

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (f) of clause 3 of the Bill seeks to insert a new clause (48) to section 2 of the Income-tax Act relating to definitions. The amendment proposed by the said sub-clause confers powers upon the Central Government to specify 'zero coupon bond' which is proposed to be defined under that clause.

Clause 12 seeks to insert a new sub-clause (iiia) to sub-section (1) of section 36 empowering the Central Board of Direct Taxes to make rules in respect of the manner of calculation of the *pro rata* amount of discount on a zero coupon bond to be allowed in computation of the income of an infrastructure capital company or infrastructure capital fund or a public sector company issuing such bond. The expression "Zero coupon bond" is proposed to be defined in the new clause (48) of section 2.

Clause 14 seeks to insert a new clause (d) after clause (c) of the proviso to clause (5) of section 43 which, *inter alia*, defines the expression "eligible transaction" to mean any transaction which is carried out electronically on screen-based system through a stock broker or sub-broker or such other registered intermediary in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 and the rules, regulations or bye-laws or directions issued under those Acts. It is also proposed in clause (ii) to the *Explanation* below the said clause (d) to lay down conditions with which a stock exchange is to be notified as a recognised stock exchange under the provisions of the Securities Contracts (Regulation) Act, 1956, by the Central Government.

Clause 37 seeks to insert a new Chapter XII-H in the Act. The provisions of the said Chapter deal with charge of fringe benefit tax, fringe benefits, value of fringe benefits, etc. Sub-section (1) of section 115WD of the said new Chapter seeks to empower the Central Board of Direct Taxes to prescribe a format of furnishing a return of fringe benefits and the manner of verification and the particulars with which such return is to be furnished. Sub-section (1) of the proposed section 115WH seeks to empower the Central Board of Direct Taxes to prescribe the return of fringe benefits for the purposes of reassessment and the manner of verification and the particulars with which such return is to be furnished.

Clause 40 seeks to amend section 139 of the Act which deals with return of income. It has been provided that every person being an individual or a Hindu undivided family or an association of persons or a body of individual or an artificial juridical person shall furnish a return of income if the total income of such person before giving effect to provision of sections 10A, 10B and Chapter VIA exceeds the maximum amount not chargeable to tax. Clause 40 seeks to empower the Central Board of Direct Taxes to prescribe the format for furnishing the said return and the manner in which the same may be verified.

Clause 49 seeks to empower the Central Board of Direct Taxes to prescribe the format of declaration to be produced by a person being a sub-contractor owning not more than two goods carriages at any time during the previous year to the person responsible for paying any sum to him during the course of business of plying, hiring or leasing of goods carriages and also the format to be furnished to the income tax authority by the person responsible for paying any sum to the sub-contractor and the manner and the particulars as may be contained in such format.

Clause 52 seeks to empower the Central Board of Direct Taxes to prescribe the format of furnishing of quarterly return by any banking company or co-operative society or public company in respect of payment of interest not exceeding five thousand rupees and no deduction of tax at source was made, to a resident and to prescribe the income-tax authority and the manner and particulars as may be contained in such format. The said clause further seeks to give power to the Central Government to notify

any resident responsible for paying any income liable for deduction of tax at source to deliver quarterly return in the manner and the particulars as may be contained in such format.

Clause 88 of the Bill seeks to amend the Finance Act, 1994. Sub-clause (d) seeks to amend sub-section (2) of section 69 of the said Finance Act so as to empower the Central Government to make rules to prescribe the time, manner for and form of, registration under sub-section (2) of that section. Sub-clause (e) seeks to amend sub-section (2) of section 70 to which empowers the Central Government to make rules to prescribe the form, manner and frequency in which the person or class of persons notified under by sub-section of that section.

Clause 89 of the Bill seeks to amend clause (h) of section 2 of the Central Sales Tax Act, 1956. Proviso to said section empowers the Central Government to make rules to prescribe the manner of determination of the sale price and the deduction from the total consideration for a works contract under that proviso.

Chapter VII of the Bill provides for levy of tax on the taxable banking transactions, entered with a scheduled bank. Such tax shall be collected by the scheduled bank and paid to the credit of the Central Government.

Clause 98 of the Bill provides for filing of return by the scheduled bank in respect of the Banking Cash Transaction Tax, within the prescribed time, in the prescribed form and manner, setting forth such particulars as may be prescribed.

It is proposed to empower the Central Board of Direct Taxes to specify by rules made by it (a) the time limit, within which the return shall be furnished, (b) the form and manner in which the shall be furnished and verified, (c) the particulars to be furnished with the return.

Clause 99 provides that where any amount is refunded to the scheduled bank, the same shall be returned to the concerned person from whom such amount was collected, within the prescribed time.

It is proposed to empower the Central Board of Direct Taxes to specify by rules the time limit within the scheduled bank shall refund any amount to the concerned person from whom the same was collected.

Clause 107 of the Bill provides that an assessee if aggrieved by any order of the assessing officer, may file an appeal to the Commission of Income-tax (Appeals) in the prescribed form and verified in the prescribed manner.

It is proposed to empower the Central Board of Direct Taxes to specify by rules the form and manner in which appeal to the Commissioner of Income-tax (Appeals) shall be made and verified.

Clause 108 provides for filing of appeal to the Appellate Tribunal by the assessee or, as the case may be, by the assessing officer in the prescribed form and verified in the prescribed manner.

It is proposed to empower the Central Board of Direct Taxes to specify by rules the format in which such appeal shall be made and the manner in which the same may be verified.

It is proposed to confer power upon the Central Board of Direct Taxes to make rules for carrying out the provisions of the said Chapter VII.

The matters in respect of which notification may be issued or rules may be made in accordance with the aforesaid provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.