Where a capital asset, being machinery or plant purchased for the purposes of the business of the company in the area to which the undertaking is shifted or building or land, or any right in building or land, acquired, or as the case may be, constructed in the said area, is transferred by the company within a period of five years from the date of purchase, acquisition or, as the case may be, the date of completion of construction."

Section 39 - Consequential Amendments To Certain Sections

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

43in sub-section (3) of section 11, for clause (b), the following clause shall be substituted, namely :-

"(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or";

(b) in sub-section (3) of section 80A -

43after the words, figures and letters "or section 80HHB", the words, figures and letters "or section 80HHC" shall be inserted;

(ii) the words, figures and letters "or section 80JJA" shall be omitted with effect from the 1st day of April, 1984;

(c) in sub-section (5) of section 80G, to clause (i), the following proviso shall be added with effect from the 1st day of April, 1984, namely :-

"Provided that where an institution or fund derives any income, being profits and gains of business, the condition that such income would not be liable to inclusion in its total income under the provisions of section 11 shall not apply in relation to such income, if, -

43The institution or fund maintains separate books of account in respect of such business;

(b) the donations made to the institution or fund are not used by it, directly or indirectly, for the purposes of such business; and

(c) the institution or fund issues to the person making the donation a certificate to the effect that it maintains separate books of account in respect of such business and that the donations received by it will not be used, directly or indirectly for the purposes of such business;"

(d) in sub-section (3) of section 80P -

43after the words, figures and letters "or section 80HHB", the words, figures and letters "or section 80HHC" shall be inserted;

(ii) for the words, figures and letters "section 80JJA" shall be omitted with effect from the 1st day of April, 1984;

(iii) for the words, figures and letters "section 80HHB, section 80-I", the words, figures and letters "section 80HHB, section 80HHC, section 80-I" shall be substituted;

(iv) for the words, figures and letters "section 80J, section 80JJ and section 80JJA", the words, figures and letters "and section 80J and section 80JJ" shall be substituted with effect from the 1st day of April, 1984.

Section 40 to 41 - WEALTH-TAX

Section 40 - Revival Of Levy Of Wealth-Tax In The Case Of Closely-Held Companies

43 Notwithstanding anything contained in section 13 of the Finance Act, 1960 (13 of 1960), relating to exemption of companies from levy of wealth-tax under the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), wealth-tax shall be charged under the Wealth-tax Act for every assessment year commencing on and from the 1st day of April, 1984 in respect of the net wealth on the corresponding valuation date of every company, not being a company in which the public are substantially interested, at the rate of two per cent. Of such net wealth.

Explanation : For the purposes of this sub-section, "company in which the public are substantially interested" shall have the meaning assigned to it in clause (18) of section 2 of the Income-tax Act.

(2) For the purposes of sub-section (1), the net wealth of a company on the valuation date is in excess of the aggregate value of all the assets referred to in sub-section (3), wherever located, belonging to

the company on the valuation date is in excess of the aggregate value of all the debts owed by the company on the valuation date which are secured on, or which have been incurred in relation to, the said assets :

Provided that where any debt secured on any asset belonging to the assessee is incurred for, or enures to, the benefit of any other person, or is not represented by any asset belonging to the assessee, the value of such debt shall not be taken into account in computing the net wealth of the assessee.

(3) The assets referred to in sub-section (2) shall be the following, namely :-

43 gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals;

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

(iii) 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;

(iv) utensils made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals;

(v) land other than agricultural land;

(vi) building or land appurtenant thereto, other than building or part thereof used by the assessee as factory, godown, warehouse, hotel or office for the purposes of its business or as residential accommodation for its employees or as a hospital, enter, school, canteen, library, recreation enter, shelter, rest-room or lunch room mainly for the welfare of its employees and the land appurtenant to such building or part :

Provided that each such employee is an employee whose income (exclusive of the value of all benefits or amenities not provided for by way of monetary payment) chargeable under the head "Salaries" under the Income-tax Act does not exceed eighteen thousand rupees;

(vii) motor-cars; and

(viii) any other asset which is acquired or represented by a debt secured on any one or more of the assets referred to in clause (i) to clause (vii).

(4) The value of any asset specified in sub-section (3) shall, subject to the provisions of sub-section (3) of section 7 of the Wealth-tax Act, be estimated to be the price which, in the opinion of the Wealth-tax Officer, it would fetch if sold in the open market on the valuation date.

(5) For the purposes of the levy of wealth-tax under the Wealth-tax Act, in pursuance of the provisions of this section, -

43 section 5, clause (a) of sub-section (2) of section 7 and clause (d) of section 45 of that Act and Part II of Schedule I to that Act shall not apply and shall have no effect,

(b) the remaining provisions of that Act shall be construed so as be in conformity with the provisions of this section.

(6) Nothing in this section shall apply to any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which the Central Government may, having regard to the nature and object of such institution, association or body, specify by notification in the Official Gazette and every notification issued under this sub-section shall be laid, as soon as may be after it is issued, before each House of Parliament.

(7) Subject to the provisions of sub-section (5), this section shall be construed as one with the Wealth-tax Act.

Section 41 - Amendment Of Section 5

In section 5 of the Wealth-tax Act, in sub-section (1), -

43 for clause (xa), the following clause shall be substituted with effect from the 1st day of April, 1984, namely :-

"(xa) in the case of an assessee who is carrying on a profession (being legal, medical, engineering or architectural profession or the profession of accountancy or such other profession as is notified by the Central Government in this behalf) and who regularly maintains books of account on the cash system of accounting, the amount of any fee due to him in respect of the services rendered by him in such professional capacity;"

(b) for clause (xvic) [directed to be inserted by sub-clause (v) of clause (a) of section 34 of the Finance Act, 1982 (14 of 1982)], the following clauses shall be substituted with effect from the 1st day of April, 1984, namely :-

'(xvic) in the case of an individual, being a citizen of India or a person of Indian origin who is not resident in India, during the year ending on the valuation date, any foreign exchange asset.

Explanation : For the purposes of this clause, -

43 a person shall be deemed to be of Indian origin if he or either of his parents or any of his grand-parents was born in undivided India;

(b) an individual shall be deemed to be not resident in India during the year ending on the valuation date if in respect of that year the individual is not resident in India within the meaning of the Income-tax Act;

(c) "foreign exchange asset" shall have the meaning assigned to it in clause (b) of section 115C of the Income-tax Act;'

'(xvica) in the case of an individual, being a citizen of India or a person of Indian origin who is resident in India, during the year ending on the valuation date, any foreign exchange asset [being an asset referred to in sub-clause (ii) or sub-clause (iii) or sub-clause (iv) or sub-clause (v) of clause (f) of section 115C of the Income-tax Act], where such asset was not includible by virtue of the provisions of clause (xvic) in computing his net wealth on any earlier valuation date.

Explanation : For the purposes of this clause, -

an individual shall be deemed to be resident in India during the year ending on the valuation date if in respect of that year the individual is resident in India within the meaning of the Income-tax Act;

(b) the expressions "person of Indian origin" and "foreign exchange asset" shall have the same meanings as in the Explanation below clause (xvic);'

(c) in clause (xvid) [directed to be inserted by sub-clause (v) of clause (a) of section 34 of the Finance Act, 1982 (14 of 1982)], for the words "such Capital Investment Bonds", the words "in the case of an individual or a Hindu undivided family, such Capital Investment

Bonds" shall be substituted;

(d) after clause (xviii), the following clause shall be inserted, namely :-

"(xviiiia) any property being a medal, trophy or an award in kind received by the assessee for any attainment, work or contribution in any field if such medal, trophy or award in kind is received by the assessee from Government or from a University established by law or an institution affiliated to such University or from any such institution, association or body as is approved for the purposes of this clause by the Central Government.

Explanation : Any approval for the purposes of this clause may be given by the Central Government so as to have effect from a date not earlier than the 1st day of April, 1983;".

Section 42 - GIFT TAX

Section 42 - Amendment Of Section 5

In section 5 of the Gift-tax Act, 1958 (18 of 1958), in sub-section (1), -

43 in clause (iid) [directed to be inserted by clause (a) of section 38 of the Finance Act, 1982 (14 of 1982)], for the portion beginning with the words "savings certificates" and ending with the words "rules made thereunder", the following shall be substituted with effect from the 1st day of April, 1984, namely :-

"any foreign exchange asset as defined in clause (b) of section 115C of the Income-tax Act";

(b) in clause (iiic) [directed to be inserted by clause (b) of section 38 of the Finance Act, 1982 (14 of 1982)], for the words "of property in the form of such Capital Investment Bonds", the words "being an individual or a Hindu undivided family, of property in the form of such Capital Investment Bonds" shall be substituted.

Section 43 - Amendment Of Section 4

In section 4 of the Interest-tax Act, 1974 (45 of 1974), the following proviso shall be inserted at the end, namely :-

"Provided that the rate at which interest-tax shall be charged in respect of any chargeable interest accruing or arising after the 31st day of March, 1983 shall be three and a half per cent. Of such chargeable interest."