Finance (No. 2) Act, 1980

Chapter III - Direct Taxes

Section 3 - Amendment Of Section 2

In section 2 of the Income-tax Act, in clause (24), after sub-clause (iv), the following sub-clause shall be inserted, namely :-

'(iva) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (iii) or clause (iv) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the "beneficiary") and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;'.

Section 4 - Amendment Of Section 10

In section 10 of the Income-tax Act, after clause (23A), the following clause shall be inserted and shall be deemed always to have been inserted, namely :-

"(23AA) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;".

Section 5 - Amendment Of Section 16

In section 16 of the Income-tax Act, with effect from the 1st day of April, 1981, -

(a) in clause (i), -

(i) for the words "in respect of expenditure incidental to the employment of the assessee,", the words "a deduction of" shall be substituted;

(ii) in sub-clause (a) and (b), the words "derived from such employment" shall be omitted;

(b) in clause (ii), for the words "in respect of any allowance", the words "a deduction in respect of any allowance" shall be substituted.

Section 6 - Amendment Of Section 32

In section 32 of the Income-tax Act, with effect from the 1st day of April, 1981, -

(a) in sub-section (1), after clause (ii), the following clause shall be inserted, namely :-

'(iia) in the case of any new machinery or plant (other than ships and aircraft) which has been installed after the 31st day of March, 1980, but before the 1st day of April, 1985, a further sum equal to one-half of the amount admissible under clause (ii) (exclusive of extra allowance for double or multiple shift working of the machinery or plant and the extra allowance in respect of machinery or plant installed in any premises used as a hotel) in respect of the previous year in which such machinery or plant is installed or, if the machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year :

Provided that no deduction shall be allowed under this clause in respect of -

(a) any machinery or plant installed in any office premisses or any residential accommodation;

(b) any office appliances or road transport vehicles; and

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise(in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

Explanation : For the purposes of this clause, -

(a) "new machinery or plant" shall have the meaning assigned to it in clause (2) of the Explanation below clause (vi) of this sub-section;

(b) "residential accommodation" includes accommodation in the nature of a guest house but does not include premises used as a hotel;';

(b) in sub-section (2), after the words, brackets and figures "or clause (ii)", the words, brackets, figures and letter "or clause (iia)" shall be inserted.

Section 7 - Amendment Of Section 35

In section 35 of the Income-tax Act, -

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

(i) for the brackets and figures "(ii), (iii)", the brackets, figures and letter "(ii), (iia), (iii)" shall be substituted with effect from the 1st day of April, 1981;

(ii) for the words "for the same previous year", the words "for the same or any other previous year" shall be substituted and shall be deemed always to have been substituted;

(b) in sub-section (2A), with effect from the 1st day of September, 1980, -

(i) in the opening paragraph, after the words, brackets and figures "clause (ii) of sub-section (1)", the words "or to a public sector company" shall be inserted;

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

'Explanation : For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (b) of the Explanation below sub-section (2B) of section 32A.';

(c) after sub-section (2A), the following sub-section shall be inserted with effect from the 1st day of September, 1980, namely :-

"(2B)(a) Where an assessee has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(b) Where a deduction has been allowed under clause (a) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (i) of sub-section (1) or clause (ia) of sub-section (2) for the same or any other previous year.

(c) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under clauses (i), (ii), (iia) and (iii) of sub-section (1) or under sub-section (1A) of section 32 for the same or any subsequent previous year.

(d) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (5B) of section 155 shall apply according.".

Section 8 - Amendment Of Section 35b

In section 35B of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1981, -

(a) in clause (b), sub-clauses (ii), (iii), (v), (vi) and (viii) shall be omitted;

(b) for Explanation 2 below clause (b), the following Explanation shall be substituted, namely :-

"Explanation 2 : For the removal of doubts, it is hereby declared that nothing in clause (b) shall be construed to include any expenditure which is in the nature of purchasing and manufacturing expenses ordinarily debitable to the trading or manufacturing account and not to the profit and loss account.".

Section 9 - Amendment Of Section 36

In section 36 of the Income-tax Act, in sub-section (1), after clause (ii), the following clause shall be inserted with effect from the 1st day of April, 1981, namely :-

'(iia) a sum equal to one an one-third times the amount of the expenditure incurred on payment of any salary to an employee who, as at the end of the previous year, -

(a) is totally blind, or

(b) is subject to or suffers from a permanent physical disability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation :

Provided that the assessee produces before the Income-tax Officer, in respect of the first assessment year for which deduction is claimed in relation to each such employee under this clause, -

(i) in a case referred to in sub-clause (a), a certificate as to his total blindness from a registered medical practitioner being an oculist; and

(ii) in a case referred to in sub-clause (b), a certificate as to the permanent physical disability referred to in the said sub-clause from a registered medical practitioner :

Provided further that nothing contained in this clause shall apply in the case of an employee whose income in the previous year chargeable under the head "Salaries" exceeds twenty thousand rupees.

Explanation 1 : In this clause, "salary" includes the pay, allowances, bonus or commission payable monthly or otherwise.

Explanation 2 : For the removal of doubts, it is hereby declared that where a deduction under this clause is allowed for any assessment year in respect of any expenditure, deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year;'.

Section 10 - Amendment Of Section 37

In section 37 of the Income-tax Act, sub-sections (3A), (3B), (3C) and (3D) shall be omitted with effect from the 1st day of April, 1981.

Section 11 - Amendment Of Section 41

In section 41 of the Income-tax Act, with effect from the 1st day of April, 1981, -

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

'Provided further that where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (c) of sub-section (2B) of section 35, read with clause (4) of section 43 owned by the assessee which was or has been used for the purposes of business after it ceased to be used for the purpose of scientific research related to the business is sold, discarded, demolished or destroyed, the provisions of this sub-section shall apply as if for the words "actual cost", at the first place where they occur, the words "actual cost as increased by twenty-five per cent. thereof" had been substituted.';

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

(i) for the words, brackets and figures "clause (iv) of sub-section (1) section 35", the words, brackets, figures and letters "clause (iv) of sub-section (1), or clause (c) of sub-section (2B), of section 35" shall be substituted;

(ii) for the words, brackets, figures and letter "clause (ia) of sub-section (2) of section 35", the words, brackets, figures and letters "clause (ia) of sub-section (2), or clause (c) of sub-section (2B), of section 35" shall be substituted.

Section 12 - Insertion Of New Sections 80aa And 80ab

In the Income-tax Act, -

(a) after section 80A, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1968, namely :-

"80AA. Computation of deduction under section 80M. - Where any deduction is required to be allowed under section 80M in respect of any income by way of dividends from a domestic company which is included in the gross total income of the assessee, then, notwithstanding anything contained in that section, the deduction under that section shall be computed with reference to the income by way of such dividends as computed in accordance with the provisions of this Act (before making any deduction under this Chapter) and not with reference to the gross amount of such dividends.";

(b) after section 80AA as so inserted, the following section shall be inserted with effect from the 1st day of April, 1981, namely :-

'80AB. Deductions to be made with reference to the income included in the gross total income. - Where any deduction is required to be made or allowed under any section (except section 80M) included in this Chapter under the heading "C - Deductions in respect of certain incomes" in respect of any income of the nature specified in that section which is included in the gross total income of the assessee, then, notwithstanding anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed in accordance with the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and which is included in his gross total income.'.

Section 13 - Amendment Of Section 80c

In section 80C of the Income-tax Act, with effect from the 1st day of April, 1981, -

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

"(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated, with reference to the aggregate of the sums specified in sub-section (2), at the following rates, namely :-

(a)	where such aggregate does not exceed Rs. 5,000	The whole of such aggregate;
(b)	where such aggregate exceeds Rs. 5,000 but does not exceed Rs. 10,000	Rs. 5,000 plus 50 per cent. of the amount by which such aggregate exceeds Rs. 5,000;
(c)	where such aggregate exceeds Rs. 10,000	Rs. 7,500 plus 40 per cent. of the amount by which such aggregate exceeds Rs. 10,000.";

(b) in sub-section (4), in clause (i), for the words "musician or actor", the words and brackets "musician, actor or sportsman (including an athlete)" shall be substituted.

Section 14 - Omission Of Section 80ff

Section 80FF of the Income-tax Act, shall be omitted with effect from the 1st day of April, 1981.

Section 15 - Amendment Of Section 80g

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

(a) for sub-section (4), the following shall be substituted with effect from the 1st day of April, 1981, namely :-

"(4) where the aggregate of the sums referred to in sub-clauses (iv), (v), (vi) and (vii) of clause (a) and in clause (b) of sub-section (2) exceeds the smaller of the following amounts, that is to say, -

(i) ten per cent. of the gross total income (as reduced by any portion thereof on which income-tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any other provision of this Chapter), and

(ii) five hundred thousand rupees,

then, the amount by which such aggregate exceeds such smaller amount shall be ignored for the purpose of computing the aggregate of the sums in respect of which deduction is to be allowed under sub-section (1).";

(b) after sub-section (5) and before Explanation 1, the following sub-section shall be inserted and shall be deemed always to have been inserted, namely :-

"(5A) Where a deduction under this section is claimed and allowed for any assessment year in respect of any sum specified in sub-section (2), the sum in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.".

Section 16 - Insertion Of New Section 80-I

In the Income-tax Act, after section 80HHA, the following section shall be inserted with effect from the 1st day of April, 1981, namely :-

'80-I. Deduction in respect of profits and gains from industrial undertakings after a certain date, etc. -

(1) Where the gross total income of an assessee includes any profits and gains derived from an industrial undertaking or a ship or the business of a hotel, 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 the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof :

Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "twenty per cent.", the words "twenty-five per cent." had been substituted.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :-

(i) it 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 manufactures or produces any article or thing, not being any article or thing specified in the list in the Eleventh Schedule, or operates one or more cold storage plant or plants, in any part of India, and begins to manufacture or produce articles or things or to operate such plant or plants, at any time within the period of four years next following the 31st day of March, 1981, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking;

(iv) in a case where the industrial undertaking manufactures or produces articles or things, the undertaking employs ten or more workers in a manufacturing process carried on with the aid of power, or employs twenty or more workers in a manufacturing process carried on without the aid of power :

Provided that the condition in clause (i) shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section :

Provided further that the condition in clause (iii) shall, in relation to a small-scale industrial undertaking, apply as if the words "not being any article or thing specified in the list in the Eleventh Schedule" had been omitted.

Explanation 1 : For the purpose of clause (ii) of this sub-section, any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely :-

(a) such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Explanation 2 : Where in the case of an industrial undertaking, any machinery or plant or any part thereof previously used for any purpose is transferred to a new business and the total value of machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in the business, then, for the purposes of clause (ii) of this sub-section, the condition specified therein shall be deemed to have been complied with.

Explanation 3 : For the purposes of this sub-section, "small-scale industrial undertaking" shall have the same meaning as in clause (b) of the Explanation below sub-section (8) of section 80HHA.

(3) This section applies to any ship, where all the following conditions are fulfilled, namely :-

(i) it is owned by an Indian company and is wholly used for the purposes of the business carried on by it;

(ii) it was not, previous to the date of its acquisition by the Indian company, owned or used in Indian territorial waters by a person resident in Indian; and

(iii) it is brought into use by the Indian company at any time within the period of four years next following the 1st day of April, 1981.

(4) This section applies to the business of any hotel, where all the following conditions are fulfilled, namely :-

(i) the business of the hotel is not formed by the splitting up, or the reconstruction, of a business already in existence or by the transfer to a new business of a building previously used as a hotel or of any machinery or plant previously used for any purpose;

(ii) the business of the hotel is owned and carried on by a company registered in India with a paid-up capital of not less than five hundred thousand rupees;

(iii) the hotel is for the time being approved for the purposes of this sub-section by the Central Government;

(iv) the business of the hotel starts functioning after the 31st day of March, 1981, but before the 1st day of April, 1985.

(5) The deduction specified in sub-section (1) shall be allowed in computing the total income in respect of the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things, or to operate its cold storage plant or plants or the ship is first brought into use or the business of the hotel starts functioning (such assessment year being hereafter in this section referred to as the initial assessment year) and each of the seven assessment years immediately succeeding the initial assessment year :

Provided that in the case of an assessee, being a co-operative society, the provisions of this sub-section shall have effect as if for the words "seven assessment years", the words "nine assessment years" had been substituted.

(6) Notwithstanding anything contained in any other provision of this Act, the profits and gains of an industrial undertaking or a ship or the business of a hotel to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under sub-section (1) for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such industrial undertaking or ship or the business of the hotel were the only source of income of the assessee during the previous years relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.

(7) Where the assessee is a person other than a company or a co-operative society, the deduction under sub-section (1) from profits and gains derived from an industrial undertaking shall not be admissible unless the accounts of the industrial undertaking for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an

accountant, as defined in the Explanation below sub-section (2) of section 288, and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

(8) Where any goods held for the purposes of the business of the industrial undertaking or the hotel or the operation of the ship are transferred to any other business carried on by the assessee, or where any goods held for the purposes of any other business carried on by the assessee are transferred to the business of the industrial undertaking or the hotel or the operation of the ship and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the business of the industrial undertaking or the hotel or the operation of the ship does not correspond to the market value of such goods as on the date of the transfer, then, for the purposes of the deduction under this section, the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship shall be computed as if the transfer, in either case, had been made at the market value of such goods as on that date :

Provided that where, in the opinion of the Income-tax Officer, the computation of the profits and gains of the industrial undertaking or the business of the hotel or the operation of the ship in the manner hereinbefore specified presents exceptional difficulties, the Income-tax Officer may compute such profits and gains on such reasonable basis as he may deem fit.

Explanation : In this sub-section, "market value", in relation to any goods, means the price that such goods would ordinarily fetch on sale in the open market.

(9) Where it appears to the Income-tax Officer that, owing to the close connection between the assessee carrying on the business of the industrial undertaking or the hotel or the operation of the ship to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in the business of the industrial undertaking or the hotel or the operation of the ship, the Income-tax Officer shall, in computing the profits and gains of the industrial undertaking or the hotel or the ship for the purposes of the deduction under this section, take the amount of profits as may be reasonably deemed to have been derived therefrom.

(10) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the exemption conferred by this section shall not apply to any class of industrial undertakings with effect from such date as it may specify in the notification.'.

Section 17 - Amendment Of Section 80j

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

(a) in sub-section (1), for the words "computed in the prescribed manner", the words, brackets, figure and letter "computed in the manner specified in sub-section (1A)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1972;

(b) after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1972, namely :-

'(1A) (I) For the purposes of this section, the capital employed in an industrial undertaking or the business of a hotel shall, except as otherwise expressly provided in this section, be computed in according with clauses (II) to (IV) and the capital employed in a ship shall be computed in accordance with clause (V).

(II) The aggregate of the amounts representing the values of the assets as on the first day of the computation period of the undertaking or of the business of the hotel to which this section applies shall first be ascertained in the following manner :-

(i) in the case of assets entitled to depreciation, their written down value;

(ii) in the case of assets acquired by purchase and not entitled to depreciation, their actual cost to the assessee;

(iii) in the case of assets acquired otherwise than by purchase and not entitled to depreciation, the value of the assets when they became assets of the business;

(iv) in the case of assets, being debts due to the person carrying on the business, the nominal amount of those debts;

(v) in the case of assets, being cash in hand or bank, the amount thereof.

Explanation 1 : In this clause, "actual cost" has the same meaning as in clause (1) of section 43.

Explanation 2 : In this clause and in clause (III), "computation period" means the period for which profits and gains of the industrial undertaking or business of the hotel are computed under sections 28 to 43A.

Explanation 3 : In this clause and in clause (V), "written down value" has the same meaning as in clause (6) of section 43.

Explanation 4 : Where the cost of any asset has been satisfied otherwise than in cash, the then value of the consideration actually given for the asset shall be treated as the actual cost of the asset.

(III) From the aggregate of the amounts as ascertained under clause (II) shall be deducted the aggregate of the amounts, as on the first day of the computation period, of borrowed moneys and debts owed by the assessee (including amounts due towards any liability in respect of tax).

Explanation : For the purposes of this clause, -

(i) "tax" means -

(a) income-tax or super-tax (including advance tax) due under any provision of this Act;

(b) wealth-tax due under any provision of the Wealth-tax Act, 1957 (27 of 1957);

(c) gift-tax due under any provision of the Gift-tax Act, 1958 (18 of 1958);

(d) super profits tax due under any provision of the Super Profits Tax Act, 1963 (14 of 1963);

(e) surtax due under any provision of the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(ii) any liability in respect of tax shall be deemed to have become due -

(a) in the case of advance tax due under any provision of this Act, on the date on which such advance tax is payable; and

(b) in the case of any other tax, on the first day of the period within which it is required to be paid.

(IV) The resultant sum as determined under clause (III) shall be diminished by the value, as ascertained under clause (II), of any investments the income from which is not taken into account in computing the profits of the business and any moneys not required for the purpose of the business, in so far as the aggregate of such investments or moneys exceed the amount of the borrowed moneys which under clause (III) are required to be deducted in computing the capital.

(V) The capital employed in a ship shall be taken to be the written down value of the ship as reduced by the aggregate of the amounts owed by the assessee as on the computation date on account of moneys borrowed or debts incurred in acquiring that ship.

Explanation : In this clause, "computation date" in relation to a ship, means -

(a) in respect of the previous year in which the ship is first brought into use, the date on which it is so brought into use;

(b) in respect of any subsequent previous year, the first day of such previous year.'.

Section 18 - Amendment Of Section 80jj

In section 80JJ of the Income-tax Act, with effect from the 1st day of April, 1981, -

(a) in clause (a), for the words "ten thousand rupees", the words "fifteen thousand rupees" shall be substituted;

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

"(b) in any other case, one-fifth of the aggregate amount of such profits and gains or fifteen thousand rupees, whichever is higher :

Provided that in computing the aggregate amount of such profits and gains in a case where the profits and gains derived from a business of poultry farming exceed seventy-five thousand rupees, such excess shall be ignored.".

Section 19 - Amendment Of Section 80l

In section 80L of the Income-tax Act, in sub-section (1), for clause (vii), the following clause shall be substituted with effect from the 1st day of April, 1981, namely :-

"(vii) interest on deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India or with 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 :

Provided that the corporation or, as the case may be, the company is for the time being approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36;".

Section 20 - Amendment Of Section 80rr

In section 80RR of the Income-tax Act, for the words "musician or actor", the words and brackets "musician, actor or sportsman (including an athlete)" shall be substituted.

Section 21 - Amendment Of Section 80t

In section 80T of the Income-tax Act, in clause (a), the words "where the gross total income does not exceed ten thousand rupees or" shall be omitted with effect from the 1st day of April, 1981.

Section 22 - Amendment Of Section 80tt

In section 80TT of the Income-tax Act, in clause (a), the words "where the gross total income does not exceed ten thousand rupees or" shall be omitted with effect from the 1st day of April, 1981.

Section 23 - Amendment Of Section 80u

In section 80U of the Income-tax Act, for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted with effect from the 1st day of April, 1981.

Section 24 - Amendment Of Section 139

In section 139 of the Income-tax Act, after sub-section (8), the following sub-section shall be inserted with effect from the 1st day of September, 1980, namely :-

"(9) Where the Income-tax Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Income-tax Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return :

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the Income-tax Officer may condone the delay and treat the return as a valid return.

Explanation : For the purposes of this sub-section, a return of income shall be regarded as defective unless all the following conditions are fulfilled, namely :-

(a) the annexures, statements and columns in the return of income relating to computation of income chargeable under each head of income, computation of gross total income and total income have been duly filled in;

(b) the return is accompanied by a statement showing the computation of the tax payable on the basis of the return;

(c) the return is accompanied by proof of -

(i) the tax, if any, claimed to have been deducted at source and the advance tax and tax on self-assessment, if any, claimed to have been paid;

(ii) the amount of compulsory deposit, if any, claimed to have been made under the Compulsory Deposit Scheme (Income-tax Payers) Act, 1974 (38 of 1974);

(d) where regular books of account are maintained by the assessee, the return is accompanied by copies of -

(i) manufacturing account, trading account, profit and loss account or as the case may be, income and expenditure account or any other similar account and balance-sheet;

(ii) in the case of a proprietary business or profession, the personal account of the proprietor; in the case of a firm, association of persons or body of individuals, personal accounts of the partners or members; and in the case of a partner or member of a firm, association of persons or body of individuals, also his personal account in the firm, association of persons or body of individuals;

(e) where the accounts of the assessee have been audited, the return is accompanied by copies of the audited profit and loss account and balance-sheet and the auditor's report;

(f) where regular books of account are not maintained by the assessee, the return is accompanied by a statement indicating the amounts of turnover or, as the case may be, gross receipts, gross profit, expenses and net profit of the business or profession and the basis on which such amounts have been computed, and also disclosing the amounts of total sundry debtors, sundry creditors, sk-in-trade and cash balance as at the end of the previous year.".

Section 25 - Amendment Of Section 143

In section 143 of the Income-tax Act, in sub-section (1), in clause (b), sub-clauses (ii) and (iii) shall be omitted.

Section 26 - Amendment Of Section 155

In section 155 of the Income-tax Act, after sub-section (5A), the following sub-section shall be inserted with effect from the 1st day of April, 1981, namely :-

"(5B) Where any deduction in respect of any expenditure on scientific research has been made in any assessment year under sub-section (2B) of section 35 and the assessee fails to furnish a certificate of completion of the programme obtained from the prescribed authority within one year of the period allowed for its completion by such authority, the deduction originally made in excess of the expenditure actually incurred shall be deemed to have been wrongly made, and the Income-tax Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the period allowed for the completion of the programme by the prescribed authority expired.".

Section 27 - Amendment Of Section 164

In section 164 of the Income-tax Act, -

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

(i) for the portion beginning with the words "tax shall be charged -" and ending with the words "more beneficial to the revenue :", the following shall be substituted, namely :-

"tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate :";

(ii) in the proviso, -

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

"(i) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or";

(2) in clause (ii), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

(3) in the concluding portion, for the words "as if the relevant income or part of relevant income", the words "on the relevant income or part of relevant income as if it" shall be substituted;

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

(i) for the portion beginning with the words "is not specifically receivable" and ending with the words "whichever course would be more beneficial to the revenue :", the following shall be substituted, namely :-

"is not specifically receivable on behalf or for the benefit of any one person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be the aggregate of -

(a) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons; and

(b) the tax on that part of the relevant income which is applicable to purposes other than charitable or religious purposes, and which is either not specifically receivable on behalf or for the benefit of any one person or in respect of which the shares of the beneficiaries are indeterminate or unknown, at the maximum marginal rate :";

(ii) in the proviso, -

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

"(i) none of the beneficiaries in respect of the part of the relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or";

(2) in clause (ii), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

(3) in the concluding portion, for the words "as if the relevant income", the words "on the relevant income as if the relevant income" shall be substituted;

(c) after sub-section (3), the following Explanations shall be inserted, namely :-

Explanation 1 : For the purposes of this section, -

(i) any income in respect of which the persons mentioned in clause (iii) and clause (iv) of sub-section (1) of section 160 are liable as representative assessee or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the previous year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(ii) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.

Explanation 2 : In this section, "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an association of persons as specified in the Finance Act of the relevant year.'.

Section 28 - Amendment Of Section 171

In section 171 of the Income-tax Act, after sub-section (8) and before the Explanation, the following sub-section shall be inserted, namely :-

"(9) Notwithstanding anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided, -

(a) no claim that such partial partition has taken place shall be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect whether before or after the 18th day of June, 1980, being the date of introduction of the Finance (No. 2) Bill, 1980, shall be null and void;

(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(c) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(d) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.".

Section 29 - Amendment Of Section 208

In section 208 of the Income-tax Act, in sub-section (2), for clause (c), the following clause shall be substituted with effect from the 1st day of September, 1980, namely :-

"(c) in any other case - Rs. 12,000.".

30 Amendment Of Section 209a.

In section 209A of the Income-tax Act, in sub-section (4), after the proviso, the following proviso shall be inserted with effect from the 1st day of September, 1980, namely :-

'Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words "33-1/3 per cent.", the figures and words "20 per cent." had been substituted.'.

Section 30 - Amendment Of Section 209a

In section 209A of the Income-tax Act, in sub-section (4), after the proviso, the following proviso shall be inserted with effect from the 1st day of September, 1980, namely :-

'Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words "33-1/3 per cent.", the figures and words "20 per cent." had been substituted.'.

Section 31 - Amendment Of Section 212

In section 212 of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted with effect from the 1st day of September, 1980, namely :-

'Provided further that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the figures and words "33-1/3 per cent.", the figures and words "20 per cent." had been substituted.'.

Section 32 - Amendment Of Section 215

In section 215 of the Income-tax Act, in sub-section (1), the following proviso shall be inserted with effect from the 1st day of September, 1980, namely :-

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", the words "eighty-three and one-third per cent." had been substituted.'.

Section 33 - Amendment Of Section 273

In section 273 of the Income-tax Act, with effect from the 1st day of September, 1980, -

(i) in sub-section (1), the following proviso shall be inserted, namely :-

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", at both the places where they occur, the words "eighty-three and one-third per cent." had been substituted.';

(ii) in sub-section (2), before the Explanation, the following proviso shall be inserted, namely :-

'Provided that in the case of an assessee, being a company, the provisions of this sub-section shall have effect as if for the words "seventy-five per cent.", wherever they occur, the words "eighty-three and one-third per cent." had been substituted.'.

Section 34 - Amendment Of Fourth Schedule

In the Fourth Schedule to the Income-tax Act, in Part A, in clause (b) of rule 6, the words "exceeds one-third of the salary of the employee or" shall be omitted with effect from the 1st day of April, 1981.

Section 35 - Consequential Amendments To Certain Sections

The following amendments (being amendments of a consequential nature) shall be made in the Income-tax Act with effect from the 1st day of April, 1981, namely :-

(i) in sub-section (2) of section 34, in clause (ii), after the words, brackets and figures "or clause (ii)", the words, brackets, figures and letter "or clause (iia)" shall be inserted;

(ii) in sub-section (2) of section 38, for the brackets, figures and word "(ii) and (iii)", the brackets, figures, letter and word "(ii), (iia) and (iii)" shall be substituted;

(iii) in sub-section (3) of section 80A, after the words, figures and letters "or section 80HHA", the words, figures and letter "or section 80-I" shall be inserted;

(iv) in sub-section (9) of section 80HH, for the words, figures and letter "under section 80J", the words, figures and letters "under section 80-I or section 80J" shall be substituted;

(v) in sub-section (6) of section 80HHA, for the words, figures and letter "under section 80J", the words, figures and letters "under section 80-I or section 80J" shall be substituted;

(vi) in sub-section (3) of section 80P, after the words, figures and letters "or section 80HHA", the words, figures and letter "or section 80-I" shall be inserted.

Section 36 to 41 - WEALTH-TAX

Section 36 - Amendment Of Section 2

In the Wealth-tax Act, 1957 (27 of 1957) (hereinafter referred to as the Wealth-tax Act), in section 2, in sub-clause (2) of clause (e), for the words "Provided that", the following shall be substituted with effect from the 1st day of April, 1981, namely :-

'Provided that in relation to the assessment year commencing on the 1st day of April, 1981, of any subsequent assessment year, this sub-clause shall have effect subject to the modification that for item (i) thereof, the following item shall be substituted, namely :-

"(i)(a) agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation;

(b) any building owned or occupied by a cultivator of, or receiver of rent or revenue out of, agricultural land other than land comprised in any tea, coffee, rubber or cardamom plantation :

Provided that the building is on or in the immediate vicinity of the land and is a building which the cultivator or the receiver of the rent or revenue by reason of his connection with the land requires as a dwelling-house or a store-house or an out-house;

(c) animals;" :

Provided further that'.

Section 37 - Amendment Of Section 5

In section 5 of the Wealth-tax Act, in sub-section (1), with effect from the 1st day of April, 1981, -

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

"(iva) agricultural land comprised in any tea, coffee, rubber or cardamom plantation belonging to the assessee;";

(b) in clause (ivb), for the words "agricultural land", the words "agricultural land comprised in any tea, coffee, rubber or cardamom plantation" shall be substituted;

(c) in clause (viiib), for the words "in an orchard or a plantation", the words "in any tea, coffee, rubber or cardamom plantation" shall be substituted;

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

"(xxvii) any deposits with a financial corporation which is engaged in providing long-term finance for industrial development in India or with 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 :

Provided that the corporation or, as the case may be, the company is for the time being approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section 36 of the Income-tax Act;".

Section 38 - Amendment Of Section 7

In section 7 of the Wealth-tax Act, in sub-section (1), the following Explanation shall be inserted, namely :-

"Explanation : For the removal of doubts, it is hereby declared that the price or other consideration for which any property may be acquired by or transferred to any person under the terms of a deed of trust or through or under any restrictive covenant in any instrument of transfer shall be ignored for the purpose of determining the price such property would fetch if sold in the open market on the valuation date.".

Section 39 - Insertion Of New Section 20a

In the Wealth-tax Act, after section 20, the following section shall be inserted, namely :-

"20A. Assessment after partial partition of a Hindu undivided family. - Where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided, -

(a) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(b) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(c) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.

Explanation : For the purposes of this section, "partial partition" shall have the meaning assigned to it in clause (b) of the Explanation to section 171 of the Income-tax Act.'.

Section 40 - Amendment Of Section 21

In section 21 of the Wealth-tax Act, -

(a) in sub-section (1), for the words "In the case of assets chargeable to tax under this Act", the words, brackets, figure and letter "Subject to the provisions of sub-section (1A), in the case of assets chargeable to tax under this Act" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) Where the value or aggregate value of the interest or interests of the person or persons on whose behalf or for whose benefit such assets are held falls short of the value of any such assets, then, in addition to the wealth-tax leviable recoverable under sub-section (1), the wealth-tax shall be levied upon and recovered from the court of wards, administrator-general, official trustee, receiver, manager or other person or trustee aforesaid in respect of the value of such assets, to the extent it exceeds the value or aggregate value of such interest or interests as if such excess value were the net wealth of an individual who is a citizen of India and resident in India for the purposes of this Act, and -

(i) at the rates specified in Part I of Schedule I; or

(ii) at the rate of three per cent.,

whichever course would be more beneficial to the revenue.";

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

(i) for the portion beginning with the words "as if the persons" and ending with the words "resident in India", the following shall be substituted, namely :-

", as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from an individual who is a citizen of Indian and resident in Indian";

(ii) in clause (b), for the words "one and one-half per cent.", words "three per cent." shall be substituted;

(iii) in the proviso, -

(1) in clause (i), for the words "under a trust declared by will", the words "under a trust declared by any person by will and such trust is the only trust so declared by him" shall be substituted;

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

"(ia) none of the beneficiaries has net wealth exceeding the amount not chargeable to wealth-tax in the case of an individual who is a citizen of India an resident in India for the purposes of this Act or is a beneficiary under any other trust; or";

(iv) the Explanation shall be numbered as Explanation 2 and before that Explanation, the following Explanation shall be inserted, namely :-

"Explanation 1 : For the purposes of this sub-section, the shares of the persons on whose behalf or for whose benefit any such assets are held shall be deemed to be indeterminate or unknown unless the shares of the persons on whose behalf or for whose benefit such assets are held on the relevant valuation date are expressly stated in the order of the court or instrument of trust deed of wakf, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.".

Section 41 - Amendment Of Schedule I

In the Wealth-tax Act, in Part I of Schedule I, -

(a) in item (1), in the proviso, for the letters and figures "Rs. 1,00,000", at both the places where they occur, the letters and figures "Rs. 1,50,000" shall be substituted;

(b) in item (2), -

(i) in the opening portion, for the words, letters and figures "assessment year exceeds Rs. 1,00,000", the words, letters and figures "assessment year exceeds Rs. 1,50,000" shall be substituted;

(b) in item (2), -

(i) in the opening portion, for the words, letters and figures "assessment year exceeds Rs. 1,00,000", the words, letters and figures "assessment year exceeds Rs. 1,50,000" shall be substituted;

(ii) in the proviso, for the letters and figures "Rs. 1,00,000", at both the places where they occur, the letters and figures "Rs. 1,50,000" shall be substituted.

Section 42 - Amendment Of Act 18 Of 1958

GIFT-TAX

In the Gift-tax Act, 1958, -

(a) in section 2, in sub-clause (c) of clause (xxiv), after the words "power of appointment", the brackets and words "(whether general, special or subject to any restrictions as to the persons in whose favour the appointment may be made)" shall be inserted;

(b) in section 4, in sub-section (1), after clause (d), the following clause shall be inserted, namely :-

"(e) where a person who has an interest in property as a tenant for a term or for life or a remainderman surrenders or relinquishes his interest in the property or otherwise allows his interest to be terminated without consideration or for a consideration which is not adequate, the value of the interest so surrendered, relinquished or allowed to be terminated or, as the case may be, the amount by which such value exceeds the consideration received, shall be deemed to be a gift made by such person.".

Section 43 - Amendment Of Act 45 Of 1974

INTEREST-TAX

In the Income-tax Act, 1974, -

(1) in section 2, -

(a) in clause (7), -

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

"(ia) interest referred to in sub-section (1B) of section 42 of the Reserve Bank of India Act, 1934 (2 of 1934);";

(ii) for sub-clause (iii), the following sub-clause shall be substituted with effect from the 1st day of September, 1980, namely :-

'(iii) interest on any term loan sanctioned before the 18th day of June, 1980, where the agreement under which such loan has been sanctioned provides for the repayment thereof during a period of not less than three years.

Explanation : For the purposes of this sub-clause, "term loan" means a loan which is not repayable on demand;';

(b) in clause (9), after the words and figures "the Reserve Bank of India Act, 1934 (2 of 1934)", the following shall be inserted with effect from the 1st day of September, 1980, namely :-

"and includes -

(a) the Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948 (15 of 1948);

(b) the Industrial Development Bank of India, established under the Industrial Development Bank of India, Act, 1964 (18 of 1964);

(c) the Industrial Reconstruction Corporation of India Limited; and

(d) the Industrial Credit and Investment Corporation of India Limited";

(2) in section 6, in sub-section (2), for the words, figures and letters "after the 28th day of February, 1978", the words, figures and letters, "during the period commencing on the 1st day of March, 1978, and ending with the 30th day of June, 1980" shall be substituted with effect from the 1st day of September, 1980.

Section 44 - Saving Certain Cases

Where before the 18th day of June, 1980 [being the date on which the Finance (No. 2) Bill, 1980, was introduced] the Supreme Court has, on an appeal or a reference in respect of the assessment of an assessee for any particular assessment year, held that the deduction under section 80M is to be allowed in a manner different from that provided in section 80AA of the Income-tax Act, as inserted by section 12 of this Act, then, nothing contained in the said section 80AA shall apply to the assessment of such assessee for that particular assessment year.