FINANCE (No. 2) BILL, 2014

PROVISIONS RELATING TO DIRECT TAXES

Introduction

The provisions of the Finance (No.2) Bill, 2014 relating to direct taxes seek to amend the Income-tax Act and Finance (No.2) Act, 2004, *inter alia*, in order to provide for –

A. Rates of Income-tax

B. Additional Resource Mobilisation Measures

C. Measures to Promote Socio-economic Growth

D. Relief and Welfare Measures

E. Widening of Tax Base and Anti Tax Avoidance Measures

F. Rationalisation Measures

2. The Finance (No.2) Bill, 2014 seeks to prescribe the rates of income-tax on income liable to tax for the assessment year 2014-2015; the rates at which tax will be deductible at source during the financial year 2014-2015 from interest (including interest on securities), winnings from lotteries or crossword puzzles, winnings from horse races, card games and other categories of income liable to deduction or collection of tax at source under the Income-tax Act; rates for computation of "advance tax", deduction of income-tax from, or payment of tax on 'Salaries' and charging of income-tax on current incomes in certain cases for the financial year 2014-2015.

3. The substance of the main provisions of the Bill relating to direct taxes is explained in the following paragraphs:—

DIRECT TAXES

A. RATES OF INCOME-TAX

I. Rates of income-tax in respect of income liable to tax for the assessment year 2014-2015.

In respect of income of all categories of assessees liable to tax for the assessment year 2014-2015, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance Act, 2013, for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases.

(1) Surcharge on income-tax—

Surcharge shall be levied in respect of income liable to tax for the assessment year 2014-2015, in the following cases:—

(a) in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), cooperative societies, firms or local bodies, the amount of income-tax shall be increased by a surcharge for the purposes of the Union at the rate of ten percent. of such income-tax in case of a person having a total income exceeding one crore rupees .

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Also, in the case of persons mentioned in (*a*) above having total income chargeable to tax under section 115JC of the Act and where such income exceeds one crore rupees, surcharge at the rate mentioned above shall be levied and marginal relief shall also be provided.

(b) in the case of a domestic company-

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income tax;

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of ten per cent. of such income-tax.

(c) in the case of a company, other than a domestic company,-

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of two per cent. of such income tax.

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income-tax.

However, marginal relief shall be allowed in all these cases to ensure that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Also, in the case of every company having total income chargeable to tax under section 115JB of the Act and where such income exceeds one crore rupees but does not exceed ten crore rupees, or exceeds ten crore rupees, as the case may be, surcharge at the rates mentioned above shall be levied and marginal relief shall also be provided.

(d) In other cases (including sections 115-O, 115QA, 115R or 115TA), the surcharge shall be levied at the rate of ten percent.

(2) Education Cess —

For assessment year 2014-2015, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent., respectively, on the amount of tax computed, inclusive of surcharge, in all cases. No marginal relief shall be available in respect of such Cess.

II. Rates for deduction of income-tax at source during the financial year 2014-2015 from certain incomes other than "Salaries".

The rates for deduction of income-tax at source during the financial year 2014-2015 from certain incomes other than "Salaries" have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2013, for the purposes of deduction of income-tax at source during the financial year 2013-2014.

(1) Surcharge—

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees . The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,-

(i) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

No surcharge will be levied on deductions in other cases.

(2) Education Cess—

"Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent. respectively, of income tax including surcharge wherever applicable, in the cases of persons not resident in India including company other than a domestic company.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2014-2015.

The rates for deduction of income-tax at source from "Salaries" during the financial year 2014-2015 and also for computation of "advance tax" payable during the said year in the case of all categories of assessees have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 2014-2015 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc.

The salient features of the rates specified in the said Part III are indicated in the following paragraphs—

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:-

(i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Upto Rs.2,50,000	Nil.
Rs. 2,50,001 to Rs. 5,00,000	10 per cent.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs. 5,00,000	10 per cent.
Rs. 5,00,001 to Rs.10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year,—

Upto Rs. 5,00,000	Nil.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent.
Above Rs. 10,00,000	30 per cent.

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a person having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for financial year 2013-14.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a co-operative society having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for financial year 2013-2014.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a firm having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

D. Local authorities

The rate of income-tax in the case of every local authority is specified in Paragraph D of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the financial year 2013-2014.

The amount of income-tax shall be increased by a surcharge at the rate of ten percent. of such income-tax in case of a local authority having a total income exceeding one crore rupees .

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

E. Companies

The rates of income-tax in the case of companies are specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified for the financial year 2013-2014.

The existing surcharge of five per cent in case of a domestic company shall continue to be levied if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of ten percent shall continue to be levied if the total income of the domestic company exceeds ten crore rupees. In case of companies other than domestic companies, the existing surcharge of two per cent. shall continue to be levied if the total income exceeds one crore rupees but does not exceed ten crore rupees. The surcharge at the rate of five percent shall continue to be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

In other cases (including sections 115-O, 115QA, 115R or 115TA) the surcharge shall continue to be levied at the rate of ten percent.

For financial year 2014-2015, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent. and one per cent. respectively, on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such Cess.

[Clause 2 & First Schedule]

B. ADDITIONAL RESOURCE MOBILISATION MEASURES

Dividend and Income Distribution Tax

Section 115-O of the Act provides that a domestic company shall be liable for payment of additional tax at the rate of 15 per cent. on any amount declared, distributed or paid by way of dividends to its shareholders. This tax on distributed profits is final tax in respect of the amount declared, distributed or paid as dividends and no credit in respect of it can be claimed by the company or the shareholder.

Section 115 R of the Act similarly provides for levy of additional income-tax in respect of income distributed by the mutual funds to its investors at the rates provided.

Prior to introduction of dividend distribution tax (DDT), the dividends were taxable in the hands of the shareholder. The gross amount of dividend representing the distributable surplus was taxable, and the tax on this amount was paid by the shareholder at the applicable rate which varied from 0 to 30%. However, after the introduction of the DDT, a lower rate of 15% is currently applicable but this rate is being applied on the amount paid as dividend after reduction of distribution tax by the company. Therefore, the tax is computed with reference to the net amount. Similar case is there when income is distributed by mutual funds.

Due to difference in the base of the income distributed or the dividend on which the distribution tax is calculated, the effective tax rate is lower than the rate provided in the respective sections.

In order to ensure that tax is levied on proper base, the amount of distributable income and the dividends which are actually received by the unit holder of mutual fund or shareholders of the domestic company need to be grossed up for the purpose of computing the additional tax.

Therefore, it is proposed to amend section 115-O in order to provide that for the purposes of determining the tax on distributed profits payable in accordance with the section 115-O, any amount by way of dividends referred to in sub-section (1) of the said section, as reduced by the amount referred to in sub-section (1A) [referred to as net distributed profits], shall be increased to such amount as would, after reduction of the tax on such increased amount at the rate specified in sub-section (1), be equal to the net distributed profits.

Thus, where the amount of dividend paid or distributed by a company is Rs. 85, then DDT under the amended provision would be calculated as follows:

Dividend amount distributed = Rs. 85

Increase by Rs. 15 [i.e. (85*0.15)/(1-0.15)]

Increased amount = Rs. 100

DDT @ 15% of Rs. 100 = Rs. 15

Tax payable u/s 115-O is Rs. 15

Dividend distributed to shareholders = Rs. 85

Similarly, it is proposed to amend section 115R to provide that for the purposes of determining the additional income-tax payable in accordance with sub-section (2) of the said section, the amount of distributed income shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified in sub-section (2), be equal to the amount of income distributed by the Mutual Fund.

These amendments will take effect from 1st October, 2014**.**

[Clauses 40 & 41]

Long-term Capital Gains on debt oriented Mutual Fund and its qualification as Short-term capital asset

The existing provisions contained in clause (42A) of section 2 of the Act provides that short-term capital asset means a capital asset held by an assessee for not more than thirty six months immediately preceding the date of its transfer. However, in the case of a share held in a company or any other security listed in a recognised stock exchange in India or a unit of the Unit Trust of India or a unit of a Mutual Fund or a zero coupon bond, the period of holding for qualifying it as short-term capital asset is not more than twelve months.

The shorter period of holding of not more than twelve months for consideration as short-term capital asset was introduced for encouraging investment on stock market where prices of the securities are market determined.

Accordingly, it is proposed to amend the aforesaid clause (42A) of section 2 so as to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty-six months.

These amendments will take effect from 1st April, 2015 and will accordingly apply, in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 3]

Tax on long-term capital gains on units

Under the existing provisions of section 112 of the Act, where tax payable on long-term capital gains arising on transfer of a capital asset, being listed securities or unit or zero coupon bond exceeds ten per cent. of the amount of capital gains before allowing for indexation adjustment, then such excess shall be ignored. As long-term capital gains is not chargeable to tax in the case of transfer of a unit of an equity oriented fund which is liable to securities transaction tax, the benefit under section 112 in respect of unit cover only the unit of a fund, other than an equity oriented fund.

It is proposed to amend the provisions of section 112 so as to allow the concessional rate of tax of ten per cent. on long term capital gain to listed securities (other than unit) and zero coupon bonds.

This amendment will take effect from 1st April, 2015 and will accordingly apply, in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 34]

C. MEASURES TO PROMOTE SOCIO-ECONOMIC GROWTH

Taxation Regime for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (Invit)

The Securities and Exchange Board of India (SEBI) had proposed draft regulations relating to two new categories of investment vehicles namely, the Real Estate Investment Trust (REIT) & Infrastructure Investment Trust (Invit). These regulations were placed in public domain for comments. The final Regulations are yet to be notified.

The income-investment model of such REITs and Invits (referred to as business trusts) has the following distinctive elements:

(i) the trust would raise capital by way of issue of units (to be listed on a recognised stock exchange) and can also raise debts directly both from resident as well as non-resident investors;

(ii) the income bearing assets would be held by the trust by acquiring controlling or other specific interest in an Indian company (SPV) from the sponsor.

The expansion of asset delivery through the public-private partnership (PPP) model has increased the number of assets available for financing. The Indian infrastructure and the PPPs are currently in a challenging phase, with development of existing projects delayed, and diminishing attractiveness of new projects to private sector funds and strategic operators. In order to meet these challenges, new investment vehicle structure, an Infrastructure Investment Trust needs to be facilitated. Similarly, securitization of income earning real estate assets needs to be facilitated. Certainty in the taxation aspects of these trusts is necessary.

It is proposed to amend the Act to put in place a specific taxation regime for providing the way the income in the hands of such trusts is to be taxed and the taxability of the income distributed by such business trusts in the hands of the unit holders of such trusts. Such regime has the following main features:–

(i) The listed units of a business trust, when traded on a recognised stock exchange, would attract same levy of securities transaction tax (STT), and would be given the same tax benefits in respect of taxability of capital gains as equity shares of a company i.e., long term capital gains, would be exempt and short term capital gains would be taxable at the rate of 15%.

(ii) In case of capital gains arising to the sponsor at the time of exchange of shares in SPVs with units of the business trust, the taxation of gains shall be deferred and taxed at the time of disposal of units by the sponsor. However, the preferential capital gains regime (consequential to levy of STT) available in respect of units of business trust will not be available to the sponsor in respect of these units at the time of disposal. Further, for the purpose of computing capital gain, the cost of these units shall be considered as cost of the shares to the sponsor. The holding period of shares shall also be included in the holding period of such units.

(iii) The income by way of interest received by the business trust from SPV is accorded pass through treatment i.e., there is no taxation of such interest income in the hands of the trust and no withholding tax at the level of SPV. However, withholding tax at the rate of 5 per cent. in case of payment of interest component of income distributed to non-resident unit holders, at the rate of 10 per cent. in respect of payment of interest component of distributed income to a resident unit holder shall be effected by the trust.

(iv) In case of external commercial borrowings by the business trust, the benefit of reduced rate of 5 per cent. tax on interest payments to non-resident lenders shall be available on similar conditions, for such period as is provided in section 194LC of the Act.

(v) The dividend received by the trust shall be subject to dividend distribution tax at the level of SPV but will be exempt in the hands of the trust, and the dividend component of the income distributed by the trust to unit holders will also be exempt.

(vi) The income by way of capital gains on disposal of assets by the trust shall be taxable in the hands of the trust at the applicable rate. However, if such capital gains are distributed, then the component of distributed income attributable to capital gains would be exempt in the hands of the unit holder. Any other income of the trust shall be taxable at the maximum marginal rate.

(vii) The business trust is required to furnish its return of income.

(viii) The necessary forms to be filed and other reporting requirements to be met by the trust shall be prescribed to implement the above scheme.

This amendment will take effect from 1st October, 2014**.**

[Clauses 3, 5, 18, 20, 33, 35, 43, 47, 54, 56, 57 & 109]

Investment Allowance to a Manufacturing Company

In order to encourage the companies engaged in the business of manufacture or production of an article or thing to invest substantial amount in acquisition and installation of new plant and machinery, Finance Act, 2013 inserted section 32AC in the Act to provide that where an assessee, being a company, is engaged in the business of manufacture of an article or thing and invests a sum of more than Rs.100 crore in new assets (plant and machinery) during the period beginning from 1st April, 2013 and ending on 31st March, 2015, then the assessee shall be allowed a deduction of 15% of cost of new assets for assessment years 2014-15 and 2015-16.

As growth of the manufacturing sector is crucial for employment generation and development of an economy, it is proposed to extend the deduction available under section 32AC of the Act for investment made in plant and machinery up to 31.03.2017. Further, in order to simplify the existing provisions of section 32AC of the Act and also to make medium size investments in plant and machinery eligible for deduction, it is also proposed that the deduction under section 32AC of the Act shall be allowed if the company on or after 1st April, 2014 invests more than Rs.25 crore in plant and machinery in a previous year. It is also proposed that the assessee who is eligible to claim deduction under the existing combined threshold limit of Rs.100 crore for investment made in previous years 2013-14 and 2014-15 shall continue to be eligible to claim deduction under the existing provisions contained in sub-section (1) of section 32AC even if its investment in the year 2014-15 is below the proposed new threshold limit of investment of Rs. 25 crore during the previous year.

The deduction allowable under this section after the proposed amendment in different scenario of investment is given by way of illustration in the following table:

(Rs. in crore)

Sl. No.	Particulars	P.Y. 2013-14	P.Y. 2014-15	P.Y. 2015-16	P.Y. 2016-17	Remarks
1.	Amount of investment	20	90	-	-	Under the existing section 32AC(1)
	Deduction allowable	Nil	16.5	-	-	
2..	Amount of investment	30	40	-	-	Under the proposed section 32AC(1A)
	Deduction allowable	Nil	6	-	-	
3.	Amount of investment	150	10	-	-	Under the existing section 32AC(1)
	Deduction allowable	22.5	1.5	-	-	
4.	Amount of investment	60	20	-	-	No deduction either u/s 32AC(1) or 32AC(1A)
	Deduction allowable	Nil	Nil	-	-	
5.	Amount of investment	30	30	30	40	Under the proposed section 32AC(1A)
	Deduction allowable	Nil	4.5	4.5	6	
6.	Amount of investment	150	20	70	20	Deduction both u/s 32AC(1) & 32AC(1A)
	Deduction allowable	22.5	3	10.5	Nil	

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

[Clause 11]

Extension of the sunset date under section 80-IA for the power sector

Under the existing provisions of clause (iv) of sub-section (4) of section 80-IA of the Income-tax Act, a deduction of profits and gains is allowed to an undertaking which,—

(a) is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2014;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2014;

(c) undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2014.

With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, it is proposed to amend the above provisions to extend the terminal date for a further period up to 31st March, 2017 i.e. till the end of the 12th Five Year Plan.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 30]

Deduction in respect of capital expenditure on specified business

I. Under the existing provisions of section 35AD of the Act, investment-linked tax incentive is provided by way of allowing a deduction in respect of the whole of any expenditure of capital nature (other than expenditure on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred. Currently, the following "specified businesses" are eligible for availing the investment-linked deduction under section 35AD as enumerated in clause (c) of sub-section (8) of the said section:-

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;

(iv) building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a hospital with at least one hundred beds for patients;

(vi) developing and building a housing project under a scheme for slum redevelopment or rehabilitation, framed by the Central Government or a State Government, as the case may be, and notified by the Board in accordance with the prescribed guidelines;

(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in accordance with the prescribed guidelines;

(viii) production of fertilizer in India;

(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962;

(x) bee-keeping and production of honey and beeswax; and

(xi) setting up and operating a warehousing facility for storage of sugar;

It is proposed to include two new businesses as "specified business" for the purposes of the investment-linked deduction under section 35AD so as to promote investment in these sectors, which are :-

(a) laying and operating a slurry pipeline for the transportation of iron ore;

(b) setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines.

It is also proposed to provide that the date of commencement of operations for availing investment linked deduction in respect of the two new specified businesses shall be on or after 1st April, 2014.

II. The existing provisions of section 35AD do not provide for a specific time period for which capital assets on which the deduction has been claimed and allowed, are to be used for the specified business. With a view to ensure that the capital asset on which investment linked deduction has been claimed is used for the purposes of the specified business, it is proposed to insert sub-section (7A) in section 35AD to provide that any asset in respect of which a deduction is claimed and allowed under section 35AD, shall be used only for the specified business for a period of eight years beginning with the previous year in which such asset is acquired or constructed.

If any asset on which a deduction under section 35AD has been allowed, is demolished, destroyed, discarded or transferred, the sum received or receivable for the same is chargeable to tax under clause (vii) of section 28. This does not take into account a case where asset on which deduction under section 35AD has been claimed is used for any purpose other than the specified business by way of a mode other than that specified above. Accordingly, it is proposed to insert sub-section (7B) to provide that if such asset is used for any purpose other than the specified business, the total amount of deduction so claimed and allowed in any previous year in respect of such asset, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction had been allowed under section 35AD, shall be deemed to be income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

Example:

Deduction claimed under section 35AD on a capital asset	:	Rs. 100
Depreciation eligible on such asset under section 32	:	Rs. 15
Profit chargeable to tax in accordance with the proposed sub-section (7B) of section 35AD	:	Rs. 85

The provisions contained in the proposed sub-section (7B) of the said section would, however, not apply to a company which has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 within the time period specified in sub-section (7A).

III. The existing provisions of sub-section (3) of the aforesaid section provide that where any assessee has claimed a deduction under this section, no deduction shall be allowed under the provisions of Chapter VIA for the same or any other assessment year. As section 10AA also provides for profit linked deduction in respect of units set-up in Special Economic Zones, it is proposed to amend section 35AD so as to provide that where any deduction has been availed of by the assessee on account of capital expenditure incurred for the purposes of specified business in any assessment year, no deduction under section 10AA shall be available to the assessee in the same or any other assessment year in respect of such specified business.

As a consequence of this amendment, section 10AA is also proposed to be amended so as to provide that no deduction under section 35AD shall be available in any assessment year to a specified business which has claimed and availed of deduction under section 10AA in the same or any other assessment year.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clauses 6 & 12]

D. RELIEF AND WELFARE MEASURES

Raising the limit of deduction under section 80C

Under the existing provisions of section 80C of the Act, an individual or a Hindu undivided family, is allowed a deduction from income of an amount not exceeding one lakh rupees with respect to sums paid or deposited in the previous year, in certain specified instruments. The investments eligible for deduction, specified under sub-section (2) of section 80C, include life insurance premia, contributions to provident fund, schemes for deferred annuities etc. The assessee is free to invest in any one or more of the eligible instruments within the overall ceiling of Rs. 1 lakh.

The limit of above investments eligible for deduction under section 80C was fixed vide Finance Act, 2005. In order to encourage household savings, it is proposed to raise the limit of deduction allowed under section 80C from the existing Rs. 1 lakh to Rs.1.5 lakh. In view of the same, consequential amendments are proposed in sections 80CCE and 80CCD of the Act.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clauses 27, 28 & 29]

Deduction from income from house property

The existing provisions contained in section 24 of the Act provide that income chargeable under the head "Income from house property" shall be computed after making certain deductions. Clause (b) of the said section provides that where the property is acquired with borrowed capital, the amount of any interest payable on such capital shall be allowed as deduction in computing the income from house property. The second proviso to clause (b) of the said section, *inter-alia*, provides that in case of self-occupied property where the acquisition or construction of the property is completed within three years from the end of the financial year in which the capital is borrowed, the amount of deduction under that clause shall not exceed one lakh fifty thousand rupees.

There has been appreciation in the value of house property and accordingly cost of finance has also gone up.

Therefore, it is proposed to amend the second proviso to clause (b) of said section 24, so as to increase the limit of deduction on account of interest in respect of property referred to in sub-section (2) of section 23 to two lakh rupees.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 10]

Concessional rate of tax on overseas borrowing

The existing provisions of section 194LC of the Act provide for lower withholding tax rate of 5 per cent. on interest paid by an Indian company to non-residents on monies borrowed by it in foreign currency from a source outside India under a loan agreement or through issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of July, 2015 subject to certain conditions.

In order to further incentivise low cost long-term foreign borrowings by Indian companies, it is proposed to amend section 194LC to extend the benefit of this concessional rate of withholding tax to borrowings by way of issue of any long-term bond, and not limited to a long term infrastructure bond.

It is further proposed to extend by two years the period of borrowing for which the said benefit shall be available. The concessional rate of withholding tax will now be available in respect of borrowings made before 1st day of July, 2017.

Section 206AA of the Act provides for levy of higher rate of withholding tax in case the recipient of income does not provide permanent account number to the deductor. An exception from applicability of section 206AA in respect of payment of interest on long-term infrastructure bonds eligible for benefit under section 194LC is currently provided in sub-section (7) of this section.

Consequential amendment is also proposed in section 206AA to ensure that this benefit of exemption is extended to payment of interest on any long-term bond referred to in section 194LC.

These amendments will take effect from 1st October, 2014.

[Clauses 57 & 61]

Reduction in tax rate on certain dividends received from foreign companies

Section 115BBD of the Act was introduced as an incentive for attracting repatriation of income earned by Indian companies from investments made abroad. It provides for taxation of gross dividends received by an Indian company from a specified foreign company at the concessional rate of 15 per cent. if such dividend is included in the total income for the assessment year 2012-13 or 2013-14 or 2014-2015.

With a view to encourage Indian companies to repatriate foreign dividends into the country, it is proposed to amend the Act to extend the benefit of lower rate of taxation without limiting it to a particular assessment year. Thus, such foreign dividends received in financial year 2014-15 and subsequent financial years shall continue to be taxed at the lower rate of 15%.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 37]

Roll back provision in Advance Pricing Agreement Scheme

Section 92CC of the Act provides for Advance Pricing Agreement (APA). It empowers the Central Board of Direct Taxes, with the approval of the Central Government, to enter into an APA with any person for determining the Arm's Length Price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction which is to be entered into by the person. The agreement entered into is valid for a period, not exceeding 5 previous years, as may be mentioned in the agreement. Once the agreement is entered into, the ALP of the international transaction, which is subject matter of the APA, would be determined in accordance with such an APA.

In many countries the APA scheme provides for "roll back" mechanism for dealing with ALP issues relating to transactions entered into during the period prior to APA. The "roll back" provisions refers to the applicability of the methodology of determination of ALP, or the ALP, to be applied to the international transactions which had already been entered into in a period prior to the period covered under an APA. However, the "roll back" relief is provided on case to case basis subject to certain conditions. Providing of such a mechanism in Indian legislation would also lead to reduction in large scale litigation which is currently pending or may arise in future in respect of the transfer pricing matters.

Therefore, it is proposed to amend the Act to provide roll back mechanism in the APA scheme. The APA may, subject to such prescribed conditions, procedure and manner, provide for determining the arm's length price or for specifying the manner in which arm's length price is to be determined in relation to an international transaction entered into by a person during any period not exceeding four previous years preceding the first of the previous years for which the advance pricing agreement applies in respect of the international transaction to be undertaken in future.

This amendment will take effect from 1st October, 2014**.**

[Clause 32]

Characterisation of Income in case of Foreign Institutional Investors

Section 2 (14) of the Act defines the term "capital asset" to include property of any kind held by an assessee, whether or not connected with his business or profession, but does not include any stock-in-trade or personal assets as provided in the definition.

The foreign portfolio investors (referred as foreign institutional investors in the Act) face a difficulty in characterisation of their income arising from transaction in securities as to whether it is capital gain or business income. Further, the fund manager managing the funds of such investor remains outside India under the apprehension that its presence in India may have adverse tax consequences.

Therefore, in order to end this uncertainty, it is proposed to amend the Act to provide that any security held by foreign institutional investor which has invested in such security in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be treated as capital asset only so that any income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 3]

E. WIDENING OF TAX BASE AND ANTI TAX AVOIDANCE MEASURES

Alternate Minimum Tax

The existing provisions of section 115JC of the Act provide that where the regular income tax payable by a person, other than a company, for a previous year is less than the alternate minimum tax for such previous year, the person would be required to pay income tax at the rate of eighteen and one half per cent on its adjusted total income. The section further provides that the total income shall be increased by deductions claimed under Part C of Chapter VI-A and deductions claimed under section 10AA to arrive at adjusted total income.

Under the Act, the investment linked deductions have been provided in place of profit linked deductions. These profit linked deductions are subject to alternate minimum tax (AMT). Accordingly, with a view to include the investment linked deduction claimed under section 35AD in computing adjusted total income for the purpose of calculating alternate minimum tax, it is

proposed to amend the section so as to provide that total income shall be increased by the deduction claimed under section 35AD for purpose of computation of adjusted total income.The amount of depreciation allowable under section 32 shall, however, be reduced in computing the adjusted total income.

Example:

Total income	:	Rs. 60
Deduction claimed under Chapter VI-A	:	Rs. 40
Deduction claimed under section 35AD on a capital asset	:	Rs. 100

Computation of adjusted total income for the purposes of AMT

Total income			:	Rs. 60
Addition:				
(i)	deduction under Chapter VI-A (on non-specified business)		:	Rs. 40
(ii)	deduction under section 35AD (on specified business)	Rs. 100		
	Less: depreciation under section 32	Rs. 15	:	Rs. 85
Adjusted total income under section 115JC			:	Rs. 185

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 38]

Taxability of advance for transfer of a capital asset

The existing provisions contained in section 56 of the Act provide that income of every kind which is not to be excluded from the total income under the Act shall be chargeable to income-tax under the head “Income from other sources”, if it is not chargeable to income-tax under any other head of income.

Sub-section (2) provides for the specific category of incomes that shall be chargeable to income-tax under the head “Income from other sources”.

It is proposed to insert a new clause (ix) in sub-section (2) of section 56 to provide for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Such sum shall be chargeable to income-tax under the head ‘income from other sources’ if such sum is forfeited and the negotiations do not result in transfer of such capital asset. A consequential amendment in clause (24) of section (2) is also being made to include such sum in the definition of the term 'income'.

The existing provisions of section 51 provide that any advance retained or received shall be reduced from the cost of acquisition of the asset or the written down value or the fair market value of the asset. In order to avoid double taxation of the advance received and retained, section 51 is also proposed to be amended to provide that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset , has been included in the total income of the assessee for any previous year, in accordance with the provisions of clause (ix) of sub-section (2) of section 56, such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

[Clauses 3, 21 & 25]

Tax deduction at source from non-exempt payments made under life insurance policy

Under the existing provisions of section 10(10D) of the Act, any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy is exempt subject to fulfillment of conditions specified under the said section. Therefore, the sum received under a life insurance policy which does not fulfill the conditions specified under section 10(10D) are taxable under the provisions of the Act.

In order to have a mechanism for reporting of transactions and collection of tax in respect of sum paid under life insurance policies which are not exempted under section 10(10D) of the Act, it is proposed to insert a new section in the Act to provide for deduction of tax at the rate of 2 per cent. on sum paid under a life insurance policy, including the sum allocated by way of bonus, which are not exempt under section 10(10D) of the Act. In order to reduce the compliance burden on the small tax payers, it has also been proposed that no deduction under this provision shall be made if the aggregate sum paid in a financial year to an assessee is less than Rs.1,00,000/-.

This amendment will take effect from 1st October, 2014.

[Clause 55]

F. RATIONALISATION MEASURES

Signing and verification of return of income

The existing provisions under section 140 of the Act provide that the return under section 139 shall be signed and verified in the manner specified therein.

With a view to enable the verification of returns either by a sign in manuscript or by any electronic mode, it is proposed to amend section 140 of the Act so as to provide that the return shall be verified by the persons specified therein. The manner of verification of return is prescribed under section 139 of the Act.

The amendment will take effect from 1st October, 2014.

[Clause 48]

Rationalisation of taxation regime in the case of charitable trusts and institutions

The existing provisions of section 11 of the Act provide for exemption to trusts or institutions in respect of income derived from property held under trust and voluntary contributions subject to various conditions contained in the said section. The primary condition for grant of exemption is that the income derived from property held under trust should be applied for the charitable purposes, and where such income cannot be applied during the previous year, it has to be accumulated in the modes prescribed and applied for such purposes in accordance with various conditions provided in the section. If the accumulated income is not applied in accordance with the conditions provided in the said section, then such income is deemed to be taxable income of the trust or institution.

Section 13 of the Act provides for the circumstances under which exemption under section 11 or 12 in respect of whole or part of income would not be available to a trust or institution.

The sections 11, 12, 12A, 12AA and 13 constitute a complete code governing the grant or withdrawal of registration and its cancellation, providing exemption to income, and also the conditions under which a charitable trust or institution needs to function in order to be eligible for exemption. They also provide for withdrawal of exemption either in part or in full if the relevant conditions are not fulfilled.

Several issues have arisen in respect of the application of exemption regime in cases of trusts or institutions in respect of which clarity in law is required.

The first issue is regarding the interplay of the general provision of exemptions which are contained in section 10 of the Act vis.-a-vis. the specific and special exemption regime covered in sections 11 to 13. As indicated above, the primary objective of providing exemption in case of charitable institution is that income derived from the property held under trust should be applied and utilised for the object or purpose for which the institution or trust has been established. In many cases it has been noted that trusts or institutions which are registered and have been claiming benefits of the exemption regime do not apply their income, which is derived from property held under trust, for charitable purposes. In such circumstances, when the income becomes taxable, then a claim of exemption under general provisions of section 10 in respect of such income is preferred and tax on such income is avoided. This defeats the very objective and purpose of placing the conditions of application of income etc. in respect of income derived from property under trust in the first place.

Sections 11, 12 and 13 are special provisions governing institutions which are being given benefit of tax exemption, it is therefore imperative that once a person voluntarily opts for the special dispensation it should be governed by these specific provisions and should not be allowed flexibility of being governed by other general provisions or specific provisions at will. Allowing such flexibility has undesirable effects on the objects of the regulations and leads to litigations.

Similar situation exists in the context of section 10(23C) which provides for exemption to funds, institution, hospitals, etc. which have been granted approval by the prescribed authority. The provision of section 10(23C) also have similar conditions of accumulation and application of income, investment of funds in prescribed modes etc.

Therefore, it is proposed to amend the Act to provide specifically that where a trust or an institution has been granted registration for purposes of availing exemption under section 11, and the registration is in force for a previous year, then such trust or institution cannot claim any exemption under any provision of section 10 [other than that relating to exemption of agricultural income and income exempt under section 10(23C)]. Similarly, entities which have been approved or notified for claiming benefit of exemption under section 10(23C) would not be entitled to claim any benefit of exemption under other provisions of section 10 (except the exemption in respect of agricultural income).

The second issue which has arisen is that the existing scheme of section 11 as well as section 10(23C) provides exemption in respect of income when it is applied to acquire a capital asset. Subsequently, while computing the income for purposes of these sections, notional deduction by way of depreciation etc. is claimed and such amount of notional deduction remains to be applied for charitable purpose. Therefore, double benefit is claimed by the trusts and institutions under the existing law. The provisions need to be rationalised to ensure that double benefit is not claimed and such notional amount does not get excluded from the condition of application of income for charitable purpose.

In view of the above, it is also proposed to amend the Act to provide that under section 11 and section 10(23C), income for the purposes of application shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under these sections in the same or any other previous year.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clauses 5 & 7]

Clarification in respect of section 10(23C) of the Act

The existing provisions of sub-clause (iiiab) and (iiiac) of section 10(23C) of the Act provide exemption, subject to various conditions, in respect of income of certain educational institutions, universities and hospitals which exist solely for educational purposes or solely for philanthropic purposes, and not for purposes of profit and which are wholly or substantially financed by the Government.

Absence of a definition of the phrase "substantially financed by the Government" has led to litigation and varying decisions of judicial authorities who have, for this purpose, relied upon various other provisions of the Income-tax Act and other Acts. Thus, there is lack of certainty in this regard.

Therefore, it is proposed to amend section 10(23C) by inserting an Explanation that if the Government grant to a university or other educational institution, hospital or other institution during the relevant previous year exceeds a percentage (to be prescribed) of the total receipts (including any voluntary contributions), of such university or other educational institution, hospital or other institution, as the case may be, then such university or other educational institution, hospital or other institution shall be considered as being substantially financed by the Government for that previous year.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 5]

Cancellation of registration of the trust or institution in certain cases

The existing provisions of section 12AA of the Act provide that the registration once granted to a trust or institution shall remain in force till it is cancelled by the Commissioner. The Commissioner can cancel the registration under two circumstances:

(a) the activities of a trust or institution are not genuine, or;

(b) the activities are not being carried out in accordance with the objects of the trust or institution.

Only if either or both the above conditions are met, would the Commissioner be empowered to cancel the registration, and not otherwise. Therefore, the powers of Commissioner to cancel registration are severely restricted. There have been cases where trusts, particularly in the year in which they have substantial income claimed to be exempt under other provisions of the Act, deliberately violate provisions of section 13 by investing in prohibited mode etc. Similarly, there have been cases where the income is not properly applied for charitable purposes or has been diverted for benefit of certain interested persons. Due to restrictive interpretation of the powers of the Commissioner under section 12AA, registration of such trusts or institutions continues to be in force and these institutions continue to enjoy the beneficial regime of exemption.

Whereas under section 10(23C), which also allows similar benefits of exemption to a fund, Institution, University etc, the power of withdrawal of approval is vested with the prescribed authority if such authority is satisfied that such entity has not applied income or made investment in accordance with provisions of section 10(23C) or the activities of such entity are not genuine or are not being carried out in accordance with all or any of the conditions subject to which it was approved.

Therefore, in order to rationalise the provisions relating to cancellation of registration of a trust, it is proposed to amend section 12AA of the Act to provide that where a trust or an institution has been granted registration, and subsequently it is noticed that its activities are being carried out in such a manner that,—

(i) its income does not enure for the benefit of general public;

(ii) it is for benefit of any particular religious community or caste (in case it is established after commencement of the Act);

(iii) any income or property of the trust is applied for benefit of specified persons like author of trust, trustees etc.; or

(iv) its funds are invested in prohibited modes,

then the Principal Commissioner or the Commissioner may cancel the registration if such trust or institution does not prove that there was a reasonable cause for the activities to be carried out in the above manner.

This amendment will take effect from 1st October, 2014**.**

[Clause 9]

Anonymous donations under section 115BBC

The existing provisions of section 115BBC of the Act provide for levy of tax at the rate of 30 per cent. in case of certain assessees, being university, hospital, charitable organisation, etc. on the amount of aggregate anonymous donations exceeding five per cent of the total donations received by the assessee or one lakh rupees, whichever is higher.

Due to the mechanism of aggregation of tax provided in section 115BBC, while tax at the rate of 30 per cent. is levied on the amount of anonymous donations exceeding the threshold, the remaining tax is chargeable on total income after reducing the full amount of anonymous donations. The proper way of computation is to reduce the income by the amount which has been taxed at the rate of 30 per cent.

Therefore, it is proposed to amend section 115BBC to provide that the income-tax payable shall be the aggregate of the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of five per cent of the total donations received by the assessee or one lakh rupees, whichever is higher, and the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations which is in excess of the five per cent of the total donations received by the assessee or one lakh rupees, as the case may be.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 36]

Rationalisation of the Definition of International Transaction

The existing provisions of section 92B of the Act define 'International transaction' as a transaction in the nature of purchase, sale, lease, provision of services, etc. between two or more associated enterprises, either or both of whom are non-residents.

Sub-section (2) of the said section extends the scope of the definition of international transaction by providing that a transaction entered into with an unrelated person shall be deemed to be a transaction with an associated enterprise, if there exists a prior agreement in relation to the transaction between such other person and the associated enterprise, or the terms of the relevant transaction are determined in substance between the other person and the associated enterprise. The sub-section as presently worded has led to a doubt whether or not, for the transaction to be treated as an international transaction, the unrelated person should also be a non-resident.

Therefore, it is proposed to amend section 92B of the Act to provide that where, in respect of a transaction entered into by an enterprise with a person other than an associated enterprise, there exists a prior agreement in relation to the relevant transaction between the other person and the associated enterprise or, where the terms of the relevant transaction are determined in substance between such other person and the associated enterprise, and either the enterprise or the associated enterprise or both of them are non-resident, then such transaction shall be deemed to be an international transaction entered into between two associated enterprises, whether or not such other person is a non-resident.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 31]

Levy of Penalty under section 271G by Transfer Pricing Officers

The existing provisions of section 271G of the Act provide that if any person who has entered into an international transaction or specified domestic transaction fails to furnish any such document or information as required by sub-section (3) of section 92D, then such person shall be liable to a penalty which may be levied by the Assessing Officer or the Commissioner (Appeals).

Section 92CA provides that an Assessing Officer may make reference to a Transfer Pricing Officer (TPO) for determination of arm's length price (ALP). TPO has been defined in the said section to mean a Joint Commissioner or Deputy Commissioner or Assistant Commissioner who is authorised by the Board to perform all or any of the functions of an Assessing Officer specified in sections 92C and 92D. The determination of arm's length price in several cases is done by the TPO.

It is, therefore, proposed to amend section 271G of the Act to include TPO, as referred to in Section 92CA, as an authority competent to levy the penalty under section 271G in addition to the Assessing Officer and the Commissioner (Appeals).

This amendment will take effect from 1st October, 2014**.**

[Clause 67]

Applicability to earlier years of the registration granted to a trust or institution

The existing provisions of section 12 A of the Act provide that a trust or an institution can claim exemption under sections 11 and 12 only after registration under section 12AA has been granted. In case of trusts or institutions which apply for registration after 1st June, 2007, the registration shall be effective only prospectively.

Non-application of registration for the period prior to the year of registration causes genuine hardship to charitable organisations. Due to absence of registration, tax liability gets attached even though they may otherwise be eligible for exemption and fulfil other substantive conditions. The power of condonation of delay in seeking registration is not available under the section.

In order to provide relief to such trusts and remove hardship in genuine cases, it is proposed to amend section 12 A of the Act to provide that in case where a trust or institution has been granted registration under section 12AA of the Act, the benefit of sections 11 and 12 shall be available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted.

Further, it is proposed that no action for reopening of an assessment under section 147 shall be taken by the Assessing Officer in the case of such trust or institution for any assessment year preceding the first assessment year for which the registration applies, merely for the reason that such trust or institution has not obtained the registration under section 12AA for the said assessment year.

However, the above benefits would not be available in case of any trust or institution which at any time had applied for registration and the same was refused under section 12AA or a registration once granted was cancelled.

These amendments will take effect from 1st October, 2014**.**

[Clause 8]

Corporate Social Responsibility (CSR)

Under the Companies Act, 2013 certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs.1000 crore or more, or a net profit of Rs.5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR). Under the existing provisions of the Act expenditure incurred wholly and exclusively for the purposes of the business is only allowed as a deduction for computing taxable business income.

CSR expenditure, being an application of income, is not incurred wholly and exclusively for the purposes of carrying on business. As the application of income is not allowed as deduction for the purposes of computing taxable income of a company, amount spent on CSR cannot be allowed as deduction for computing the taxable income of the company. Moreover, the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure.

The existing provisions of section 37(1) of the Act provide that deduction for any expenditure, which is not mentioned specifically in section 30 to section 36 of the Act, shall be allowed if the same is incurred wholly and exclusively for the purposes of carrying on business or profession. As the CSR expenditure (being an application of income) is not incurred for the purposes of carrying on business, such expenditures cannot be allowed under the existing provisions of section 37 of the Income-tax Act. Therefore, in order to provide certainty on this issue, it is proposed to clarify that for the purposes of section 37(1) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under section 37. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Act shall be allowed deduction under those sections subject to fulfillment of conditions, if any, specified therein.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

[Clause 13]

Disallowance of expenditure for non- deduction of tax at source

The existing provisions of section 40(a)(i) of the Act provide that certain payments such as interest, royalty and fee for technical services made to a non-resident shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time prescribed under section 200(1) of the Act. The Act contains similar provisions for disallowance of business expenditure in respect of certain payments made to the residents. Under section 40(a)(ia) of the Act, in case of payments made to resident, the deductor is allowed to claim deduction for payments as expenditure in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the due date specified for filing of return of income under section 139(1) of the Act. However, in case of disallowance for non-payment of tax from payments made to non-residents, this extended time limit of payment up to the date of filing of return of income under section 139(1) is not available.

In order to provide similar extended time limit for payment of tax deducted from payments made to non-residents, it is proposed that the deductor shall be allowed to claim deduction for payments made to non-residents in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the due date specified for filing of return under section 139(1) of the Act.

As mentioned above, in case of non-deduction or non-payment of tax deducted at source (TDS) from certain payments made to residents, the entire amount of expenditure on which tax was deductible is disallowed under section 40(a)(ia) for the purposes of computing income under the head “Profits and gains of business or profession". The disallowance of whole of the amount of expenditure results into undue hardship.

In order to reduce the hardship, it is proposed that in case of non-deduction or non-payment of TDS on payments made to residents as specified in section 40(a)(ia) of the Act, the disallowance shall be restricted to 30% of the amount of expenditure claimed.

Further, existing provisions of section 40(a)(ia) of the Act provides that certain payments such as interest, commission, brokerage, rent, royalty fee for technical services and contract payment made to a resident shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time specified under the said section. Chapter XVII-B of the Act mandates deduction of tax from certain other payments such as salary, directors fee, which are currently not specified under section 40(a)(ia) of the Act. The payments on which tax is deductible under Chapter XVII-B but not specified under section 40(a)(ia) of the Act may also be claimed as expenditure for the purposes of computation of income under the head “Profits and gains from business or profession”.

Section 40(a)(ia) has proved to be an effective tool for ensuring compliance of TDS provisions by the payers. Therefore, in order to improve the TDS compliance in respect of payments to residents which are currently not specified in section 40(a)(ia), it is proposed that the disallowance under section 40(a)(ia) of the Act shall extend to all expenditure on which tax is deductible under Chapter XVII-B of the Act.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

[Clause 14]

Tax Deduction at Source

Under Chapter XVII-B of the Act, a person is required to deduct tax on certain specified payments at the specified rates if the payment exceeds specified threshold. The person deducting tax (‘the deductor’) is required to file a quarterly statement of tax deduction at source (TDS) containing the prescribed details of deduction of tax made during the quarter by the prescribed due date.

Currently, a deductor is allowed to file correction statement for rectification/updation of the information furnished in the original TDS statement as per the Centralised Processing of Statements of Tax Deducted at Source Scheme, 2013 notified vide Notification No.03/2013 dated 15th January, 2013. However, there does not exist any express provision in the Act for enabling a deductor to file correction statement.

In order to bring clarity in the matter relating to filing of correction statement, it is proposed to amend section 200 of the Act to allow the deductor to file correction statements. Consequently, it is also proposed to amend provisions of section 200A of the Act for enabling processing of correction statement filed.

The existing provisions of section 201(1) of the Act provide for passing of an order deeming a payer as assessee in default if he does not deduct or does not pay or after deduction fails to pay the whole or part of the tax as per the provisions of Chapter XVII-B of the Act. Section 201(3) of the Act provides for time limit for passing of order under section 201(1) of the Act for deeming a payer as assessee in default for failure to deduct tax from payments made to a resident. Clause (i) of section 201(3) of the Act provides that no order under section 201(1) of the Act shall be passed after expiry of two years from the end of the financial year in which the TDS statement has been filed. Currently, the processing of TDS statement is done in the computerised environment and mainly focuses on the transactions reported in the TDS statement filed by the deductor. Therefore, there is no rationale for not treating the deductor as assessee in default in respect of the TDS default after two years only on the basis that the deductor has filed TDS statement as TDS defaults are generally in respect of the transaction not reported in the TDS statement. It is, therefore, proposed to omit clause (i) of sub-section (3) of section 201of the Act which provides time limit of two years for passing order under section 201(1) of the Act for cases in which TDS statement have been filed.

Currently, clause (ii) of section 201(3) of the Act provides a time limit of six years from the end of the financial year in which payment/credit is made for passing of order under section 201(1) of the Act for cases in which TDS statement has not been filed. However, notice under section 148 of the Act may be issued for reassessment up to 6 years from the end of the assessment year for which the income has escaped assessment. Therefore, section 148 of the Act allows reopening of cases of one more preceding previous year than specified under section 201(3)(ii) of the Act. Due to this, order under section 201(1) of the Act cannot be passed in respect of defaults relating to TDS which comes to the notice during search/reassessment proceeding in respect of previous year which is not covered under section 201(3)(ii) of the Act but covered under section 148 of the Act. In order to align the time limit provided under section 201(3)(ii) and section 148 of the Act, it is proposed that time limit provided under section 201(3)(ii) of the Act for passing order under section 201(1) of the Act shall be extended by one more year.

The existing provisions of section 271H of the Act provides for levy of penalty for failure to furnish TDS/TCS statements in certain cases or furnishing of incorrect information in TDS/TCS statements. The existing provisions of section 271H of the Act do not specify the authority which would be competent to levy the penalty under the said section. Therefore, provisions of section 271H are proposed to be amended to provide that the penalty under section 271H of the Act shall be levied by the Assessing officer.

These amendments will take effect from 1st October, 2014.

[Clauses 58, 59, 60 & 68]

Business of Plying, Hiring or Leasing Goods Carriages

The existing provisions of section 44AE of the Act provides for presumptive taxation in the case of an assessee who is engaged in the business of plying, hiring or leasing goods carriages and not owning more than ten goods carriages at any time during the previous year. Income from the said business is calculated as under:

Type of Goods carriage	Amount of presumptive income
Heavy goods vehicle (HGV)	Rs.5,000 for every month (or part of a month) during which the goods carriage is owned by the taxpayer.
Vehicle other than HGV	Rs. 4,500 for every month (or part of a month) during which the goods carriage is owned by the taxpayer.

The amount of presumptive income was revised by the Finance (No.2) Act, 2009. Further, the existing provisions make a distinction between HGV and vehicle other than HGV for specifying the amount of presumptive income.

Considering the erosion in the real values of the amount of specified presumptive income due to inflation over the years and also in order to simplify this presumptive taxation scheme, it is proposed to provide for a uniform amount of presumptive income of Rs.7,500 for every month (or part of a month) for all types of goods carriage without any distinction between HGV and vehicle other than HGV.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent years.

[Clause 16]

Income Computation and Disclosure Standards

Section 145 of the Act provides that the method of accounting for computation of income under the heads “Profits and gains of business or profession” and “Income from other sources” can either be the cash or mercantile system of accounting. The Finance Act, 1995 empowered the Central Government to notify Accounting Standards (AS) for any class of assessees or for any class of income. Since the introduction of these provisions, only two Accounting Standards relating to disclosure of accounting policies and disclosure of prior period and extraordinary items and changes in accounting policies have been notified.

The Central Board of Direct Taxes (CBDT) had constituted an Accounting Standard Committee in 2010. The Committee has submitted its Final Report in August, 2012. The Committee recommended that the AS notified under the Act should be made applicable only to the computation of taxable income and a taxpayer should not be required to maintain books of account on the basis of AS notified under the Act. The Final Report of the Committee was placed in public domain for inviting comments from stakeholders and general public. After examining the comments/suggestions, the Committee *inter alia* recommended that the

provisions of section 145 of the Act may be suitably amended to clarify that the notified AS are not meant for maintenance of books of account but are to be followed for computation of income.

In order to clarify that the standards notified under section 145(2) of the Act are to be followed for computation of income and disclosure of information by any class of assessees or for any class of income, it is proposed to provide that the Central Government may notify in the Official Gazette from time to time income computation and disclosure standards to be followed by any class of or in respect of any class of income. It is further proposed to provide that the Assessing Officer may make an assessment in the manner provided in section 144 of the Act, if the income has not been computed in accordance with the standards notified under section 145(2) of the Act.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 50]

Extension of income-tax exemption to Special Undertaking of Unit Trust of India (SUUTI)

The Special Undertaking of the Unit Trust of India (SUUTI) was created vide the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. SUUTI is the successor of UTI. The mandate of SUUTI is to liquidate Government liabilities on account of the erstwhile UTI.

Vide section 13(1) of the said Repeal Act, SUUTI is exempt from income-tax or any other tax or any income, profits or gains derived, or any amount received in relation to the specified undertaking for a period of five years, computed from the appointed day, i.e. 1st day of February, 2003. This exemption was to come to an end on 31st January, 2008 and the exemption was extended up to the 31st March, 2009 and thereafter, up to the 31st March, 2014.

Since some of the tasks of SUUTI are still pending closure, it is proposed to amend section 13(1) so as to extend the exemption for a further period of five years that is upto 31st March, 2019.

This amendment will take effect retrospectively from 1st April, 2014. *[Clause 108]*

Transfer of Government Security by one non-resident to another non-resident

The existing provision contained in section 47 of the Act provides that certain transactions shall not be considered as transfer for the purpose of charging of capital gains.

With a view to facilitate listing and trading of Government securities outside India, it is proposed to insert clause (viib) in the said section so as to provide that any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident shall not be considered as transfer for the purpose of charging capital gains.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clause 18]

Speculative transaction in respect of commodity derivatives

The existing provisions contained in clause (5) of section 43 define the term speculative transaction. The proviso to the said clause (5) excludes certain category of transactions as speculative transactions. Finance Act, 2013 made a provision for levy of commodities transaction tax on commodity derivatives in respect of commodities other than agricultural commodities. As a consequence to the levy of commodities transaction tax, clause (e) was inserted in the proviso to clause (5) of section 43 of the Act to provide that eligible transaction in respect of trading in commodity derivatives carried out in a recognised association shall not be considered as speculative transaction. Vide Circular No. 3 dated 24-01-2014 explaining the provisions of the Finance Act, 2013, it was clarified that the eligible transaction shall include only those transactions in commodity derivatives which are liable to commodities transaction tax.

Accordingly, it is proposed to amend clause (e) of the proviso to the said clause (5) so as to provide that eligible transaction in respect of trading in commodity derivatives carried out in a recognised association and chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 shall not be considered to be a speculative transaction.

This amendment will take effect retrospectively from 1st April, 2014 and will accordingly apply, in relation to the assessment year 2014-15 and subsequent assessment years.

[Clause 15]

Capital gains arising from transfer of an asset by way of compulsory acquisition

The existing provisions contained in section 45 provide for charging of any profits or gains arising from transfer of a capital asset. Sub-section (5) of the said section provides for dealing with capital gains arising from transfer by way of compulsory acquisition where the compensation is enhanced or further enhanced by the court, Tribunal or any other authority. Clause (b) of the said sub-section provides that where the amount of compensation is enhanced or further enhanced by the court it shall be deemed to be the income chargeable of the previous year in which such amount is received by the assessee.

There is uncertainty about the year in which the amount of compensation received in pursuance of an interim order of the court is to be charged to tax, due to court orders.

Accordingly, it is proposed to provide that the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be deemed to be income chargeable under the head ‘Capital gains’ in the previous year in which the final order of such court, Tribunal or other authority is made.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 17]

Cost Inflation Index

The existing provisions contained in section 48 prescribe the mode of computation of income chargeable under the head "Capital gains". Clause (v) of the *Explanation* to the said section defines the term "Cost Inflation Index" (CII) which in relation to a previous year means such index as may be notified by the Government having regard to seventy-five percent of average rise in the Consumer Price Index (CPI) for urban non-manual employees (UNME) for the immediately preceding previous year to such previous year.

The release of CPI for UNME has been discontinued. Accordingly, it is proposed to amend the said clause (v) of the Explanation to section 48 to provide that "Cost Inflation Index" in relation to a previous year means such index as may be notified by the Central Government having regard to seventy-five percent of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years.

[Clause 19]

Capital gains exemption in case of investment in a residential house property

The existing provisions contained in sub-section (1) of section 54, *inter alia*, provide that where capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, and the assessee within a period of one year before or two years after the date of transfer, purchases, or within a period of three years after the date of transfer constructs, a residential house then the amount of capital gains to the extent invested in the new residential house is not chargeable to tax under section 45 of the Act.

The existing provisions contained in sub-section (1) of section 54F, inter alia, provide that where capital gains arises from transfer of a long-term capital asset, not being a residential house, and the assessee within a period of one year before or two years after the date of transfer, purchases, or within a period of three years after the date of transfer constructs, a residential house then the portion of capital gains in the ratio of cost of new asset to the net consideration received on transfer is not chargeable to tax.

The benefit was intended for investment in one residential house within India. Accordingly, it is proposed to amend the aforesaid sub-section (1) of section 54 so as to provide that the rollover relief under the said section is available if the investment is made in one residential house situated in India.

It is further proposed to amend the aforesaid sub-section (1) of section 54F so as to provide that the exemption is available if the investment is made in one residential house situated in India.

These amendments will take effect from 1st April, 2015 and will accordingly apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clauses 22 & 24]

Capital gains exemption on investment in Specified Bonds

The existing provisions contained in sub-section (1) of section 54EC of the Act provide that where capital gain arises from the transfer of a long-term capital asset and the assessee has, within a period of six months, invested the whole or part of capital gains in the long-term specified asset, the proportionate capital gains so invested in the long-term specified asset, out of the whole of the capital gain, shall not be charged to tax. The proviso to the said sub-section provides that the investment made in the long-term specified asset during any financial year shall not exceed fifty lakh rupees.

However, the wordings of the proviso have created an ambiguity. As a result the capital gains arising during the year after the month of September were invested in the specified asset in such a manner so as to split the investment in two years i.e., one within the year and second in the next year but before the expiry of six months. This resulted in the claim for relief of one crore rupees as against the intended limit for relief of fifty lakh rupees.

Accordingly, it is proposed to insert a proviso in sub-section (1) so as to provide that the investment made by an assessee in the long-term specified asset, out of capital gains arising from transfer of one or more original asset, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clause 23]

Losses in Speculation Business

The existing provisions of section 73 of the Act provide that losses incurred in respect of a speculation business cannot be set off or carried forward and set off except against the profits of any other speculation business. *Explanation* to section 73 provides that in case of a company deriving its income mainly under the head "Profits and gains of business or profession" (other than a company whose principal business is business of banking or granting of loans and advances), and where any part of its business consists of purchase or sale of shares, such business shall be deemed to be speculation business for the purpose of this section. Sub-section (5) of section 43 defines the term speculative transaction as a transaction in which a contract for

purchase or sale of any commodity, including stocks and shares, is settled otherwise than by way of actual delivery. However, the proviso to the said section exempts, *inter alia*, transaction in respect of trading in derivatives on a recognised stock exchange from its ambit.

It is proposed to amend the aforesaid *Explanation* so as to provide that the provision of the *Explanation* shall also not be applicable to a company the principal business of which is the business of trading in shares.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clause 26]

Income-tax Authorities

Section 116 of the Act specifies income-tax authorities for the purposes of the Act and section 117 states that the Central Government may appoint such persons as it thinks fit to be income-tax authorities. The income-tax authorities enumerated under section 116 of the Act include Central Board of Direct taxes, Directors-General of Income-tax or Chief Commissioners of Income-tax, Directors of Income-tax or Commissioners of Income-tax etc.

In view of the creation of new income-tax authorities, it is proposed to amend the aforesaid section 116 of the Act so as to include the newly created income-tax authorities. It is further proposed to insert clauses (34A), (34B), (34C) and (34D) in section 2 of the Act so as to define the terms "Principal Chief Commissioner of Income-tax", "Principal Commissioner of Income-tax", "Principal Director General of Income-tax" and "Principal Director of Income-tax" to mean a person appointed to be an income-tax authority under section 117 of the Act. It is also proposed to make consequential amendments in clauses (15A), (16) and (21) of section 2 of the Act and in other sections of the Act.

These amendments will take effect retrospectively from 1st June, 2013. *[Clauses 3, 4 & 44]*

Power of survey

The existing provision contained in section 133A of the Act enables the Income-tax authority to enter any premises in which business or profession is carried out for the purposes of survey. An income-tax authority acting under this section may impound and retain in his custody any books of account or documents inspected by him during the course of survey. However, he shall not retain in his custody any such books of account or document for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.

An income-tax authority acting under section 133A has the powers as conferred upon it under sub-section (1) of section 131. With a view to align the time period and the authority for approval beyond the specified time period it is proposed to provide that an income-tax authority under section 133A shall not retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General or Principal Commissioner or Principal Director or Commissioner or Director therefor, as the case may be.

Further, it is also proposed to amend section 133A to provide that an income-tax authority may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions of Chapter XVII-B or Chapter XVII-BB, as the case may be, enter any office, or a place where business or profession is carried on, within the limits of the area assigned to him, or any such place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated where books of account or documents are kept. The income-tax authority may for this purpose enter an office, or a place where business or profession is carried on after sunrise and before sunset. Further, such income-tax authority may require the deductor or the collector or any other person who may at the time and place of survey be attending to such work,—

(i) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and

(ii) to furnish such information as he may require in relation to such matter.

It is also proposed to provide that an income-tax authority may place marks of identification on the books of account or other documents inspected by him and take extracts and copies thereof. He may also record the statement of any person which may be useful for, or relevant to, any proceeding under the Act. However, while acting under sub-section (2A) he shall not impound and retain in his custody any books of account or documents inspected by him or make an inventory of any cash, stock or other valuables.

These amendments will take effect from 1st October, 2014. *[Clause 45]*

Mutual Funds, Securitisation Trusts and Venture Capital Companies or Venture Capital Funds to file return of income

The existing provisions contained in section 139 of the Act provide that every person being a company or a firm or being a person, other than a company or firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeds the maximum amount which is not chargeable to income-tax, shall furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed. Apart from the above, certain other entities, who are not chargeable to income-tax in accordance with the provisions of section 10, are obligated to file their return of income if their total income without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax.

Clause (23D) of section 10 exempts the income of a Mutual Fund, clause (23DA) of section 10 exempts the income of a securitisation trust from the activity of securitisation and clause (23FB) of section 10 exempts the income of a venture capital company (VCC) or venture capital fund (VCF) from investment in a venture capital undertaking. The Mutual Fund or securitisation

trust or VCC or VCF are not obligated to furnish their return of income under section 139 of the Act. Instead they are required to furnish a statement giving details of the nature of the income paid or credited during the previous year and such other relevant details as may be prescribed.

It is proposed to amend sub-section (4C) of section 139 so as to provide that Mutual Fund referred to in clause (23D) of section 10, securitization trust referred to in clause (23DA) of section 10 and Venture Capital Company or Venture Capital Fund referred to in clause (23FB) of section 10 shall, if the total income in respect of which such fund, trust or company is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed forms and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of the Act, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 139.

Further, in the case of the Mutual Funds and securitisation trusts referred to above, the requirement of filing of statements before an income-tax authority is proposed to be dispensed with by omitting sub-section (3A) of section 115R and sub-section (3) of section 115TA.

These amendments will take effect from 1st April, 2015. *[Clauses 41, 42 & 47]*

Inquiry by prescribed income-tax authority

With a view to enable prescribed income-tax authority to verify the information in its possession relating to any person, it is proposed to insert a new section 133C in the Act so as to provide that for the purposes of verification of information in its possession relating to any person, prescribed income-tax authority, may, issue a notice to such person requiring him, on or before a date to be therein specified, to furnish information or documents, verified in the manner specified therein which may be useful for, or relevant to, any enquiry or proceeding under this Act.

This amendment will take effect from 1st October, 2014. *[Clause 46]*

Estimate of value of assets by Valuation Officer

Under the existing provisions contained in section 142A, the Assessing Officer may, for the purpose of making an assessment or reassessment, require the Valuation Officer to make an estimate of the value of any investment, any bullion, jewellery or fair market value of any property. On receipt of the report of the Valuation Officer, the Assessing Officer may after giving the assessee an opportunity of being heard take into account such report for the purposes of assessment or reassessment.

Section 142A does not envisage rejection of books of account as a pre-condition for reference to the Valuation Officer for estimation of the value of any investment or property. Further, section 142A does not provide for any time limit for furnishing of the report by the Valuation Officer.

Accordingly, it is proposed to substitute the said section 142A so as to provide that the Assessing Officer may, for the purposes of assessment or reassessment, require the assistance of a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit the report to him. The Assessing Officer may make a reference whether or not he is satisfied about the correctness or completeness of the accounts of the assessee. The Valuation Officer, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers of section 38A of the Wealth-tax Act, 1957. The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

If the assessee does not co-operate or comply with the directions of the Valuation Officer he may, estimate the value of the asset, property or investment to the best of his judgment. It is also proposed to provide that the Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made. The Assessing Officer on receipt of the report from the Valuation Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

It is also proposed to amend sections 153 and 153B of the Act so as to provide that the time period beginning with the date on which the reference is made to the Valuation Officer and ending with the date on which his report is received by the Assessing Officer shall be excluded from the time limit provided under the aforesaid section for completion of assessment or reassessment.

These amendments will take effect from 1st October, 2014. *[Clauses 49, 51 & 52]*

Interest payable by the assessee under section 220

The existing provision contained in sub-section (1) of section 220 provides that any amount specified as payable in a notice of demand under section 156 shall be paid within thirty days of the service of notice at the place and to the person mentioned in the notice. Sub-section (2) states that if the amount specified in the notice is not paid within the period, the assessee shall be liable to pay simple interest at one per cent for every month or part of a month comprised in the period commencing from the day immediately following the end of the period mentioned in sub-section (1) and ending with the day on which the amount is paid. The proviso to sub-section (2) states that where as a result of an order under sections 154, 155, 250, 254, 260, 262, 264 or sub-section (4) of section 245D, the amount on which interest payable under this section had been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded.

Liability of the assessee to pay interest is based on the theory of continuity of the proceedings and the doctrine of relation back. Accordingly, it is proposed to insert a new sub-section in section 220 so as to provide that where any notice of demand has been served upon an assessee and any appeal or other proceeding, as the case may be, is filed or initiated in respect of the amount specified in the said notice of demand, then such demand shall be deemed to be valid till the disposal of appeal by the last appellate authority or disposal of proceedings, as the case may be and such notice of demand shall have effect as provided in section 3 of the Taxation Laws (Continuation and Validation of Recovery Proceedings) Act, 1964.

It is further proposed to provide that where as a result of an order under sections specified in the first proviso, the amount on which interest was payable under this section had been reduced and subsequently as a result of an order under said sections or section 263, the amount on which interest was payable under section 220 is increased, the assessee shall be liable to pay interest under sub-section (2) of the said section on the amount payable as a result of such order, from the day immediately following the end of the period mentioned in the first notice of demand referred to in sub section (1) of the said section and ending with the day on which the amount is paid.

These amendments will take effect from the 1st day of October, 2014. *[Clause 62]*

Mode of acceptance or repayment of loans and deposits

The existing provisions contained in section 269SS of the Act, *inter alia*, provide that no person shall take from any other person any loan or deposit otherwise than by an account payee cheque or account payee bank draft, if the amount of such loan or deposit or aggregate of such loans or deposits is twenty thousand rupees or more. Similarly, the existing provisions of section 269T of the Act, *inter alia*, provide that no loan or deposit shall be repaid otherwise than by an account payee cheque or account payee bank draft, if the amount of such loan or deposit together with interest or the aggregate amount of such loans or deposits together with interest, if any payable thereon, is twenty thousand rupees or more.

In the present times many banking transactions take place by way of internet banking facilities or by use of payment gateways. Accordingly, it is proposed to amend the provisions of the said sections 269SS and 269T so as to provide that any acceptance or repayment of any loan or deposit by use of electronic clearing system through a bank account shall not be prohibited under the said sections if the other conditions regarding the quantum etc. are satisfied.

These amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clauses 63 & 64]

Failure to produce accounts and documents

The existing provisions of section 276D of the Act provide that if a person willfully fails to produce accounts and documents as required in any notice issued under sub-section (1) of section 142 or willfully fails to comply with a direction issued to him under sub-section (2A) of section 142, he shall be punishable with rigorous imprisonment for a term which may extend to one year or with fine equal to a sum calculated at a rate which shall not be less than four rupees or more than ten rupees for every day during which the default continues, or with both.

It is proposed to amend the provisions of the said section so as to provide that if a person willfully fails to produce accounts and documents as required in any notice issued under sub-section (1) of section 142 or willfully fails to comply with a direction issued to him under sub-section (2A) of section 142, he shall be punishable with rigorous imprisonment for a term which may extend to one year and with fine.

This amendment will take effect from 1st October, 2014. *[Clause 69]*

Provisional attachment under section 281B

The existing provisions of sub-section (1) section 281B of the Act provide that the Assessing Officer, during the pendency of any proceeding for assessment or reassessment, in order to protect the interest of revenue may, with the previous approval of the Chief Commissioner of Commissioner, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule. Sub-section (2) of the said section provides that the provisional attachment shall cease to have effect after the expiry of six months provided that the Chief Commissioner or Commissioner may extend the period upto a total period of two years.

It is proposed to amend the proviso to sub-section (2) so as to provide that the Chief Commissioner, Commissioner, Director General or Director may extend the period of provisional attachment so that the total period of extension does not exceed two years or upto sixty days after the date of assessment or reassessment, whichever is later.

This amendment will take effect from 1st October, 2014. *[Clause 70]*

Obligation to furnish statement of Information

The existing provisions of section 285BA of the Act provide for filing of an annual information return by specified persons in respect of specified financial transactions which are registered or recorded by them and which are relevant and required for the purposes of the Act to the prescribed income-tax authority.

With a view to facilitate effective exchange of information in respect of residents and non-residents, it is proposed to amend the said section so as to also provide for furnishing of statement by a prescribed reporting financial institution in respect of a specified financial transaction or reportable account to the prescribed income-tax authority. It is further proposed that the statement of information shall be furnished within such time, in the form and manner as may be prescribed.

It is further proposed to provide that where any person, who has furnished a statement of information under sub-section (1), or in pursuance of a notice issued under sub-section (5), comes to know or discovers any inaccuracy in the information provided in the statement, then, he shall, within a period of ten days, inform the income-tax authority or other authority or agency referred to in sub-section (1) the inaccuracy in such statement and furnish the correct information in the manner as may be prescribed.

It is also proposed that the Central Government may, by rules, specify,- (a) the persons referred to in sub-section (1) of section 285BA to be registered with the prescribed income-tax authority; (b) the nature of information and the manner in which such information shall be maintained by the persons referred to in (a) above; and (c) the due diligence to be carried out by the persons referred in (a) for the purpose of identification of any reportable account referred to in sub-section (1) of section 285BA.

Further, the existing provisions of section 271FA of the Act provide for penalty for failure to furnish an annual information return. It is proposed to amend the said section so as to provide for penalty for failure to furnish statement of information or reportable account.

It is also proposed to insert a new section 271FAA so as to provide that if a person referred to in clause (k) of sub-section (1) of section 285BA, who is required to furnish a statement of financial transaction or reportable account, provides inaccurate information in the statement and where, (a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of the person; or (b) the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or (c) the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA, then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.

These amendments will take effect from 1st April, 2015. *[Clauses 65, 66 & 71]*

Assessment of income of a person other than the person who has been searched

Section 153C of the Act relates to assessment of income of any other person. The existing provisions contained in sub-section (1) of the said section 153C provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

It is proposed to amend section 153C of the Act to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to any person, other than the person referred to in section 153A, then books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A if he is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A .

The amendment will take effect from 1st October, 2014. *[Clause 53]*

Extension of tax benefits under section 80CCD to private sector employees

Under the existing provisions contained in sub-section (1) of section 80CCD of the Act, if an individual, employed by the Central Government or any other employer on or after 1st January, 2004, has paid or deposited any amount in a previous year in his account under a notified pension scheme, a deduction of such amount not exceeding ten per cent. of his salary is allowed. Similarly, the contribution made by the Central Government or any other employer to the said account of the individual under the pension scheme is also allowed as deduction under sub-section (2) of section 80CCD, to the extent it does not exceed ten per cent. of the salary of the individual in the previous year.

Considering the fact that for employees in the private sector, the date of joining the service is not relevant for joining the New Pension Scheme (NPS), it is proposed to amend the provisions of section 80CCD to provide that the condition of the date of joining the service on or after 1.1.2004 is not applicable to them for the purposes of deduction under the said section.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

[Clause 28]

Credit of Alternate Minimum Tax

The existing provisions of sub-section (1) of section 115JEE of the Act provide that the provisions of Chapter-XII BA shall be applicable to any person who has claimed a deduction under part C of Chapter VI-A or claimed a deduction u/s 10AA. Further the present provisions of sub-section (2) of section 115JEE provide that the Chapter shall not be applicable to an individual or an HUF or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person if the adjusted total income does not exceed twenty lakh rupees. This has created difficulty in claim of credit of alternate minimum tax under section 115JD in an assessment year where the income is not more than twenty lakh rupees or there is no claim of any deduction under section 10AA or Chapter VI-A.

With a view to enable an assessee who has paid alternate minimum tax in any earlier previous year to claim credit of the same, in any subsequent year, it is proposed to amend this section so as to provide that the credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD, notwithstanding the conditions mentioned in sub-section(1) or (2) of section 115JEE.

This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

[Clause 39]

CUSTOMS

Note: (a) "Basic Customs Duty" means the customs duty levied under the Customs Act, 1962.

(b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.

(c) "SAD" means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.

(d) "Export duty" means duty of Customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.

(e) Clause nos. in square brackets [ ] indicate the relevant clause of the Finance Bill, 2014.

Amendments carried out through the Finance Bill, 2014 come into effect on the date of its enactment unless otherwise specified.

AMENDMENTS IN THE CUSTOMS ACT, 1962:

1) The Customs Act, 1962 is being amended so as to provide that a reference in that Act to a Chief Commissioner of Customs or a Commissioner of Customs may also include a reference to the Principal Chief Commissioner of Customs or the Principal Commissioner of Customs, as the case may be. It also seeks to provide for consequential amendments in the Act. *[Clause 72]*

2) Section 3 is being amended so as to provide for inclusion of the Principal Chief Commissioner of Customs and Principal Commissioner of Customs in the class of officers of customs. *[Clause 73]*

3) Section 15(1) is being amended to provide for determination of rate of duty and tariff valuation for imports through a vehicle in cases where the Bill of Entry is filed prior to the filing of Import Report (as the Manifest is called in case of imports by land).
[Clause 74]

4) Section 25 is being amended to provide that the customs duties on mineral oils including petroleum & natural gas extracted or produced in the continental shelf of India or the exclusive economic zone of India shall not be recovered for the period prior to 7th February, 2002. *[Clause 75]*

5) Section 46(3) is being amended to allow the filing of a Bill of Entry prior to the filing of Import Report (as the Manifest is called in case of imports by land) for imports through land route. *[Clause 76]*

6) Section 127A is being amended to change the name of the 'Customs and Central Excise Settlement Commission' to the 'Customs, Central Excise and Service Tax Settlement Commission' since the scope of the functioning of the Customs and Central Excise Settlement Commission was expanded in the year 2012 so as to include settlement of Service Tax matters as well. *[Clause 77]*

7) Section 127B(1) is being amended to replace the reference to section 28AB with a reference to section 28AA since section 28AB has been omitted by the Finance Act, 2011 and to provide that an application for settlement of cases can also be filed in cases where a Bill of Export, Baggage Declaration, Label or Declaration accompanying the goods effected through Post or Courier have been filed. *[Clause 78]*

8) Section 127B is also being amended so as to omit sub-section (2) since the same is redundant. *[Clause 78]*

9) Section 127L is being amended so as to insert an Explanation that the concealment of particulars of duty liability relates to any such concealment made from the officer of customs and not from the Settlement Commission. *[Clause 79]*

10) Section 129A(1) is being amended so as to increase the discretionary powers of the Tribunal to refuse admission of appeal from the existing Rs.50,000 to Rs.2 lakh. [*Clause 80]*

11) Section 129A(1B) is being amended to substitute the words "by notification in the official gazette" with the words "by order" so as to enable the Board to constitute a Review Committee by way of an order instead of by way of a notification. *[Clause 80]*

12) Section 129B(2A) is being amended to omit the first, second and third proviso in view of substitution of section 129E with a new section. *[Clause 81]*

13) Section 129D is being amended to insert a proviso in sub-section (3) so as to vest the Board with powers to condone delay for a period of upto 30 days, for review by the Committee of Chief Commissioners of the orders in original passed by the Commissioner of Customs. *[Clause 82]*

14) Section 129E is being substituted with a new section to prescribe a mandatory fixed pre-deposit of 7.5% of the duty demanded or penalty imposed or both for filing appeal with the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty demanded or penalty imposed or both for filing second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of Rs. 10 crores. *[Clause 83]*

15) Section 131BA is being amended so as to enable the Commissioner (Appeal) to take into consideration the fact that a particular order being cited as a precedent decision on the issue has not been appealed against for reasons of low amount. *[Clause 84]*

AMENDMENT IN THE CUSTOMS TARIFF ACT, 1975:

1) Section 8B of the Customs Tariff Act, 1975 is being amended so as to provide for levy of safeguard duty on inputs/raw materials imported by an EOU and cleared into DTA as such or are used in the manufacture of final products & cleared into DTA. *[Clause 86]*

This change will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

AMENDMENT IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975:

1) Tariff item 2402 20 60 is being omitted as a consequential change to amendment in the First Schedule to the Central Excise Tariff Act.

2) The tariff rate of basic customs duty on goods falling under tariff items 8517 62 90 and 8517 69 90 is being increased from Nil to 10%.

3) The unit quantity code against certain entries is being changed. *[Clause 87]*

The changes at 1) and 2) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

RETROSPECTIVE EXEMTPIONS:

1) Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) imported by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited, for supply to Non-Domestic Exempted Category (NDEC) customers is being fully exempted retrospectively w.e.f. 08.02.2013 so as to treat NDEC customers, such as, hospitals, government canteens, BSF/CISF mess, etc., at par with domestic customers for the purposes of supply of LPG. *[Clause 85]*

A. General

1) Baggage Rules are being amended to,-

(i) raise the free baggage allowance from Rs.35,000 to Rs.45,000.

(ii) reduce the duty free allowance of cigarettes from 200 to 100, of cigars from 50 to 25 and of tobacco from 250 gms to 125 gms.

B. Proposals involving changes in rates of duty:

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

1) Description of the product “sun dried dark seedless raisins” in notification No.12/2012-Customs, dated 17.03.2012, which attracts concessional Basic Customs Duty of 30% is being changed to “dark seedless raisins”.

2) Full exemption from customs duty is being granted to de-oiled soya extract, groundnut oil cake/oil cake meal, sunflower oil cake/oil cake meal, canola oil cake/oil cake meal, mustard oil cake/oil cake meal, rice bran/rice bran oil cake and palm kernel cake, up to 31.12.2014.

II. CHEMICALS AND PETROCHEMICALS

1) Basic Customs duty on reformate is being reduced from 10% to 2.5%. Basic Customs duty on propane, ethane, ethylene, propylene, butadiene is being reduced from 5% to 2.5%.

2) Basic Customs Duty on ortho-xylene is being reduced from 5% to 2.5%.

3) Basic Customs Duty on denatured ethyl alcohol and methyl alcohol is being reduced from 7.5% to 5%.

4) Basic Customs Duty on crude naphthalene is being reduced from 10% to 5%.

5) Basic Customs Duty on fatty acids, crude palm stearin, RBD and other palm stearin and specified industrial grade crude oils is being reduced from 7.5% to Nil for manufacture of soaps and oleochemicals subject to actual user condition. Basic Customs Duty is also being reduced on crude glycerine from 12.5% to 7.5% in general and from 12.5% to Nil for manufacture of soaps subject to actual user condition.

III. ENERGY SECTOR

1) The duty structure on non-agglomerated coal of various types is being rationalized at 2.5% BCD and 2% CVD. Accordingly, the BCD on Coking coal is being increased from NIL to 2.5% and on steam coal and bituminous coal from 2% to 2.5%. The BCD on anthracite coal and other coal is being reduced from 5% to 2.5%. The CVD on Anthracite coal, Coking coal and other Coal is being reduced from 6% to 2%.

2) Basic Customs Duty on metallurgical coke is being increased from Nil to 2.5%.

3) Exemption from Basic Customs Duty is being granted on re-gasified LNG for supply to Pakistan.

4) Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) imported by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited, for supply to Non-Domestic Exempted Category (NDEC) customers is being fully exempted retrospectively w.e.f. 08.02.2013.

IV. TEXTILES:

1) The duty free entitlement for import of trimmings & embellishments used by the readymade textile garment sector for manufacture of garments for export is being increased from 3% to 5%.

2) Non-fusible embroidery motifs or prints are being included in the list of items eligible to be imported duty free for manufacture of garments for export.

3) The list of specified goods required by handicraft manufacturer-exporters is being expanded by including wire rolls so as to provide Customs Duty exemption on import by handicraft manufacturer-exporters.

4) Fusible embroidery motifs or prints, anti-theft devices, pin bullets for packing, plastic tag bullets, metal tabs, bows, ring and slider hand rings are being included in the list of items eligible to be imported duty free for manufacture of handloom made ups or cotton made ups or manmade made ups for export.

5) Specified goods imported for use in the manufacture of textile garments for export are fully exempt from BCD and CVD subject to the condition that the manufacturer produces an entitlement certificate from the Apparel Export Promotion Council. In addition, Indian Silk Export Promotion Council (ISEPC) is being authorised to issue entitlement certificate.

6) Basic Customs Duty on raw materials for manufacture of spandex yarn viz. Polytetramethylene ether glycol (PT MEG) and Diphenylmethane 4,4 di-isocyanate (MDI) is being reduced from 5% to Nil.

V. METALS:

1) Basic Customs Duty on stainless steel flat products (CTH 7219 and 7220) is being increased from 5% to 7.5%

2) The BCD on ships imported for breaking up is being reduced from 5% to 2.5%.

3) Export duty on bauxite is being increased from 10% to 20% .

4) Basic Customs Duty on coal tar pitch is being reduced from 10% to 5%.

5) Basic Customs Duty on battery waste and battery scrap is being reduced from 10% to 5%

6) Basic Customs Duty on steel grade limestone and steel grade dolomite is being reduced from 5% to 2.5%.

VI. PRECIOUS METALS:

1) Basic Customs Duty on half-cut or broken diamonds is being increased from NIL to 2.5% and on cut & polished diamonds and colored gemstones from 2% to 2.5%.

2) Full exemption from Basic Customs Duty is being granted to pre-forms of precious and semi-precious stones.

3) The variation level and the parameter of measurement in respect of re-import of cut and polished diamonds after certification/grading from a foreign laboratory/agency are being increased as a trade facilitation measure.

VII. ELECTRONICS/HARDWARE:

1) Basic Customs Duty on LCD and LED TV panels of below 19 inches is being reduced from 10% to NIL.

2) Basic Customs Duty is being exempted on specified parts of LCD and LED panels for TVs.

3) Basic Customs Duty on colour picture tubes for manufacture of cathode ray TVs is being reduced from 10% to NIL.

4) Basic Customs Duty on specified telecommunication products not covered under the ITA (Information Technology Agreement) is being increased from NIL to 10%.

5) Special Additional Duty (SAD) on all inputs/components used in the manufacture of Personal Computers (laptops/ desktops) and tablet computers is being exempted, subject to actual user condition.

6) Education cess and Secondary and Higher Education (SHE) cess is being levied on imported electronic products.

7) Full exemption from Special Additional Duty (SAD) is being provided on specified inputs (PVC sheet & Ribbon) used in the manufacture of smart cards.

8) Basic Customs Duty is being reduced from 7.5% to NIL on E-Book readers.

9) CVD exemption on portable X-ray machine / system is being withdrawn.

VIII. RENEWABLE ENERGY:

1) Basic Customs Duty is being reduced from 10% to 5% on forged steel rings used in the manufacture of bearings of wind operated electricity generators.

2) Full exemption from Special Additional Duty is being provided on parts and components required for the manufacture of wind operated electricity generators.

3) Basic customs duty on machinery, equipments, etc. required for setting up of solar energy production projects is being reduced to 5%.

4) Full exemption from Basic Customs Duty is being provided on specified raw materials used in the manufacture of solar backsheet and EVA sheet.

5) Full exemption from Basic Customs Duty is being provided on flat copper wire used in the manufacture of PV ribbons (tinned copper interconnect) for solar PV cells/modules.

6) Concessional customs duty of 5% is being provided on machinery, equipments, etc. required for setting up of compressed biogas plant (Bio-CNG).

IX. CAPITAL GOODS/INFRASTRUCTURE:

1) It is being clarified that road construction machinery imported duty free can be sold within 5 years of importation subject to payment of customs duty on depreciated value and that individual constituents of the consortium whose names appear in the contract can import goods without payment of duty.

2) State Governments concerned are being notified as sponsoring authority for Metro Rail Projects covered under the Project Import Regulations, 1986.

3) Plants & Equipment imported prior to 2008 for use in projects financed by the UN or an international organization, which hitherto could not be transferred / sold / re-exported out of the project site, are now being allowed to be transferred / sold / re-exported from the project site.

4) The requirement of certification by Ministry of Road Transport (or NHAI) for availing of customs duty exemption on specified goods required for construction of roads is being done away with.

5) Director (Electrical) is being authorized to issue the requisite certificate to enable Delhi Metro Rail Corporation to avail of Nil BCD and Nil CVD benefits in respect of their Phase-1 and Phase-2 projects instead of Director (Rolling Stock, Electrical & Signalling) at present.

X. HEALTH

1) Full exemption from customs duty is being provided for HIV/AIDS drugs and diagnostic kits imported under National AIDS Control Programme (NACP) funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM).

XI. SECURITY AND STRATEGIC PURPOSES:

1) Full exemption from Basic customs Duty is being provided to goods imported by National Technical Research Organisation (NTRO).

2) Full exemption of customs duty is being provided on security fibre, security threads and M-feature imported by Bank Note Paper Mill India Private Limited (BNPMIPL), Mysore. Full exemption from BCD and CVD is also being provided for raw materials required for manufacture of security threads and security fibre subject to actual user condition.

3) The scope of exemption notification No.39/96-Customs dated 23.07.1996 [S.No.7] granting full exemption from BCD and CVD on goods imported for use in the manufacture of aircrafts for the Ministry of Defence is being clarified to the effect that the exemption is available to all materials in any form and articles thereof, subject to the overall condition that they conform to aeronautical specification accompanied with certificate of conformance/release note/airworthiness certificate for development.

XII. AIRCRAFTS & SHIPS:

1) It is being clarified that aircraft engines and parts thereof are eligible for duty exemption when imported for servicing, repair or maintenance of aircrafts used for scheduled operations.

XIII. MISCELLANEOUS:

1) Tariff item 3903 19 90 is being deleted from notification No.10/2008-Customs, [India-Singapore Comprehensive Economic Co-operation Agreement (CECA)]. As a result, Basic Customs Duty on Polystyrene (other than moulding powder) is being increased from 1.15% to 7.5%.

2) Basic Customs Duty is being reduced from 5% to 2.5% on electrolysers and their parts/spares required by caustic soda or caustic potash units and membranes and their parts/spares required by industrial plants based on membrane cell technology. The BCD on other spares (other than membranes and parts thereof) is also being reduced from 7.5% to 2.5%.

3) A provision is being made for refund of Customs duty paid at the time of import of scientific and technical instruments, apparatus, etc. by public funded and other research institutions, subject to submission of a certificate of registration from the Department of Scientific & Industrial Research (DSIR).

4) Section 8B of the Customs Tariff Act, 1975 is being amended so as to provide for levy of safeguard duty on inputs/raw materials imported by an EOU and cleared into DTA as such or are used in the manufacture of final products & cleared into DTA.

EXCISE

AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

1) The Central Excise Act, 1944 or Finance Act, 1994 is being amended so that a reference in that Act to a Chief Commissioner of Central Excise or a Commissioner of Central Excise may also include a reference to the Principal Chief Commissioner of Central Excise or the Principal Commissioner of Central Excise, as the case may be. It also seeks to provide for consequential amendments in the Act. *[Clause 88]*

2) Section 2(b) is being amended so as to provide for inclusion of Principal Chief Commissioner of Central Excise and Principal Commissioner of Central Excise in the definition of the Central Excise Officer. *[Clause 89]*

3) Section 15A is being inserted so as to empower the Central Government to prescribe an authority or agency to whom the information return shall be filed by the specified persons such as Income Tax Authorities, State Electricity Boards, VAT or Sales Tax Authorities, Registrar of Companies. Information can be collected for the purposes of the Act, such as, to identify tax evaders or recover confirmed dues. It is also proposed to insert a new section 15B which provides for imposition of penalty if the information return is not submitted. *[Clause 90]*

4) Section 31(g) and section 32(1) is being amended to change the name of the 'Customs and Central Excise Settlement Commission' to the 'Customs, Central Excise and Service Tax Settlement Commission' as the scope of the functioning of the Customs and Central Excise Settlement Commission was expanded in the year 2012 so as to include settlement of Service Tax matters as well. *[Clause 91, 92]*

5) Section 32E(1) is being amended to replace the reference to section 11AB with a reference to section 11AA since section 11AB has been omitted by the Finance Act, 2011. *[Clause 93]*

6) Section 32E(1) is also being amended to allow filing of applications of settlement before the Settlement Commission in cases where the applicant has not filed the returns after recording reasons for the same. *[Clause 93]*

7) Section 32E is being amended to omit sub-section (2) since the same is redundant. *[Clause 93]*

8) Section 32O(1) is being amended so as to insert an Explanation that the concealment of particulars of duty liability relates to any such concealment made from the officer of central excise and not from the Settlement Commission.*[Clause 94]*

9) Section 35B(1) is being amended so as to increase the discretionary powers of the Tribunal to refuse admission of appeal from the existing Rs.50,000 to Rs.2 lakh. *[Clause 95]*

10) Section 35B(1B) is being amended to substitute the words "by notification in the official gazette" with "by order" so as to enable the Board to constitute a Review Committee by way of an order instead of by way of a notification. *[Clause 95]*

11) Section 35C(2A) is being amended to omit the first, second and third proviso in view of substitution of section 35F with a new section. *[Clause 96]*

12) Section 35E is being amended to insert a proviso in sub-section (3) to vest the Board with powers to condone delay for a period upto 30 days for review by the Committee of Chief Commissioners of the orders in original passed by the Commissioner of Central Excise. *[Clause 97]*

13) Section 35F is being substituted with a new section to prescribe a mandatory fixed pre-deposit of 7.5% of the duty demanded or penalty imposed or both for filing appeal with the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty demanded or penalty imposed or both for filing second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of Rs. 10 crores. *[Clause 98]*

14) Section 35L is being amended so as to clarify that determination of disputes relating to taxability or excisability of goods is covered under the term 'determination of any question having a relation to rate of duty' and hence, appeal against Tribunal orders in such matters would lie before the Supreme Court. *[Clause 99]*

15) Section 35R is being amended so as to enable the Commissioner (Appeal) to take into consideration the fact that a particular order being cited as a precedent decision on the issue has not been appealed against for reasons of low amount. *[Clause 100]*

16) The Third Schedule to the Central Excise Act, 1944 is being aligned with notification No. 49/2008-CE (NT) dated 24.12.2008 which specifies goods liable for assessment based on Retail Sale Price (RSP). *[Clause 104]*

    The change at para 16) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985:

1) Excise duty on cigarettes is being increased by 72% for cigarettes of length not exceeding 65 mm and by 11% to 21% for cigarettes of other lengths. Similar increases are proposed on cigars, cheroots and cigarillos.

2) Basic excise duty is being increased from 12% to 16% on pan masala, from 50% to 55% on unmanufactured tobacco and from 60% to 70% on jarda scented tobacco, gutkha and chewing tobacco.

3) Tariff item 2402 20 60 is being omitted.

4) The entry 2403 19 occurring against the description "Other than paper rolled biris, manufactured without the aid of machine" is being substituted with 2403 19 21.

5) The unit quantity code against certain entries is being changed. [Clause 105]

The changes at 1) to 4) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

RETROSPECTIVE AMENDMENT TO RULES:

1) Rule 8 of the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 is being amended with retrospective effect from 13.04.2010 to provide that where a manufacturer manufactures pouches of different RSPs on a single machine, the duty liability for that month would be the duty applicable to the highest of the RSP so manufactured. This will align the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 with the Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010 with regard to manufacture of pouches of different RSPs on a single machine under the compounded levy scheme.
[Clause 101]

RETROSPECTIVE EXEMPTIONS:

1) Un-branded articles of precious metals are being exempted from excise duty for the period 01.03.2011 to 16.03.2012 so as to remove the unintended levy of excise duty on un-branded articles of precious metals for the said period. *[Clause 102]*

2) Excise duty on Polyester Staple Fiber (PSF) and Polyester Filament Yarn (PFY) manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles (which is already exempt w.e.f. 08.05.2012) is being exempted retrospectively w.e.f. 29.06.2010 to 07.05.2012 and intermediate product 'Tow' arising during the course of manufacture of such PSF/PFY is being exempted retrospectively w.e.f. 29.06.2010 to 10.07.2014 so as to provide relief to the manufacturers of such PSF/PFY and to rectify the unintended levy of central excise duty on tow (an intermediate product) arising during the course of manufacture of such PSF/PFY. *[Clause 102, 103]*

3) Full exemption from Central Excise duty is being provided to Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) for supply to Non-Domestic Exempted Category (NDEC) customers by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited retrospectively from 08.02.2013 so as to treat NDEC customers, such as, hospitals, government canteens, BSF/CISF mess, etc., at par with domestic customers for the purposes of supply of LPG. *[Clause 103]*

Proposals involving changes in rates of duty:

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

1) Excise duty on machinery for the preparation of meat, poultry, fruits, nuts or vegetables, and on presses, crushers and similar machinery used in the manufacture of wine, cider, fruit juices or similar beverages and on packaging machinery is being reduced from 10% to 6%.

II. AUTOMOBILES:

1) Excise duty is being exempted on parts of tractors removed from one or more factories of a tractor manufacturer to another factory of the same manufacturer for manufacture of tractors.

III. METALS:

1) Excise duty on winding wires of copper is being increased from 10% to 12%.

IV. PRECIOUS METALS

1) Un-branded articles of precious metals are being exempted from excise duty for the period 01.03.2011 to 16.03.2012.

V. TEXTILES:

1) Excise duty on Polyester Staple Fiber (PSF) and Polyester Filament Yarn (PFY) manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles (which is already exempt w.e.f. 08.05.2012) is being exempted retrospectively w.e.f. 29.06.2010 to 07.05.2012 and intermediate product 'Tow' arising during the course of manufacture of such PSF/PFY is being exempted retrospectively w.e.f. 29.06.2010 to 10.07.2014.

2) Excise duty at the rate of 2% (without CENVAT) or 6% (with CENVAT) is being imposed on Polyester Staple Fiber and Polyester Filament Yarn manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles w.e.f. 11th July, 2014.

VI. HEALTH:

1) Full exemption from excise duty is being provided to DDT manufactured by Hindustan Insecticides Limited for supply to the National Vector Borne Diseases Control Programme (NVBDCP) of the Ministry of Health & Family Welfare.

2) Full exemption from excise duty is being provided for HIV/AIDS drugs and diagnostic kits supplied under National AIDS Control Programme (NACP) funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM).

3) Excise duty on cigarettes is being increased by 72% for cigarettes of length not exceeding 65 mm and by 11% to 21% for cigarettes of other lengths. Similar increases are proposed on cigars, cheroots and cigarillos.

4) Basic excise duty is being increased from 12% to 16% on pan masala, from 50% to 55% on unmanufactured tobacco and from 60% to 70% on jarda scented tobacco, gutkha and chewing tobacco.

VII. ELECTRONICS/HARDWARE:

1) Excise duty on recorded smart cards is being increased from 2% without CENVAT and 6% with CENVAT to a uniform rate of 12%.

2) Full exemption from Excise Duty is being provided to reverse osmosis (RO) membrane element used in water filtration or purification equipment (other than household type filter). Excise duty on RO membrane element used in household type filters is being reduced from 12%/10% to 6%.

3) Excise duty on Metal Core PCB and LED driver for use in the manufacture of LED lights and fixtures and LED lamps, is being reduced from 12%/10% to 6%.

VIII. RENEWABLE ENERGY

1) Excise duty is being reduced from 12% to Nil on forged steel rings used in the manufacture of bearings of wind operated electricity generators.

2) Full exemption from excise duty is being provided for solar tempered glass used in the manufacture of solar photovoltaic cells/modules, solar power generating equipment/system, and flat plate solar collectors.

3) Full exemption from excise duty is being granted in respect of machinery, equipments, etc. required for setting up of solar energy production projects.

4) Full exemption from excise duty is being provided to backsheet and EVA sheet used in the manufacture of photovoltaic cells/modules and specified raw materials used in their manufacture.

5) Full exemption from excise duty is being provided to parts consumed within the factory of production for the manufacture of non-conventional energy devices [Sl.No.332 of notification No.12/2012-CE, dated 17.03.2012].

6) Full exemption from Excise Duty is being provided on flat copper wire used in the manufacture of PV ribbons (tinned copper interconnect) for use in the manufacture of solar cells/modules.

7) Full exemption from excise duty is being provided on machinery, equipments, etc. required for setting up of compressed biogas plant (Bio-CNG).

IX. CONSUMER GOODS

1) The scope of the phrase “not mixed with any other ingredient” in the context of excise duty exemption on “heena powder or paste, not mixed with any other ingredient” is being clarified so as to provide that the exemption is available to heena powder mixed with a liquid, so far that the liquid is a medium to change the form of heena powder into paste but excludes products like heena dye and such other products which are cosmetics and have no ceremonial or traditional value.

2) Excise duty is being reduced from 12% to 6% on footwear of retail price exceeding Rs.500 per pair but not exceeding Rs.1,000 per pair. Footwear of retail price upto Rs.500 per pair will continue to remain exempted.

3) Excise duty on hand operated sewing machine (2% without CENVAT / 6% with CENVAT) is being rationalized by levying concessional excise duty on sewing machines other than those operated with electric motors (whether in-built or attachable to the body)

4) Semi- mechanized units manufacturing safety matches, which attract concessional excise duty of 6%, are being allowed to carry out the processes of ‘Pasting of labels’ and ‘Packing’ with the aid of power.

5) Concessional excise duty of 2% without CENVAT credit and 6% with CENVAT credit is being extended to gloves specially designed for use in sports.

6) An additional duty of excise is being levied at the rate of 5% ad valorem on aerated waters containing added sugar.

X. ENERGY SECTOR

1) Central Excise duty on Branded Petrol is being reduced from Rs.7.50 per litre to Rs. 2.35 per litre.

2) Full exemption from Central Excise duty is being provided to Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) for supply to Non-Domestic Exempted Category (NDEC) customers by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited retrospectively from 08.02.2013.

3) The rate of Clean Energy Cess levied on coal, lignite and peat is being increased from Rs.50 per tonne to Rs. 100 per tonne.

XI. SECURITY AND STRATEGIC PURPOSES:

1) Full exemption from Excise Duty is being provided to goods supplied to National Technical Research Organisation (NTRO).

2) Full exemption from excise duty is being provided for security threads and security fibre supplied to Security Paper Mill Corporation of India Limited (SPMCIL) and Bank Note Paper Mill India Private Limited (BNPMIPL).

XII. MISCELLANEOUS

1) Optional excise duty of 2% (without CENVAT)/6% (with CENVAT) on writing and printing paper for printing of educational textbooks is being withdrawn and instead a uniform excise duty of 6% with CENVAT is being levied.

2) Intermediate goods manufactured and consumed captively for further manufacture of matches is being fully exempted.

3) The scope of the Excise Duty exemption to “all goods supplied against International Competitive Bidding” is being clarified to the effect that the said exemption is also available to sub-contractors for manufacture and supply of goods to the main contractor (who has won the bid for the project through ICB) for execution of the said project.

4) Full exemption from Excise duty is being provided on plastic materials reprocessed out of the scrap or waste and cleared into the DTA by an EOU.

5) Education cess and secondary & higher education cess (customs component) is being exempted on goods cleared by an EOU into the DTA.

6) A clarification is being issued that the exemption from education cess and secondary & higher education cess under notifications No.28/2010-CE and No.29/2010-CE, both dated 22.06.2010 is applicable only in respect of the clean energy cess leviable on coal and not in respect of excise duty leviable on coal.

7) It is being clarified that all goods falling under headings 8601 to 8606 (except 8604) attract 6% excise duty with CENVAT benefit.

MISCELLANEOUS

1) The Seventh Schedule to the Finance Act, 2001 dealing with National Calamity Contingent Duty is being amended to omit the tariff item 2402 20 60 as a consequential change to amendment in the First Schedule to the Central Excise Tariff Act.

This change will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

[Clause 107]

2) The Seventh Schedule to the Finance Act, 2005 dealing with Additional Excise Duty is being amended so as to:

(a) impose an additional duty of excise at the rate of 5% ad valorem on aerated waters containing added sugar.

(b) omit the tariff item 2402 20 60 as a consequential change to amendment in the First Schedule to the Central Excise Tariff Act.

These changes will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.
[Clause 110]

3) The Tenth Schedule to the Finance Act, 2010 dealing with Clean Energy Cess is being amended so as to expand the scope of purposes of levy of the said cess to include clean environment initiatives and funding research in the area of clean environment. *[Clause 111]*

SERVICE TAX

I. Broadening the tax base:

(i) Review of the Negative List of services:

- Service tax leviable currently on sale of space or time for advertisements in broadcast media, namely radio or television, has been extended to cover such sales on other segments like online and mobile advertising. Sale of space for advertisements in print media, however, would remain excluded from service tax. Print media is being defined in service tax law for the purpose. This change will come into effect from a date to be notified later, after the Finance (No.2) Bill, 2014 receives the assent of the President.

- Service tax to be levied on the services provided by radio taxis or radio cabs, whether or not air-conditioned. The abatement presently available to rent-a-cab service would also be made available to radio taxi service, to bring them on par. Service tax on radio taxi services will come into effect from a date to be notified later, after the Finance (No.2) Bill, 2014 receives the assent of the President.

(ii) Review of general exemptions extended under Notification No. 25/2012-ST in exercise of powers conferred under section
93(1) of the Finance Act,1994:

- Exemption extended to clinical research on human participants is being withdrawn.

- Exemption extended to air-conditioned contract carriages like buses is being withdrawn.

(iii) Rationalization of general exemptions extended under Notification No. 25/2012-ST in exercise of powers conferred under section 93(1):

- Exemption in respect of services provided to Government or local authority or governmental authority, will be limited to services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation.

- At present, all services provided by educational institutions [providing educational services specified in the negative list] to their students, faculty and staff does not attract service tax; this will continue. However, in respect of services received by such educational institutions, presently, exemption is being operated through the concept of 'auxiliary educational services'. Doubts have been raised and clarifications have been sought regarding the scope and meaning of 'auxiliary educational services'. To bring clarity, it is proposed to omit the concept of 'auxiliary educational services' and specify in the notification, the services which will be exempt when received by the educational institutions. Accordingly, in respect of services received by an eligible educational institution: (i) transportation of students, faculty and staff; (ii) catering service including any mid-day meals scheme sponsored by the Government; (iii) security or cleaning or house-keeping services in such educational institutions; and (iv) services relating to admission to such institution or conduct of examination, are being exempted from service tax. In view of this rationalization, exemption extended so far in respect of renting of immovable property service received by educational institutions, stands withdrawn.

- Exemption available to accommodation services provided by hotels, *dharamshalas* or *ashrams* when they provide rooms for less than Rupees One Thousand per day, is being re-worded to bring out the intent clearly.

However, in cases of (ii) and (iii) above, where the general exemptions are withdrawn, if the aggregate value of taxable service provided in a financial year does not exceed Rupees Ten Lakh, exemption will be available in terms of Notification 33/2012-ST. Changes in the exemption notification No. 25/2012-ST to come into effect immediately.

II. Service tax on service portion in Works Contracts - Rationalization:

- In Rule 2A of the Service Tax Valuation Rules, category 'B' and 'C' of works contracts proposed to be merged into one single category, with service portion as 70%; this change will come into effect from 1st October, 2014.

III. Service tax on taxable portion in respect of transportation service by vessels:

- Taxable portion in respect of transport of goods by vessel to be reduced from 50% to 40%. Effective service tax will decrease from the present 6.18% to 4.944%. This will come into force from 1st October 2014.

IV. New exemptions

- Life micro-insurance schemes for the poor, approved by IRDA, where sum assured does not exceed Rupees Fifty Thousand to be exempted from service tax.

- Transport of organic manure by vessel, rail or road (by GTA) is being exempted.

- Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (GTA), of cotton, ginned or baled, is being exempted.

- Services provided by common bio-medical waste treatment facility operators to clinical establishments are being exempted.
- Specialized financial services received by RBI from global financial institutions in the course of management of foreign exchange reserves, e.g., external asset management, custodial services, securities lending services, etc. are being exempted.
- Services provided by Indian tour operators to foreign tourists in relation to a tour wholly conducted outside India are being exempted.
- New exemptions will come into effect immediately,i.e.11.7.2014

V. Retrospective Exemption:

- Service provided by Employees' State Insurance Corporation (ESIC) during the period prior to 1.7.2012 to be exempted from service tax.

VI. Certain other amendments in Chapter V of the Finance Act, 1994:

(i) In section 67A, for determination of rate of exchange, rules to be prescribed.

(ii) Section 73 to be amended to prescribe time limit for completion of adjudications; time limit to be followed, as far as possible.

(iii) Reference to first proviso to sub-section (1) of section 78, in section 80, to be omitted. In case of serious offences, waiver of penalty not to be available, though details may be available in records.

(iv) Section 82(1) to be amended, along the lines of section 12F (1) of the Central Excise Act, so that Joint Commissioner or Additional Commissioner or any other officer notified by the Board can authorize any Central Excise Officer to search and seize.

(v) Section 83 to be amended to include a reference to sections 5A (2A), 15A and 15B of the Central Excise Act : (a) Section 5A(2A) prescribes that insertion of an explanation in notifications/orders within one year shall have the effect as if it had always been part of the notification; (b) Section 15A is being inserted in the Central Excise Act to prescribe that specified third party sources shall furnish periodic information in the manner as may be prescribed; (c) Section 15B is being inserted in the Central Excise Act to prescribe that failure to provide information under section 15A would attract penalty.

(vi) Vide section 83, Section 35F of the Central Excise Act is already applicable to service tax. Section 35F of the Central Excise Act is now being substituted with a new section which prescribes a mandatory fixed pre-deposit of 7.5% of the duty demanded or penalty imposed or both, for filing appeal before the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty demanded or penalty imposed or both, for filing the second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of Rs.10 Crore. All pending appeals/stay applications would be governed by the statutory provisions prevailing at the time of filing such stay applications/appeals. When the amended section 35F in the Central Excise Act comes into force, it would, mutatis mutandis, apply to service tax by virtue of section 83 of the Finance Act, 1994.

(vii) Sub-section (6A) of section 86 proposed to be amended to omit the words "for grant of stay or".

(viii) In section 87, power to recover dues of a predecessor from the assets of a successor purchased from the predecessor, is to be provided, as it is available in section 11 of the Central Excise Act.

(ix) Section 94 to be amended to obtain rule making power (a) to impose upon assessees*, inter alia,* the duty of furnishing information, keeping records and making returns and specify the manner in which they shall be verified; (b) for withdrawal of facilities or imposition of restrictions (including restrictions on utilization of CENVAT credit) on a service provider or exporter, to check evasion of duty or misuse of CENVAT credit; and (c) to issue instructions in supplemental or incidental matters.

Amendment at sl.no.(i) above shall come into effect from a date to be notified after the Finance (No.2) Bill, 2014 receives the assent of the President; others will come into effect from the date of assent.

VII. Compliance enhancement:

- Simple interest rates per annum payable under section 75, to vary on the basis of extent of delay in payment of service tax. This will come into force on 1st October 2014.

Extent of delay	Simple interest rate per annum
Up to six months	18%
From six months and upto one year	24%
More than one year	30%

VIII. Service Tax Rules: [changes to have immediate effect]

- Service provided by a Director to a body corporate to be brought under the reverse charge mechanism; service receiver, who is a body corporate will be the person liable to pay service tax.
- Services provided by Recovery Agents to Banks, Financial Institutions and NBFC to be brought under the reverse charge mechanism; service receiver will be the person liable to pay service tax.

IX. Cenvat Credit:

- Service tax paid under full reverse charge: the condition to pay invoice value to the service provider for availing credit of tax paid, to be omitted [change to have immediate effect].
- Re-credit of Cenvat credit reversed on account of non-receipt of export proceeds within the specified period, to be allowed, if such export proceeds are received within one year from the specified period on the basis of documentary evidence of receipt of payment [change to have immediate effect].
- Rent-a-cab operator and tour operator: service tax paid by sub-contractor in the same line of business would be allowed as eligible credit to the main service provider to avoid double taxation, subject to certain conditions [with effect from 1st October 2014]. Refer amendment in Notification No.26/2012-ST.
- GTA service: service receiver may avail abatement, without having to obtain non-availment of Cenvat Credit certificate from service provider [change to have immediate effect]. Refer amendment in Notification No.26/2012-ST.
- Time limit for taking credit on input and input services: credit shall be taken within six months from the date of the invoice or challans or other documents specified [change to have effect from 1st September, 2014].

X. Place of Provision of Services Rules:

- Provision for prescribing conditions for determination of place of provision of repair service carried out on temporarily imported goods, to be omitted.
- Intermediary of goods to be given the same treatment as is given to intermediary of services.
- Vessels (excluding yachts) and aircraft to be excluded from Rule 9(d); hiring of vessels or aircrafts, irrespective of whether short term or long term, will be covered by the general rule, which is place of location of the service receiver.

[The above changes to have effect from 1st October 2014]

XI. Point of Taxation Rules:

- In case of reverse charge services, to bring certainty in the determination of point of taxation, it is proposed to provide that point of taxation will be the payment date or first day after three months from the date of invoice, whichever is earlier. The amended point of taxation will apply to invoices issued after 1st October 2014. A transition rule is proposed to be prescribed [change to have effect from 1st October, 2014].

XII. Simplification of partial reverse charge mechanism:

- In renting of motor vehicle, portion of service tax payable by service provider and service receiver will be 50% each. This will come into effect from 1st of October 2014.

XIII. SEZ – procedural simplification: [changes to have immediate effect].

- To be provided that the Central Excise Officer would issue Form A-2, within fifteen days from the date of receipt of Form A-1.
- Exemption would be available from the date when list of service on which SEZ is entitled to upfront exemption is endorsed by the authorised officer of SEZ in Form A-1, provided Form A-1 is furnished to the jurisdictional Central Excise Officer within fifteen days of its verification. If furnished later, exemption would be available from the date on which Form A-1 is so furnished.
- Pending issuance of Form A-2, exemption will be available subject to condition that authorization issued by the Central Excise officer will be furnished to service provider within a period of three months from provision of service.
- As regards services covered under reverse charge, the requirement of furnishing service tax registration number of service provider shall be dispensed with.
- A service shall be treated as exclusively used for SEZ operations if the recipient of service is a SEZ unit or developer, invoice is in the name of such unit/developer and the service is used exclusively for furtherance of authorized operations in the SEZ.