Memorandum explaining the provisions in the Finance Bill, 1973

(Clauses referred to are clauses in the Bill)

PROVISIONS RELATING TO DIRECT TAXES

The provisions in the Finance Bill, 1973, in the sphere of direct taxes relate to the following matters :—

(i) Prescribing the rates of income-tax (including surcharges) on incomes liable to tax for the assessment year 1973-74; the rates at which tax will be deductible at source during 1973-74 from interest (including interest on securities), dividends, salaries, insurance commission, winnings from lotteries and crossword puzzles and other categories of income liable to such deduction under the Income-tax Act; and the rates for computation of advance tax and charging of income-tax on current incomes in certain cases for the financial year 1973-74.

(ii) Amendment of the Income-tax Act, 1961, with a view to raising additional revenue; providing greater tax incentive for savings; enlarging the scope of the provisions for deduction of tax at source; providing for tax relief in respect of donations to approved sports associations and institutions; and a few other matters.

(iii) Amendment of the Wealth-tax Act, 1957, with a view to prescribing higher rates of ordinary wealth-tax in the case of Hindu undivided families with one or more members having independent net wealth exceeding Rs. 1 lakh.

(iv) Amendment of the Gift-tax Act, 1958, in order to provide for relief in respect of donations to approved sports associations and institutions.

(v) Amendment of the Companies (Profits) Surtax Act, 1964, with a view to excluding debentures, other than long-term debentures, from the capital base for the purpose of determining the chargeable profits under that Act.

(vi) Exemption from tax of the income of the Credit Guarantee Corporation of India Limited for a 5-year period.

2. The Bill broadly follows the principle (adopted since 1967) that changes in the rates of tax as also other provisions of the tax laws should ordinarily be made operative prospectively in relation to current incomes and not in relation to incomes of past year. The substance of the main provisions in the Bill relating to direct taxes is explained in the following paragraphs.

INCOME TAX

I. *Rates of income-tax in respect of incomes liable to tax for the assessment year 1973-74*

3. In respect of the incomes of all categories of assessees (corporate as well as non-corporate) liable to tax for the assessment year 1973-74, the rates of income-tax under the Bill are the same as laid down in Part III of the First Schedule to the Finance Act, 1972, for purposes of computation of advance tax, deduction of tax at source from "Salaries" and retirement annuities payable to partners of registered firms engaged in specified professions and computation ot the tax payable in certain special cases during the financial year 1972-73. The rates of income-tax (including surcharges on income-tax) for the assessment year 1973-74 in the case of all categories of taxpayers have been specified in Part I of the First Schedule to the Bill.

II. *Rates for deduction of tax at source during the financial year 1973-74 from incomes other than "Salaries" and retirement annuities*

4. The rates for deduction of tax at source during the financial year 1973-74 from incomes, other than "Salaries" and retirement annuities payable to partners of registered firms engaged in specified professions, are set forth in Part II

of the First Schedule to the Bill. In the context of the provision being made in the Income-tax Act for deduction of income-tax at source from insurance commission, the Bill lays down the rates for deduction of income-tax not only from interest on securities, other categories of interest, dividends, winnings from lotteries and crossword puzzles and other categories of non-salary income of non-residents, but also for deduction of tax at source from income by way of insurance commission. Under another amendment sought to be made in the Income-tax Act, co-operative societies are being included in the categories of taxpayers who are required to deduct tax at source from payments made to contractors in respect of works and labour contracts. The rates for deduction of tax at source prescribed in the Bill in respect of the categories of income which are already liable to such tax are the same as specified in Part II of the First Schedule to the Finance Act, 1972, for purposes of deduction of tax at source from such incomes during the financial year 1972-73. The new provisions for deduction of tax at source are explained in the following paragraphs.

5. *Payments in respect of insurance commission.*—Under the new section 194D proposed to be inserted in the Income-tax Act under clause 17 of the Bill, any person responsible for paying to a resident any income by way of insurance commission will be required to deduct income-tax at source at such rates as may be prescribed in the Finance Act of the relevant year. For this purpose, "insurance commission" will mean any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance). The deduction will have to be made at the time of the credit of the income to the account of, or the payment thereof (by whatever mode) to, the payee, whichever is earlier. No deduction will, however, be required to be made from insurance commission where such commission is credited or paid before 1st June, 1973.

6. During the financial year 1973-74, tax will be deducted at source from insurance commission at the rate of 10%. In view of the amendment proposed to be made in section 197 of the Income-tax Act under clause 18 of the Bill, a taxpayer will be entitled to make an application to the Income-tax Officer for issue of a certificate enabling him to receive insurance commission after deduction of income-tax at a lower rate or without deduction of income-tax at source, as may be justified in his case having regard to his total income. Where such certificate is issued, the person responsible for paying insurance commission will be required to deduct tax at the lower rate or make payment without deduction of tax, as may be authorised in the certificate.

7. Consequential amendments have also been made to sections 198, 199, 200, 202, 203, 204 and 205 of the Income-tax Act relating to provisions in respect of tax deducted at source and sections 209 and 215 of that Act relating to advance tax with a view to placing the tax deducted at source from insurance commission on a par with tax deducted from other categories of income in other respects.

8. *Payments by co-operative societies to contractors resident in India.*—Under section 194C inserted in the Income-tax Act by the Finance Act, 1972, income-tax is deductible at source from income comprised in payments made by the Central Government or any State Government, local authorities, statutory corporations and companies to contractors engaged for carrying out any work or for supplying labour for carrying out such work, at the rate of 2% of such payments. Similarly, deduction is made from payments made by contractors, other than individuals and Hindu undivided families, to sub-contractors at the rate of 1% of the payment. No deduction is, however, required to be made if the

consideration for the contract or the sub-contract does not exceed Rs. 5,000. In view of the amendment being made in the said section 194C, co-operative societies will be included in the categories of taxpayers who are required to deduct tax at source from payments made by them to contractors. Accordingly, income-tax will now be deductible from payments made by co-operative societies to contractors in respect of works and labour contracts, at the rate of 2% of the payments and the contractors obtaining contracts from the co-operative societies will, in turn, be required to deduct tax at source from payments made by them to sub-contractors, at the rate of 1% of the payment. In view of a specific provision made in the said section 194C, no deduction of tax will be made from payments made by co-operative societies to contractors, or by contractors obtaining contracts from co-operative societies to sub-contractors, where the payment is made before 1st June, 1973.

As the rates for deduction of tax at source in respect of payments to contractors and sub-contractors have been laid down in the Income-tax Act, no specific provision in this regard has been made in Part II of the First Schedule.

III. *Rates for deduction of tax at source from "Salaries", computation of advance tax and charging of income-tax in special cases during the financial year 1973-74.*

9. *Individuals, Hindu undivided families and all other non-corporate taxpayers.*—The rates for deduction of tax at source from "Salaries" in the case of individuals during the financial year 1973-74 and also for computation of advance tax payable during that year in the case of all categories of taxpayers have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for deduction of tax at source during 1973-74 from retirement annuities payable to partners of registered firms engaged in certain professions (chartered accountants, solicitors, lawyers, etc.) and for charging income-tax during 1973-74 on current incomes in special cases, e.g., provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the assessment year 1973-74, assessment of persons who are likely to transfer property to avoid tax, etc.

10. The rates specified in Part III of the First Schedule to the Bill in the case of all non-corporate taxpayers *other than Hindu undivided families* are the same as those specified in Part I of the First Schedule for the assessment of incomes liable to tax for the assessment year 1973-74. The rates specified in the case of Hindu undivided families, however, vary in certain respects from the rates specified in Part I for the assessment of income liable to tax for the assessment year 1973-74. These variations are explained in paragraphs 11 and 12.

Further, a special provision is being made for taking into account net agricultural income of individuals, Hindu undivided families, unregistered firms, associations of persons, bodies of individuals and artificial juridical persons for determination of the rate to be applied to their total income if such total income exceeds Rs. 5,000. The manner in which the net agricultural income will be taken into account for determining such rates is explained in paragraphs 13 to 23.

11. *Hindu undivided families.*—In view of the position that the institution of Hindu undivided family has been widely used for tax avoidance, it is proposed to restrict the tax benefits which can be acquired through this institution. The rates specified in Part III of the First Schedule to the Bill in the case of Hindu undivided families vary from the rates specified in Part I of the First Schedule for the assessment of incomes liable to tax for the assessment year 1973-74 in the following respects :—

(i) A separate rate schedule has been prescribed in sub-paragraph II of Paragraph A of Part III of the First Schedule in the case of Hindu undivided families having one or more members with independent total income exceeding Rs. 5,000. Under this rate schedule, the rate of tax applicable on various slabs of the taxable income will be the same as the rate of tax applicable to the next higher slab in the case of individuals, unregistered firms, etc., as also Hindu undivided families having no member with independent total income exceeding Rs. 5,000. A uniform rate of surchage equal to 15% will be applicable in the case of Hindu undivided families covered by the aforesaid sub-paragraph.

(ii) The higher exemption limit of Rs. 7,000 applicable in the case of certain Hindu undivided families is being reduced to Rs. 5,000 obtaining in the case of individuals, unregistered firms, etc. The exemption limit of Rs. 5,000 will apply in the case of all Hindu undivided families.

The rates of surchage on income-tax in the case of Hindu undivided families having no member with independent total income exceeding Rs. 5,000 will, however, remain at the existing levels, i.e., the rate of surcharge will be 10% in cases where the total income does not exceed Rs. 15,000 and 15% where it exceeds that amount.

12. The Table below shows comparative incidence of tax (including surcharge) at selected levels of income in the case of Hindu undivided families having one or more members with independent total income exceeding Rs. 5,000 and those which have no such member.

INCIDENCE OF TAX AT SELECTED LEVELS OF INCOME IN THE CASE OF HINDU UNDIVIDED FAMILIES

Income	Tax (including surcharge) at rates prescribed in the Bill in the case of a Hindu undivided family *having one or more members with independent total income exceeding Rs. 5,000*	Tax (including surcharge) at rates prescribed in the Bill in the case of a Hindu undivided family *having no member with independent total income exceeding Rs. 5,000*	Excess liability in the case of a Hindu undivided family having one or more members with independent total income exceeding Rs. 5,000 (col. 2—col. 3)
1	2	3	4
Rs.	Rs.	Rs.	Rs.
5,000	Nil	Nil	Nil
6,000	196	110	86
7,500	489	275	214
10,000	978	550	428
12,500	1,639	1,018	621
15,000	2,300	1,485	815
20,000	4,025	2,875	1,150
25,000	6,325	4,600	1,725
30,000	9,200	6,900	2,300
40,000	16,100	12,650	3,450
50,000	24,150	19,550	4,600
60,000	32,200	26,450	5,750
70,000	40,825	34,500	6,325
80,000	49,450	42,550	6,900
90,000	58,650	51,175	7,475
1,00,000	67,850	59,800	8,050
1,50,000	1,16,725	1,05,800	10,925
2,00,000	1,65,600	1,51,800	13,800
3,00,000	2,63,350	2,49,550	13,800
5,00,000	4,58,850	4,45,050	13,800

13. *Individuals, Hindu undivided families, unregistered firms, associations of persons, bodies of individuals and artificial juridical persons having agricultural income.*—The Committee on Taxation of Agricultural Wealth and Income (Raj Committee) has suggested several measures for mobilising resources from the agricultural sector. One of its principal recommendations is that agricultural income derived by a taxpayer should be taken into account in determining the amount of tax payable by him on his non-agricultural income. The Committee has suggested that agricultural and non-agricultural components of a taxpayer's income should be aggregated and the tax on the non-agricultural portion levied as if the latter were placed in the top slabs of the aggregate income. Integration of agricultural and non-agricultural incomes should take effect only if a taxpayer has taxable non-agricultural income exceeding the minimum exemption limit laid down for the levy of income-tax. In determining the rate of tax on non-agricultural income, the agricultural income and non-agricultural income should be combined in the following manner and order:

(*i*) The initial exemption allowed out of non-agricultural income;

(*ii*) agricultural income; and

(*iii*) balance of non-agricultural income.

The Bill seeks to implement the above recommendation of the Raj Committee.

14. A special provision is being made in the Bill for calculation of tax in the case of individuals, Hindu undivided families, unregistered firms, associations of persons, bodies of individuals and artificial juridical persons where these categories of taxpayers have net agricultural income in addition to income chargeable to tax under the Income-tax Act and the income so chargeable exceeds Rs. 5,000. In such cases, tax will be calculated in the following manner:—

(*i*) The agricultural and non-agricultural components of the taxpayer's income will first be aggregated and income-tax calculated on the aggregate as if such aggregate were the total income;

(*ii*) income-tax will then be calculated on the net agricultural income as increased by an amount of Rs. 5,000 as if such increased net agricultural income were the total income;

(*iii*) the amount by which the income-tax calculated under (i) exceeds the amount calculated under (*ii*) will be the income-tax payable by the taxpayer on his total income.

The effect of this will be that for the purposes of determining the amount of income-tax—

(*a*) the first Rs. 5,000 of the non-agricultural income will be appropriated to the lowest slab chargeable to tax at *nil* rate;

(*b*) the agricultural component of the income will be appropriated to the middle slabs *but no tax will be payable thereon*; and

(*c*) the balance of the non-agricultural income, which alone will be chargeable to tax, will be appropriated to the top slabs and charged to tax accordingly.

15. The Table below shows the comparative incidence of tax at selected levels of total income at the rates proposed in the Bill in the case of an individual where (*i*) the individual has no agricultural income; (*ii*) where he has net agricultural income amounting to Rs. 5,000; (*iii*) where he has net agricultural income amounting to Rs. 10,000; and (*iv*) where he has net agricultural income amounting to Rs. 20,000.

Total income (i.e. income chargeable to tax under the Income-tax Act)	Tax payable in cases where the individual has no agricultural income	Tax payable in cases where the individual has net agricultural income amounting to Rs. 5,000	Tax payable in cases where the individual has net agricultural income amounting to Rs. 10,000	Tax payable in cases where the individual has net agricultural income amounting to Rs. 20,000
1	2	3	4	5
Rs.	Rs.	Rs.	Rs.	Rs.
5,000	Nil	Nil	Nil	Nil
6,000	110	187	332	460
7,500	275	468	729	1,150
10,000	550	935	1,390	2,300
12,500	1,018	1,664	2,253	3,738
15,000	1,485	2,325	3,115	5,175
20,000	2,875	4,050	5,416	8,050
25,000	4,600	6,350	8,290	11,500
30,000	6,900	9,225	11,165	14,950
40,000	12,650	15,550	18,065	21,850
50,000	19,550	22,450	24,965	29,900
60,000	26,450	29,925	33,015	37,950
70,000	34,500	37,975	41,065	46,575
80,000	42,550	46,313	49,690	55,200
90,000	51,175	54,938	58,315	64,400
1,00,000	59,800	63,850	67,515	73,600
1,50,000	1,05,800	1,09,850	1,13,515	1,19,600
2,00,000	1,51,800	1,56,138	1,60,090	1,66,750
2,50,000	2,00,675	2,05,013	2,08,965	2,15,625
3,00,000	2,49,550	2,53,888	2,57,840	2,64,500
5,00,000	4,45,050	4,49,387	4,53,340	4,60,000
10,00,000	9,33,800	9,38,138	9,42,090	9,48,750

16. *Computation of net agricultural income.*—For purposes of calculating the tax in the case of individuals, Hindu undivided families, unregistered firms, associations of persons, bodies of individuals and artificial juridical persons who have net agricultural income in addition to the total income, the net agricultural income will be computed in accordance with the rules specified in Part IV of the First Schedule to the Bill. " Agricultural income " can broadly be classified as under :

(a) Rent or revenue derived from land which is situated in India and is used for agricultural purposes.

(b) Income derived from such land by (i) agriculture, or (ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or (iii) the sale by such person of the produce raised or received by him in respect of which no process has been performed other than the process of the nature referred to in (ii) above.

(c) Income derived from any building owned and occupied by the receiver of rent or revenue of such land, or occupied by the cultivator or the receiver of rent-in-kind, provided the building is used as a dwelling-house or as a store-house or other out-building.

Part IV of the First Schedule contains rules for computation of agricultural income from the above sources ; computation of the share of agricultural income of a partner of a firm or a member of an association of persons or a body of individuals ; special provisions in respect of income from composite business of growing and manufacturing tea and certain other ancillary matters. The provisions of these rules are explained in the following paragraphs.

17. Rent or revenue derived from agricultural land will be computed on the same basis as is adopted for computation of income chargeable under the head "Income from other sources". The broad effect of this provision will be that any expenditure (not being in the nature of capital expenditure or personal expenses of the taxpayer) laid out or incurred wholly and exclusively for the purpose of earning the rent or revenue will be allowed as deduction in computing the rent or revenue from agricultural land.

18. Income derived from agricultural operations, including the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, will broadly be taxed as if it were income chargeable to tax under the Income-tax Act under the head "Profits and gains of business or profession". Agricultural house property which is used as a store-house or other out-building will be treated in the same manner as house property used for the purposes of business. The broad effect of these provisions will be that expenditure (not being expenditure in the nature of capital expenditure or personal expenses of the taxpayer) laid out or incurred wholly and exclusively for purposes of carrying on agricultural operations will be allowed as deduction in computing the agricultural income. Depreciation will be admissible in respect of buildings, plant and machinery and furniture used for purposes of agricultural operations. Land revenue will also be allowed as deduction but agricultural income-tax paid, if any, will not qualify for deduction. A deduction will also be allowed in respect of animals which have been used for agricultural operations and have died or become permanently useless for such purposes. Provisions relating to special tax incentives, e.g., development rebate, expenditure on scientific research, will, however, not be applicable.

19. Income derived from agricultural house property which is used as a dwelling house by the receiver of rent or revenue or by the cultivator or the receiver of rent-in-kind will be computed as if such income were chargeable to tax under the Income-tax Act under the head "Income from house property". It is being specifically provided that where the agricultural house property is occupied by the owner, the annual letting value of such property will be computed after allowing a deduction equal to one-half of the annual value or Rs. 1,800, whichever is less, subject to an overall ceiling of 10% of his other agricultural income.

20. Where a taxpayer derives income from the business of sale of tea grown or manufactured by him in India, 60% of the income from such business as computed in accordance with rule 8 of the Income-tax Rules, 1962, will be regarded as the agricultural income of the taxpayer.

21. Under the provisions of the Bill, agricultural income derived by unregistered firms, associations of persons and bodies of individuals having total income exceeding Rs. 5,000 will be taken into account in determining the tax payable by them on their total income. Registered firms or unregistered firms which are assessed as registered firms under the special provisions contained in section 183(b) of the Income-tax Act will be outside the purview of the aforesaid provisions. The position in the case of unregistered firms, associations of persons and bodies of individuals who have no income chargeable to tax under the Income-tax Act or whose income so chargeable does not exceed Rs. 5,000 will also be similar. Specific provisions have, therefore, been made in the rules for taking the share of partners of such firms or members of such associations of persons or bodies of individuals into account for determining the tax payable by partners or members on their non-agricultural income. For this purpose, the agricultural income or loss of the firm will be computed in accordance with these

rules and the share of a partner in the income or loss of the firm will be determined in the same manner as has been prescribed in the Income-tax Act for computing a partner's share in the income of the firm chargeable to income-tax. Similarly, the agricultural income or loss of an association of persons or a body of individuals will be computed in accordance with these rules and the share of the taxpayer in the agricultural income or loss of the association or body will be regarded as the agricultural income or loss of the taxpayer.

22. Losses incurred in agriculture will be allowed to be set off only against gains from agriculture. No set-off will, however, be allowed in respect of the taxpayer's share in the agricultural loss of an unregistered firm which is not assessed as a registered firm under section 183(*b*) of the Income-tax Act or in the agricultural loss of an association of persons or body of individuals. Where the net result of the computation of agricultural income from various sources as stated above is a loss, such loss will be disregarded and the net agricultural income of the taxpayer for purposes of the rate schedule will be taken as *nil*.

23. For purposes of computation of net agricultural income of an assessee, the provisions of the Income-tax Act relating to procedures for assessment will apply, with necessary modifications, as they apply in relation to assessment of total income under that Act. Further, the Income-tax Officer will have the same powers for this purpose as he has under the Income-tax Act for the assessment of total income.

24. *Life Insurance Corporation of India and other companies.*—The rates of income-tax (including surcharge) applicable in the case of the Life Insurance Corporation of India and other companies for purposes of computation of advance tax payable during the financial year 1973-74 have been specified in Paragraphs E and F of Part III of the First Schedule to the Bill respectively. The rates in the case of the Life Insurance Corporation are the same as the rates of income-tax specified in Paragraph E of Part I of the First Schedule for incomes assessable for the assessment year 1973-74. The rates of income-tax in the case of other companies, however, vary from the rates specified in Part I in the following respects:

(i) In the case of widely-held domestic companies, the concessional rate of 45% which is at present applicable only in the case of widely-held domestic companies having total income not exceeding Rs. 50,000 is being made applicable to such companies having a total income not exceeding Rs. 1 lakh.

(ii) In the case of closely-held industrial companies, the concessional rate of 55% which is at present applicable to the first Rs. 10 lakhs of the total income is being restricted to the first Rs. 2 lakhs of total income.

The rate of surcharge on income-tax in the case of companies will continue at the existing level of 5%.

[Clauses 2, 3(a), 16, 17, 18 and 19 and the First Schedule]

IV. *Proposed amendments to the Income-tax Act.*

25. *Deduction in respect of long-term savings through specified media.*—Under the existing provisions of the Income-tax Act, tax relief is allowed in respect of long-term savings effected by certain categories of taxpayers out of their income. In the case of an individual, long-term savings through life insurance or deferred annuity policies on the life of the individual, his spouse or child, certain provident funds and superannuation funds, Unit-linked Insurance Plan and 10-Year and 15-Year Cumulative Time Deposit Accounts qualify for tax relief. In the case of Hindu undivided families, long-term savings effected through

insurance policies on the life of any member of the family qualify for tax relief. In the case of an assessee, being an association of persons or body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, long-term savings through life insurance or deferred annuity policies on the life of any member of such association or body or on the life of any child of either member, as also through the Public Provident Fund, Unit-linked Insurance Plan and 10-Year and 15-Year Cumulative Time Deposit Accounts, qualify for tax relief. The tax relief, in all cases, is allowed by deducting the whole of the first Rs. 1,000 of the qualifying savings *plus* 50% of the next Rs. 4,000 *plus* 40% of the remainder of such savings, in computing the taxable income of the assessee.

26. With a view to providing a further incentive for effecting long-term savings, particularly by taxpayers in the middle income brackets, the quantum of the deduction in respect of long-term savings is proposed to be varied so as to allow a deduction of the whole of the first Rs. 2,000 of the qualifying savings *plus* 50% of the next Rs. 3,000 *plus* 40% of the remainder of such savings. This will mean that in the case of a person who saves Rs. 2,000 or less, the whole of the qualifying savings will be allowed as a deduction from his taxable income. In the case of a person who saves Rs. 2,000 or more, the amount of the deduction will increase by Rs. 500 as compared to the position under the existing provision.

27. The change set forth in the preceding paragraph will take effect from 1-4-1974 and will accordingly apply for the assessment year 1974-75 in relation to the income of the financial year 1973-74 or other accounting year corresponding to it. [Clause 8(a)]

28. *Relief from tax on capital gain arising on the transfer by way of compulsory acquisition of lands and buildings in certain cases.*—It is proposed to provide relief from tax, in the case of persons owning industrial undertakings, in respect of capital gain arising on compulsory acquisition of any land or building used by them for the purposes of the business of the undertaking. The relief will be available in cases where the land or building which is acquired was used by the taxpayer for the purposes of the business of the industrial undertaking during the two years immediately preceding the date of compulsory acquisition and the taxpayer purchases any other land or building or constructs any other building, within three years from the date of compulsory acquisition, for the purposes of shifting or re-establishing the industrial undertaking or setting up another industrial undertaking. In such cases, the capital gain will not be charged to tax to the extent it is utilised for purchasing or, as the case may be, constructing the new asset. Where the amount of the capital gain exceeds the cost of purchase or construction, only the excess amount will be chargeable to tax. This concession will, however, be forfeited if the taxpayer transfers the new asset within a period of three years from the date of its purchase or construction.

29. A taxpayer whose land or building is compulsorily acquired may sometimes not be in a position to purchase other land or building or construct other building for the purposes of shifting or re-establishing the industrial undertaking or setting up another industrial undertaking before the completion of the assessment for the assessment year in which the capital gain arising from compulsory acquisition of his land or building is charged to tax. In such cases, capital gain arising on compulsory acquisition will have to be included in the assessment of the taxpayer for the relevant assessment year. However, if after completion of the assessment, the taxpayer purchases another land or building or constructs a new building within the specified period of three years, it is but fair that the

benefit of the proposed tax concession should be allowed to him by amending the assessment order made earlier. Accordingly, a provision is being made to the effect that, in such cases, the Income-tax Officer will amend the assessment order made by him so as to exclude the amount of the capital gain not chargeable to tax in accordance with the proposed provision. The period of limitation of four years for amending an assessment order laid down in the Income-tax Act will, in such cases, run from the date of the assessment order for the year in which the capital gain arising on the transfer by way of compulsory acquisition is charged to tax.

30. These changes will take effect from 1st April, 1974, and will accordingly apply to the assessment year 1974-75 and subsequent years.

[Clauses 6, 7 and 15(b)]

31. *Amendment of assessment order for excluding capital gain arising from transfer of agricultural land in certain circumstances.*—Under a provision made in the Income-tax Act by the Finance Act, 1970, tax relief is provided, in certain circumstances, in respect of capital gain arising from transfer of land which in the two years immediately preceding the date of transfer was being used by the taxpayer or his parent for agricultural purposes. Under this provision, such capital gain is not charged to tax to the extent it is utilised by the taxpayer within a period of two years after the date of transfer for purchasing any other land for being used for agricultural purposes. Where the amount of the capital gain exceeds the cost of acquisition of the new land, only the excess is chargeable to tax. A taxpayer may, sometimes, not be in a position to purchase another agricultural land before the completion of the assessment for the assessment year in which the capital gain arising from the transfer of agricultural land is charged to tax. With a view to ensuring that the existing tax concession is not denied in cases where the new land is purchased by the taxpayer after the completion of the assessment for the relevant assessment year, but within the specified period of two years, it is proposed to make a specific provision in the Income-tax Act that, in such cases, the Income-tax Officer will amend the order of assessment so as to exclude the amount of capital gain not chargeable to tax. For the purposes of this provision, the four-year period of limitation for amending the order of assessment laid down in the Income-tax Act will be reckoned from the date of the assessment order for the year in which the capital gain is charged to tax.

32. This amendment will take effect, retrospectively, from 1st April, 1970, that is, the date from which the existing tax concession was introduced in the Income-tax Act by the Finance Act, 1970. [Clause 15(a)]

33. *Tax concession in respect of donations made to sports associations and institutions approved by Government.*—Under an existing provision in the Income-tax Act, a taxpayer is entitled, subject to certain conditions, to a deduction in the computation of his taxable income of a specified percentage of the donations made by him to certain funds or *charitable institutions*, or for the repair or renovation of any temple, mosque, gurudwara, church or other place of worship, which is notified by the Central Government for the purposes of this provision. The deduction is equal to 50 per cent. of the amount of the qualifying donations in the case of a company and 55 per cent. of such amount in the case of other categories of taxpayers. Donations made by taxpayers to sports associations and institutions, however, do not qualify for tax relief under this provision as the mere promotion of any game or sport is not regarded as a "charitable purpose". With a view to providing an incentive to taxpayers to make more liberal donations to associations and institutions established in India for promotion of specified sports and games and which are approved by the Central

Government for the purposes of section 10(23) of the Income-tax Act, it is proposed to make a provision in the Income-tax Act, to secure that donations made by taxpayers to such approved associations or institutions are regarded as donations made to charitable institutions and qualify for tax concession accordingly. In this connection, it may be mentioned that sports associations and institutions approved by the Central Government for the purposes of section 10(23) of the Income-tax Act already enjoy exemption from income-tax in respect of their own income.

34. The proposed amendment will take effect from 1st April, 1974, and will accordingly apply to the assessment for the assessment year 1974-75 and subsequent years. [Clause 9]

35. *Withdrawal of existing condition regarding number and types of rooms, etc., for purposes of 'tax holiday' concession in the case of approved hotels.*—Indian companies carrying on the business of a hotel approved by the Central Government are entitled to the 5-year 'tax holiday' concession, if they fulfil certain conditions specified in this behalf in the Income-tax Act. One of the conditions laid down in the law is that the hotel should have such number and types of guest rooms and should provide such amenities as may be prescribed in rules made by the Central Board of Direct Taxes, having regard to the population and the tourist importance of the place in which the hotel is located. Rule 18 of the Income-tax Rules, 1962, made by the Central Board of Direct Taxes provides that a hotel should have not less than 50 guest rooms with attached bath rooms equipped with modern sanitary fittings if it is situated in a town with a poulation of five lakhs or more, and not less than 25 such guest rooms if it is situated in a town with a population of less than five lakhs. The existence of a rigid condition regarding the number of rooms, etc., could, sometimes, result in the denial of the tax concession to small hotels which may otherwise be of an adequately high standard to cater to the needs of foreign tourists. It is, therefore, proposed to omit the condition that for the purposes of the 'tax holiday' concession the hotel should have the prescribed number and types of guest rooms and amenities.

36. The amendment will take effect from 1st April, 1974, and will accordingly apply in relation to the assessments for the assessment year 1974-75 and subsequent years. [Clause 10]

37. *Enlargement of the scope of 'short-term' capital gains.*—Under the existing law, gains arising from the sale or transfer of any capital asset held by a taxpayer for not more than twenty-four months prior to the date of the sale or transfer are treated as capital gains relating to short-term capital assets and are chargeable to tax as ordinary income. Gains arising from the sale or transfer of capital assets held by the taxpayer for more than twenty-four months are treated as 'long-term' capital gains, and charged to tax on a concessional basis. It is proposed to enlarge the scope of 'short-term' capital gains by providing that gains arising from the sale or transfer of any capital asset held by a taxpayer for not more than sixty months prior to the date of sale or transfer will be treated as capital gains relating to 'short-term' capital assets.

38. In order to encourage remittances under the National Defence Remittance Scheme (instituted by the Central Government in October, 1965), a specific provision was made in the Income-tax Act to secure that the capital gains arising from the transfer of bank certificates evidencing remittance of moneys from any foreign country to India would be charged to tax on the concessional basis applicable to 'long-term' capital gains, and not as 'short-term' capital gains. As the National Defence Remittance Scheme has not been in operation

for some years, the provision in the Income-tax Act relating to the concessional tax treatment of bank certificates received under the Scheme, is proposed to be omitted as it has now become otiose.

39. The above changes will take effect from 1st April, 1974, and will accordingly apply in relation to assessments for the assessment year 1974-75 and subsequent years. [Clause 3(b)]

40. *Taxation of management compensation as profits and gains of business.*—Several laws have been enacted in the last two years for taking over the management of industrial undertakings, mines, insurance companies, etc., pending their final take-over by Government. These laws provide for the payment of compensation in respect of the vesting in the Government of the management of the business of the industrial undertaking, etc., taken over by the Government. A doubt has been raised regarding the taxability of the management compensation paid by Government in such cases. With a view to clarifying the position, it is proposed to make a specific provision in the Income-tax Act, retrospectively, from 1st April, 1972, to the effect that any compensation or other payment, due to, or received by, any person for the vesting in the Government (or in any corporation owned or controlled by the Government) of the management of the business or property of a taxpayer will be chargeable to income-tax as profits and gains of business.

41. Consequential amendments are also being made in sections 80S and 112A of the Income-tax Act. The effect of the amendment to section 80S will be that the deduction of 25 per cent. allowed in computing the income by way of compensation for termination of managing agency, etc., will not be admissible in relation to management compensation. The amendment to section 112A will secure that the management compensation will be included in the total income of the taxpayer for the purposes of calculating tax payable in respect of interest on National Savings Certificates (First Issue) or the Bank series of such certificates. These amendments will also take effect from 1st April, 1972, and will accordingly apply in relation to the assessment year 1972-73 and subsequent years. [Clauses 4, 11 and 14]

42. *Amendment of provision for grant of export markets development allowance so as to bring out the intention underlying the said provision.*—The Finance Act, 1968, introduced a new provision in the Income-tax Act under which domestic companies and resident non-corporate taxpayers, incurring expenditure under specified heads for development of export markets for Indian goods on a long-term basis, are entitled to an export markets development allowance in the computation of their taxable profits. This allowance consists of a weighted deduction in an amount equal to 1-1/3rd times the amount of the qualifying expenditure. One of the heads of expenditure specified in the relevant provision as qualifying for the weighted deduction relates to expenditure incurred on 'distribution, supply or provision outside India' of the goods, services or facilities dealt in or provided by the taxpayer in the course of his business. Another head of expenditure qualifying for the weighted deduction relates to expenditure incurred on 'performance of services outside India' in connection with, or incidental to, the execution of any contract for the supply outside India of such goods, services or facilities.

These provisions are susceptible of the interpretation that in the case of taxpayers engaged in the business of operating ships or aircraft, expenditure incurred on the transportation outside India of passengers, cargo, etc. (e. g., expenditure on purchase of fuel and lubricants) will qualify for the weighted deduction. Similarly, it is also possible for a travel agent to claim that expenditure

incurred by him on the carriage of, or making arrangement for the carriage of, passengers outside India, is also eligible for the weighted deduction. As such an interpretation of the relevant provisions would not be in conformity with the intention underlying these provisions, it is proposed to amend the relevant section so as to make it clear that expenditure incurred by a taxpayer engaged in the business of operating any ship or other vessel, aircraft or vehicle, or the carriage of, or making arrangements for the carriage of, passengers, livestock, mail or goods, on or in relation to such operations, carriage or arrangements for carriage will not be regarded as expenditure incurred on the supply outside India of goods, services or facilities.

43. This amendment will take effect, retrospectively, from 1st April, 1968, i.e., the date from which the relevant provision was introduced in the Income-tax Act. [Clause 5]

44. *Withdrawal of tax concession in respect of sums paid under contract for deferred annuity.*—Under the existing provisions of the Income-tax Act, any sum paid by an individual under a contract for a deferred annuity on his life or on the life of his or her spouse or child qualifies for tax relief in the same manner as life insurance premia, contributions to provident funds, etc. In the case of an assessee, being an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, sums paid under a contract for a deferred annuity on the life of any member of such association or body or on the life of any child of either member, likewise, qualify for tax relief. This concession has been made available even in cases where the contract for deferred annuity contains a provision for the exercise by the insured of an option to receive cash payment in lieu of the payment of annuity. As the provision for a cash option defeats the purpose of an annuity, it is proposed to specifically provide that payments made under contracts for deferred annuities will qualify for tax concession only if the contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity.

45. The amendment will take effect from 1st April, 1974, and will accordingly apply to the assessments for the assessment year 1974-75 and subsequent years. [Clause 8(b)]

46. *Amendment of provisions relating to levy of additional tax on undistributed income in the case of closely-held companies.*—Under section 104 of the Income-tax Act, closely-held companies are required (subject to certain exceptions) to distribute dividends up to the statutory percentage of their distributable income within a period of twelve months immediately following the expiry of the accounting year. If a closely-held company fails to comply with this requirement, it is liable to pay additional income-tax at a specified percentage of the distributable income as reduced by the amount of the dividends actually distributed, if any. In the case of *Commissioner of Income-tax* v. *Abdul Rahim Osman and Company* (*India*) (*P.*) *Ltd.*[1], the Supreme Court has recently held that for the purposes of levying additional income-tax (under a similar provision contained in the Indian Income-tax Act, 1922), dividends declared by a company after the expiry of the said period of twelve months but before an order under this provision is made should be taken into account. As the interpretation placed by the Supreme Court is not in conformity with the intention underlying the relevant provision, it is proposed to amend section 104 of the Income-tax Act to secure that dividends distributed by a closely-held company after the expiry of twelve months from the end of the accounting year will not be taken into account for purposes of levying additional income-tax under this provision. Certain

(1) [1972] 86 I.T.R. 436 (S.C.).

consequential amendments are also proposed to be made in section 105 of the Income-tax Act.

47. These amendments will take effect from 1st April, 1974, and will accordingly apply in relation to the assessment year 1974-75 and subsequent years. [Clauses 12 and 13]

V. Proposed amendment to the Wealth-tax Act, 1957.

48. *Separate rate schedule for ordinary Wealth-tax in the case of certain Hindu undivided families.*—Under the existing provisions of the Wealth-tax Act, the rates of ordinary wealth-tax in the case of individuals and Hindu undivided families range from 1% on the first slab of net wealth up to Rs. 5 lakhs to a maximum of 8% on the slab of net wealth over Rs. 15 lakhs. No wealth-tax is, however, payable where the net wealth does not exceed Rs. 1 lakh in the case of an individual and Rs. 2 lakhs in the case of a Hindu undivided family. A new rate schedule of ordinary wealth-tax is being prescribed in the case of Hindu undivided families having one or more members with independent net wealth exceeding Rs. 1 lakh, i.e., the maximum amount not chargeable to wealth-tax in the case of an individual. The rates of ordinary wealth-tax applicable in the case of such Hindu undivided families will be as follows:—

On the first Rs. 5,00,000 of net wealth	...	2%
On the next Rs. 5,00,000 of net wealth	...	3%
On the balance of net wealth, i.e., net wealth in excess of Rs. 10,00,000	...	8%

No wealth-tax will, however, be payable in a case where the net wealth of the Hindu undivided family does not exceed Rs. 2 lakhs. It is also being provided, by way of marginal relief, that ordinary wealth-tax payable shall not exceed 10% of the amount by which the net wealth exceeds Rs. 2 lakhs.

49. The Table below shows the comparative incidence of ordinary wealth-tax in the case of Hindu undivided families having one or more members with independent net wealth exceeding Rs. 1 lakh and those having no such member.

INCIDENCE OF ORDINARY WEALTH-TAX AT SELECTED LEVELS OF NET WEALTH IN THE CASE OF HINDU UNDIVIDED FAMILIES

Net wealth	Ordinary wealth-tax at rates prescribed in the Bill in the case of a a Hindu undivided family *having one or more members with independent net wealth exceeding Rs. 1 lakh.*	Ordinary wealth-tax at rates prescribed in the Bill in the case of a Hindu undivided family *having no member with independent net wealth exceeding Rs. 1 lakh.*	Excess liability in the case of a Hindu undivided family having one or more members with independent net wealth exceeding Rs. 1 lakh. (col. 2—col. 3)
1	2	3	4
Rs.	Rs.	Rs.	Rs.
3,00,000	6,000	3,000	3,000
4,00,000	8,000	4,000	4,000
5,00,000	10,000	5,000	5,000
6,00,000	13,000	7,000	6,000
7,00,000	16,000	9,000	7,000
8,00,000	19,000	11,000	8,000
9,00,000	22,000	13,000	9,000
10,00,000	25,000	15,000	10,000
15,00,000	65,000	30,000	35,000
20,00,000	1,05,000	70,000	35,000

50. The new rate schedule in the case of Hindu undivided families having one or more members with independent net wealth exceeding Rs. 1 lakh will take effect from 1st April, 1974, and will accordingly apply in relation to assessment year 1974-75 and subsequent years. The rates of wealth-tax in the case of individuals as also Hindu undivided families having no member with independent net wealth exceeding Rs. 1 lakh will continue at the existing levels.

[Clause 20]

VI. *Proposed amendment to the Gift-tax Act, 1958.*

51. Under an existing provision in the Gift-tax Act, gifts made to institutions or funds established for charitable purposes are not charged to gift-tax if the institution or fund satisfies the conditions laid down in section 80G of the Income-tax Act for the purposes of tax relief under that Act in respect of donations made to such institutions or funds. Under an amendment proposed to be made in the Income-tax Act by clause 9 of the Bill, donations made by taxpayers to associations or institutions established in India for the promotion of sports and games and which are approved for purposes of section 10(23) of that Act will be regarded as donations made to a charitable institution and qualify for tax relief admissible under section 80G of that Act. It is also proposed to make a similar amendment in the Gift-tax Act to secure that gifts made to such approved associations or institutions are also exempt from gift-tax.

52. This amendment will take effect from 1st April, 1974, and will accordingly apply in relation to the assessment year 1974-75 and subsequent years.

[Clause 21]

VII. *Proposed amendments to the Companies (Profits) Surtax Act, 1964.*

53. Under the Companies (Profits) Surtax Act, surtax is levied at specified rates on so much of the chargeable profits of a company as exceed the statutory deduction. The term "statutory deduction" means an amount equal to 10 per cent. of the *capital* of the company as computed in accordance with the relevant provisions of that Act or an amount of Rs. 2 lakhs, whichever is greater. Broadly, the capital of a company is taken to be the aggregate, as on the first day of the relevant accounting year, of (a) its paid-up share capital, (b) its reserves (including development rebate reserve), (c) its *debentures,* if any, and (d) any moneys borrowed on a long-term basis from Government or other specified sources. A doubt has been raised that in the absence of a specific definition of the word "debentures" in the Companies (Profits) Surtax Act, it would be construed widely to include even a bond or other document executed by a company as an acknowledgment of an existing debt or as a collateral security for the purposes of obtaining short-term loans or even bank overdraft. As such an interpretation would be contrary to the underlying intention, it is proposed to make certain amendments in the Companies (Profits) Surtax Act, to clarify that the debentures of a company will be taken into account for computing its capital for the purposes of surtax, *only* if they are issued to the public and, according to the terms and conditions of their issue, are not redeemable before the expiry of a period of seven years.

54. These amendments will take effect from 1st April, 1974, and will accordingly apply in relation to the assessments for the assessment year 1974-75 and subsequent years.

[Clause 22]

VIII. *Miscellaneous Provisions*

55. *Credit Guarantee Corporation of India Ltd.*—The Credit Guarantee Corporation of India Ltd. is registered as a company under the Companies Act,

1956. Approximately 55% of its paid-up ca ital is held by the Reserve Bank of India and the remaining by the State Bank of India and its subsidiaries, nationalised banks and other banking and financial institutions. The Corporation guarantees loans advanced by banks and financial institutions to small borrowers in the priority and other sectors which had remained relatively neglected. The Corporation serves a desirable socio-economic purpose and with a view to enabling it to perform its functions effectively and to build up its reserves, it is proposed to make an independent provision in the Finance Bill, retrospectively, from 1st April, 1972, so as to exempt from income-tax and surtax the income of the Corporation for a 5-year period covering the assessment years 1972-73 to 1976-77 (both inclusive). [Clause 23]

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