

INCOME TAX

FINANCIAL BILL (CLAUSE NO.)	SECTION	BRIEF OF AMENDMENT	OLD LAW	NEW LAW	APPLICABLE w.e.f	EXECUTIVE SUMMARY
3	2(15)	Amendment in second proviso to Section 2 (15)	Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is ten lakh rupees or less in the previous year.	Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is "twenty-five lakh rupees" or less in the previous year.	1 st April, 2012	The existing monetary limit of ₹ 10 lakhs wrt conduct of incidental activity by the charitable organizations has been extended to ₹ 25 lakhs.
4(a)	10 (34)	Amendment in clause (34) of Section 10	<i>Explanation.</i> — For the removal of doubts, it is hereby declared that the dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur	The Explanation [as so inserted by the Special Economic Zones Act, 2005] shall be omitted.	1 st June, 2011	Under existing provisions Explanation to section 10(34) specifically allow exemption of income via dividend to assessee being a developer or entrepreneur under special economic zone, however the same has been omitted w.e.f. 01/06/2011. As they also required to pay Minimum Alternate Tax. w.e.f. 1/04/2012 And therefore the intention behind withdrawal of explanation may be to tax the dividend payable to SEZ; however the same will not change the applicability of clause

						generally as non taxability of dividend income in the hands of end recipient. This has lead to interpretational ambiguity.
4(b)	10 (45)	Newly inserted clause (45) of Section 10,	-	Any allowance or perquisite, as may be notified by the Central Government in the Official Gazette in this behalf, paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Service Commission;"	1 st April, 2008	<p>The existing provisions any perquisites or allowances received by an employee under the head "Salaries" shall be taxable unless it is specifically exempt.</p> <p>It is proposed to extend similar benefit of exemption in respect of specific perquisites and allowances, which will be notified by the Central Government, received by both serving as well as retired Chairmen and Members of the Union Public Service Commission.</p> <p>(For the meaning of expression Salary has been defined to include DA. Also see Gestetner Duplicators Ltd's Case.</p>
4(c)	10 (46)	Newly inserted clause (46) of Section 10,	-	Any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which— (a) has been	1 st June, 2011	It is proposed to insert a new clause in section 10 of the Income-tax Act to provide exemption from income-tax to any specified income of a body, authority,

				<p>established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;</p> <p>(b) is not engaged in any commercial activity; and</p> <p>(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.</p> <p>Explanation.— For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission (by whatever name called) referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf.</p>		<p>board, trust or commission which is set up or constituted by a Central, State or Provincial Act or constituted by the Central Government or a State Government with the object of regulating or administering an activity for the benefit of the general public.</p>
4(c)	10 (47)	Newly	-	Any income of an	1 st	In order to augment

inserted
clause
(47) of
Section
10,

infrastructure debt
fund, set up in
accordance with the
guidelines as may be
prescribed, which is
notified by the
Central Government
in the Official
Gazette for the
purposes of this
clause

June,
2011

long-term, low cost
funds from abroad for
the infrastructure
sector, it is proposed
to facilitate setting
up of dedicated debt
funds.

It is proposed to
provide enabling
power to the Central
Government to notify
any infrastructure
debt fund which is set
up in accordance with
the prescribed
guidelines. Once
notified, the income
of such debt fund
would be exempt
from tax.

It will, however, be
required to file a
return of
income.**(refer to
clause 23 also)**

Consequential
amendments have
been made u/s 115A
to provide for
concessional WHT
rate on 5% interest
received by a non-
resident from such
notified infrastructure
debt.

Amendments also
made by insertion of a
new section 194LB to
provide that tax shall
be deducted at the
rate of five per cent.
by such notified
infrastructure debt
fund on any interest

						paid by it to a non-resident. (refer to clause 27 also)
5	35(2AA)(a)	Amendment in clause (a) of sub-section (2AA) of Section 35	<i>There shall be allowed a deduction of a sum equal to [one and three-fourth] times the sum so paid</i>	<i>There shall be allowed a deduction of a sum equal to [two] times the sum so paid.</i>	1 st April, 2012	Under the existing provisions of section 35(2AA) of the Income-tax Act, weighted deduction to the extent of 175 per cent. Is allowed but now the same is proposed to be increased 200% of the sums paid/incurred.
6(a)(i)	35(5)(ac)	Amendment in clause (ac) of sub-section 5 of Section 35, the word "and" occurring in the end shall be omitted.	(ac) on or after the 1st day of April, 2010, where the specified business is in the nature of 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 which is notified by the Board in this behalf in accordance with guidelines as may be prescribed; and	(ac) on or after the 1st day of April, 2010, where the specified business is in the nature of 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 which is notified by the Board in this behalf in accordance with guidelines as may be prescribed;	1 st April, 2012	Scope of the section wider.
6(a)(ii)	35(5)(ad)	Newly inserted clause (ad) of	-	On or after the 1st day of April, 2011, where the specified business is in the	1 st April, 2012	Scope of the section wider.

		sub-section 5 of Section 35		nature of 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 this behalf in accordance with the guidelines as may be prescribed		
6(a)(ii)	35(5)(ae)	Newly inserted clause (ae) of sub-section 5 of Section 35	-	On or after the 1st day of April, 2011, in a new plant or in a newly installed capacity in an existing plant for production of fertilizer; and";	1 st April, 2012	Scope of the section wider.
6(a)(iii)	35(5)(b)	Amendment in clause (b) of sub-section 5 of Section 35	On or after the 1st day of April, 2009, in all other cases not falling under [clause (ac)] .	On or after the 1st day of April, 2009, in all other cases not falling under [clause (ac), clause (ad) and clause (ae)] .	1 st April, 2012	Scope of the section wider.
6(b)(i)	35(8)(c)(i v)	Amendment in sub-clause (iv) of clause (c) of sub-section 8 of Section 35	building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government;	building and operating, anywhere in India, a hotel of two-star or above category as classified by the Central Government;		Scope of the section wider.
6(b)(ii)	35(8)(c)(v)	Amend	building and	building and		Scope of the section

)	ment in sub-clause (v) of clause (c) of sub-section 8 of Section 35	operating, anywhere in India, a <i>new hospital</i> with at least one hundred beds for patients;	operating, anywhere in India, a <i>hospital</i> with at least one hundred beds for patients		wider.
6(b)(iii)	35(8)(c)(vii)	Newly inserted sub-clause (vii) of clause (c) of sub-section 8 of Section 35	-	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 this behalf in accordance with the guidelines as may be prescribed	1 st April, 2012	Scope of the section wider.
6(b)(iii)	35(8)(c)(viii)	Newly inserted sub-clause (viii) of clause (c) of sub-section 8 of Section 35	-	Production of fertilizer in India	1 st April, 2012	Scope of the section wider.
7	36(1)(iva)	Newly inserted clause (iva) of sub-section 1 of Section	-	Any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to	1 st April, 2012	Under the existing provisions under section 36, the contribution made by an employer to the New Pension Scheme is not allowed as a deduction. As such

		36		<p>the extent it does not exceed ten per cent. of the salary of the employee in the previous year.</p> <p>Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;'</p>		<p>any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD(2) on account of an employee to the extent it does not exceed ten per cent. of the salary of the employee in the previous year, shall be allowed as deduction in computing the income under the head "Profits and gains of business or profession".</p> <p>Post amendment deduction is available for a singular amount and now the deduction is available to both employer and employee on contribution to New Pension Scheme. To employees it is available u/s 80CCD both on contribution by employer or employee & to employer u/s 36(1)(iv)(a).</p>
8	80CCE	Amendment in Section 80CCE	The aggregate amount of deductions under section 80C, section 80CCC and section 80CCD shall not, in any case, exceed one lakh	The aggregate amount of deductions under section 80C, section 80CCC and sub-section (1) of section 80CCD shall not, in any case, exceed one lakh	1 st April, 2012	Under the existing section any contribution to New Pension Scheme by employer and employee is allowed as deduction u/s 80CCD to employee under the umbrella

			rupees.	rupees.		provision i.e up to Rs. 1 lakh but now under the new provision, if any contribution to NPS is made by employer then that will not fall under umbrella deduction of Rs. 100000/-, it would be allowed over Rs. 100000/-.
9	80CCF	Amendment in Section 80CCF	<i>In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, the whole of the amount, to the extent such amount does not exceed twenty thousand rupees, paid or deposited, during the previous year relevant to the assessment year beginning on the 1st day of April, 2011, as subscription to long-term infrastructure bonds as may, for the purposes of this section, be notified by the Central Government.</i>	<i>In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, the whole of the amount, to the extent such amount does not exceed twenty thousand rupees, paid or deposited, during the previous year relevant to the assessment year beginning on the 1st day of April, 2012, as subscription to long-term infrastructure bonds as may, for the purposes of this section, be notified by the Central Government.</i>	1 st April, 2012	Deduction in respect of subscription to long term infrastructure bonds will continue to be available for P.Y 2011-2012.
10	80-IA	Extension of 80-IA deduction	an[undertaking] which,— (a) is set up in	an[undertaking] which,— (a) is set up in any	1 st April, 2012	It is proposed to amend section 80-IA(4)(iv) to extend the terminal date for

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Power
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Power
generati
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distribut
ion
Units.

any part of
India for the
generation or
generation and
distribution of
power if it
begins to
generate
power at any
time during
the period
beginning on
the 1st day of
April, 1993
and ending on
the 31st day of
March,[2011];

(b) starts
transmission
or distribution
by laying a
network of
new
transmission
or distribution
lines at any
time during
the period
beginning on
the 1st day of
April, 1999
and ending on
the 31st day of
March, [2011]

:
Provided that the
deduction under
this section to an
[undertaking]
under sub-clause
(b) shall be
allowed only in
relation to the
profits derived
from laying of
such network of

part of India for
the generation or
generation and
distribution of
power if it begins
to generate
power at any
time during the
period beginning
on the 1st day of
April, 1993 and
ending on the
31st day of
March,[2012];

(b) starts
transmission or
distribution by
laying a network
of new
transmission or
distribution lines
at any time
during the period
beginning on the
1st day of April,
1999 and ending
on the 31st day
of March, [2012]

:
Provided that the
deduction under this
section to an
[undertaking] under
sub-clause (b) shall
be allowed only in
relation to the profits
derived from laying
of such network of
new lines for
transmission or
distribution;

[(c) undertakes
substantial
renovation and
modernisation
of the existing

deduction a further
period of one year,
i.e., upto 31st March,
2012.

			<p>new lines for transmission or distribution;</p> <p>[(c)undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March,[2011].</p>	<p>network of transmission or distribution lines at any time during the period beginning on the 1st day of April, 2004 and ending on the 31st day of March,[2012]</p>		
11	80-IB	Newly inserted proviso after clause (ii) of sub-section 9 of Section 80-IB	-	<p>“Provided that the provisions of this clause shall not apply to blocks licensed under a contract awarded after the 31st day of March, 2011 under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated the 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner;”</p>	1 st April, 2012	<p>Deduction available for commercial production of <u>mineral oil will not be available for blocks licensed under a contract awarded after 31st March, 2011</u> under the New Exploration Licensing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.</p>

12	92C	Amendment in sub-section (2), in the second proviso of Section 92 C	Provided further that if the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed five per cent of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price	Provided further that if the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed <i>"such percentage of the latter, as may be notified by the Central Government in the Official Gazette in this behalf"</i> , the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price	1 st April, 2012	The amendment seeks to delegate the power to the Board, as against the present status of power being vested with the legislature, to determine as to what percentage of variation between the arm's length price and price at which international transaction has actually been undertaken shall be acceptable and not interfered with. <u>The present limit within which variation is permissible and cannot be interfered with is +/- 5% of ALP.</u>
13(i)	92CA(2A)	Newly inserted sub-section (2A) of Section 92CA	-	Where any other international transaction [other than an international transaction referred under sub-section (1)], comes to the notice of the Transfer Pricing Officer during the course of the proceedings before him, the provisions of this Chapter shall apply as if such other international transaction is an international transaction referred to him under sub-section (1).	1 st June, 2011	This clause seeks to broad base and extends the powers of TPO in two additional respects. With the amendments proposed (a)TPO shall have powers to determine arms' length price of international transaction which were not even subject matter of reference to him by AO.

13(ii)	92CA	Amendment in sub-section (7) of Section 92 CA	The Transfer Pricing Officer may, for the purposes of determining the arm's length price under this section, exercise all or any of the powers specified in clauses (a) to (d) of sub-section (1) of section 131 or sub-section (6) of section 133.	The Transfer Pricing Officer may, for the purposes of determining the arm's length price under this section, exercise all or any of the powers specified in clauses (a) to (d) of sub-section (1) of section 131 or sub-section (6) of section 133 or section 133A .	1 st June, 2011	He also gets additional power of survey under section 133A besides power of section 131 and 133(6) which were being enjoyed by him. This is being proposed as definition of income tax authority under section 116 does not include TPO.
14	94A	Newly inserted Section 94A	-	<p>(1) The Central Government may, having regard to the lack of effective exchange of information with any country or territory outside India, specify by notification in the Official Gazette such country or territory as a notified jurisdictional area in relation to transactions entered into by any assessee.</p> <p>(2) Notwithstanding anything to the contrary contained in this Act, if an assessee enters into a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then—</p>	1 st June, 2011	The section codifies a new law relating to transactions to which any of the parties is located in a notified jurisdictional area as defined in the section subjecting them to rigors of (a) provisions of transfer pricing (b) provisions analogues to section 68 and a step further casting obligation on the assessee to prove the source of sum received or credited in the hands of person from whom such sum has been received or credited.(c) provisions analogues to section 40 where disallowances are made when payments are made without deduction at source etc.,. The section is indeed very sweeping and are on the line and principles

- (i) all the parties to the transaction shall be deemed to be associated enterprises within the meaning of section 92A;
- (ii) any transaction in the nature of purchase, sale or lease of tangible or intangible property or provision of service or lending or borrowing money or any other transaction having a bearing on the profits, income, losses or assets of the assessee including a mutual agreement or arrangement for allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection

enunciated in GARR in DTC. The importance, object and case of the section is well laid out in speech of FM and paragraph 150 of his speech reads “In order to strengthen our system of collection of information from foreign tax jurisdiction, I propose to provide a tool box of counter measures to discourage transactions with entities located in non-cooperative jurisdiction as may be notified by the Government.”.

with a benefit, service or facility provided or to be provided by or to the assessee shall be deemed to be an international transaction within the meaning of section 92B, and the provisions of sections 92, 92A, 92B, 92C [except the second proviso to sub-section (2)], 92CA, 92CB, 92D, 92E and 92F shall apply accordingly.

(3) Notwithstanding anything to the contrary contained in this Act, no deduction,—

(a) in respect of any payment made to any financial institution located in a notified jurisdictional area shall be allowed under this Act, unless the assessee furnishes an authorisation in

the prescribed form authorising the Board or any other income-tax authority acting on its behalf to seek relevant information from the said financial institution on behalf of such assessee; and

(b) in respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a notified jurisdictional area shall be allowed under any other provision of this Act, unless the assessee maintains such other documents and furnishes such information as may be prescribed, in this behalf.

(4) Notwithstanding anything to the contrary contained in this Act, where, in any previous year, the assessee has received or credited any sum from any person

located in a notified jurisdictional area and the assessee does not offer any explanation about the source of the said sum in the hands of such person or in the hands of the beneficial owner (if such person is not the beneficial owner of the said sum) or the explanation offered by the assessee, in the opinion of the assessing officer, is not satisfactory, then, such sum shall be deemed to be the income of the assessee for that previous year.

(5) Notwithstanding anything contained in any other provisions of this Act, where any person located in a notified jurisdictional area is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVII-B, the tax shall be

				deducted at the highest of the following rates, namely:— (a) at the rate or rates in force; (b) at the rate specified in the relevant provisions of this Act; (c) at the rate of thirty per cent		
15	115A	Amendment of sec. 115A	<i>[(1) Where the total income of— (a) a non-resident (not being a company) or of a foreign company, includes any income by way of— (ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency ; or</i>	<i>[(1) Where the total income of— (a) a non-resident (not being a company) or of a foreign company, includes any income by way of— (ii) interest received from Government or an Indian concern on monies borrowed or debt incurred by Government or the Indian concern in foreign currency ”not being interest of the nature referred to in clause(iiia)” ; or</i>	1 st June, 2011	Refer Clause 4(C) (Supra)
		(iia) New insertion		(iia) interest received from an infrastructure debt fund referred to in clause (47) of sec. 10 or;		
		New item (BA) inserted		(BA) the amount of income-tax calculated on the amount of income		

				by way of interest referred to in sub-clause(iia), if any, included in the total income, at the rate of five percent.		
			<i>(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause (i), sub-clause (ii) and sub-clause (iii) ;</i>	<i>(D) the amount of income-tax with which he or it would have been chargeable had his or its total income been reduced by the amount of income referred to in sub-clause (i), sub-clause (ii), “sub-clause(iia)” and sub-clause (iii) ;</i>		
16	115BBD	Insertion of new section 115BBD	New insertion	115BBD (1) where the total income of an assessee, being an Indian company, for the previous year beginning on the 1 st day of April,2012 includes any income by way of dividends declared, distributed or paid by a subsidiary foreign company, the income-tax payable shall be the aggregate of- (a) the amount of income-tax calculated on the income by way of such dividends, at the rate of fifteen per cent.; and (b) the amount of income-tax with which the assessee	1 st April, 2012	Presently the dividend earned by an Indian company from its foreign subsidiary is taxed in the hands of the Indian company at the maximum marginal rate applicable to it. Accordingly in order to reduce the tax burden of the Indian company from the dividend received from the foreign subsidiary, the tax rate on such dividend income has been fixed at 15%, subject to no expenditure being allowed against it. <u>On fails to appreciate the intention of</u>

would have been chargeable had its total income been reduced by the aforesaid income by way of dividends.

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing its income by way of dividends referred to in sub-section (1).

(3) In this section,-

(i) dividends” shall have the same meaning as is given to “dividend” in clause (22) of section 2 but shall not include sub-clause (a) thereof;

(ii) “subsidiary foreign company” means a foreign company in which the Indian company holds more than half in nominal value of the equity share capital of the company,

invocation of provisions analogous to those of section 14A qua dividend income from foreign subsidiary, more so when there may be borrowed capital invested, management expenses, other such expenses.

17(i)	115JB	Amendment of section 115JB	<p>1) <i>Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after [the 1st day of April, 2011]], is less than [eighteen per cent]] of its book profit, [such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of [eighteen per cent]</i></p>	<p>1) <i>Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after [the 1st day of April, 2012], is less than [eighteen and half percent] of its book profit, [such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of [eighteen and half percent]</i></p>	1 st April, 2012	Rate of MAT increased from 18% to 18.5%.
17(ii)		Proviso inserted in s.s(6)		Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of		Under the existing provisions provisions of section 115JB were not applicable to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on,

				April, 2012..		or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be. But under the proposed budget The provisions of section 115JB are made applicable to a SEZ developers or units in SEZ.
18	115JC	'CHAPT ER XII- BA		115JC. (1) Notwithstanding anything contained in this Act, where the regular income-tax payable for a previous year by a limited liability partnership is less than the alternate minimum tax payable or such previous year, the adjusted total income shall be deemed to be the total income of the limited liability partnership for such previous year and it shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.	1 st April, 2012	<p>Presently the LLP's are being taxed as per normal income tax rates, and command huge tax benefits in comparison to a company such as no dividend distribution tax, No surcharge, no MAT.</p> <p>However, it has been proposed to subject the LLP's also to MAT by the name of Alternate Minimum Tax (AMT) as it exists in US and other Western countries.</p> <p>The MAT rate has been fixed at 18.50%. and the excess MAT paid shall be allowed to be carried forward to 10 successive assessment years.</p> <p>The new section fairly brings out the mode of computation of the adjusted total income and the basis</p>

					<p>of comparison is the Tax payment and not the Income.</p> <p>However, it has not been clarified as to whether the tax credit so allowed to an LLP would be treated as advance tax or that in the year in which the assessee pays tax under AMT, he shall not be liable to pay interest u/s 234B/C.</p> <p>It may be interesting here to mention the recent <i>Apex Court judgement dated 16/12/2010, in the case of Tulsyan Nectar Ltd qua 115JB v/s 234B/C.</i></p>
		SPECIAL PROVISIONS RELATING TO CERTAIN LIMITED LIABILITY PARTNERSHIPS		<p>(2) Adjusted total income referred to in sub-section (1) shall be the total income before giving effect to this Chapter as increased by—(i) deductions claimed, if any, under any section included in Chapter VI-A under the heading " C.— <i>Deductions in respect of certain incomes</i>"; and (ii) deduction claimed, if any, under section 10AA</p>	
				<p>(3) Every limited liability partnership to which this section applies shall obtain a</p>	

report, in such form as may be prescribed, from an accountant certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date of filing of return under sub-section (1) of section 139.

115JD

New insertion

115JD. (1) The credit for tax paid by a limited liability partnership under section 115JC shall be allowed to it in accordance with the provisions of this section.

(2) The tax credit of an assessment year to be allowed under sub-section (1) shall be the excess of alternate minimum tax paid over the regular income-tax payable of that year.

(3) No interest shall be payable on tax credit allowed under sub-section (1).

(4) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the

provisions of sub-sections (5) and (6) but such carry forward shall not be allowed beyond the tenth assessment year immediately succeeding the assessment year for which tax credit becomes allowable under sub-section (1).

(5) In any assessment year in which the regular income-tax exceeds the alternate minimum tax, the tax credit shall be allowed to be set off to the extent of the excess of regular income-tax over the alternate minimum tax and the balance of the tax credit, if any, shall be carried forward.

(6) If the amount of regular income-tax or the alternate minimum tax is reduced or increased as a result of any order passed under this Act, the amount of tax credit allowed under this section shall also be varied accordingly.

115JE

Applicat
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other
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115JE. Save as otherwise provided in this Chapter, all other provisions of this Act shall apply

		this Act		to a limited liability partnership referred to in this Chapter.		
				115JF. In this Chapter—(a) "accountant" shall have the same meaning as in the <i>Explanation</i> below sub-section (2) of section 288; (b) "alternate minimum tax" means the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent.; (c) "limited liability partnership" shall have the same meaning as assigned to it in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008;		
				(d) "regular income-tax" means the income-tax payable for a previous year by a limited liability partnership on its total income in accordance with the provisions of this Act other than the provisions of this Chapter.'		
19	115-O	Proviso inserted to s.s(6)		<i>“Provided that the provisions of this sub-section shall cease to have effect from the 1st day of</i>	1 st June, 2011	Under the existing provisions SEZ Developers are exempt from the payment of Dividend

				<i>June, 2011.”</i>		Distribution Tax. However, since a sunset clause is being provided in the case of SEZ developers and units in SEZ, the availability of exemption from payment of DDT is being withdrawn accordingly SEZ developers and units in SEZ shall be required to pay DDT for dividends declared or paid on or after 1 st June 2011.
20	115R	Amendment in clause(i) in s.s(2)	<i>[(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income [at the rate of— [(i) twenty-five per cent on income distributed by a money market</i>	<i>[(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed to any person being an individual or a Hindu Undivided family” by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income [at the rate of— [(i) twenty-five per cent on income distributed to any person being an individual or a Hindu Undivided family” by a money market mutual fund</i>	1 st June, 2011	Additional Income Tax @ 25% on Income Distributed by the Mutual Fund if the recipient is an individual/HUF, 30% on others in case of Money Market Mutual Fund or Liquid Fund. Additional Income Tax @ 12.5% on Income Distributed by the Mutual Fund if the recipient is an individual/HUF, 30% on others in case of debt fund other than Money Market Mutual Fund or Liquid Fund.

			<i>mutual fund or a liquid fund;</i>	<i>or a liquid fund;</i>		
		Insertion of clause(ia)		"(ia) thirty per cent. on income distributed to any other person by a money market mutual fund or a liquid fund;"		
		Amendment in clause(ii)	(iii) <i>twenty per cent on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund:}]</i>	(iii) <i>thirty per cent on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund:}]</i>		
21	131	Insertion of s.s(2)		"(2) For the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as may be notified by the Board in this behalf, to exercise the powers conferred under sub-section (1) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of	1 st June, 2011	Clause seeks to strengthen the apparatus of enquiries and investigation in respect of any person or class of persons in relation to agreement referred to in section 90 and section 90A. The apparatus is in the form of designated officers not below the rank of ACIT. The strengthening is done by two means (1) giving them power as envisaged in sub section 1 even if no proceedings are pending before them and (ii) empowering the designated authority with power to impound and retain books of accounts or other documents

				persons are pending before it or any other income-tax authority.";		
		Amendment in s.s(3)	(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) [or sub-section (1A)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act :	(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) [or sub-section (1A)] or sub-section(2) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act :		
22	133	New proviso inserted after the second proviso		Provided also that for the purposes of an agreement referred to in section 90 or section 90A, an income-tax authority notified under sub-section (2) of section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority."	1 st June, 2011	The powers of section 133 are being extended to authorities being specified for the collateral purposes of enquiries or investigation of agreements referred to in section 90 or 90A even when no proceedings are pending before such authorities whereas the present empowerment is present only when there exists direct purpose of act.
23	139	Amendment in sub-clause(i)	<i>Explanation 2.</i> — In this sub-section, “due date” means,—	<i>Explanation 2.</i> —In this sub-section, “due date” means,— (a) <i>where the</i>		Currently, the due date of filing the income tax returns by companies

		<p>of clause(a) of Explanat ion 2 of s.s (1)</p>	<p>(a) <i>where the assessee is—</i> (i) <i>a company;</i> (ii) <i>and (iii).....</i> ... <i>the [30th day of September] of the assessment year;</i></p>	<p><i>assessee is—</i> (i) <i>a company;</i><i>(other than a company referred to in cluse (aa)”</i> (ii) <i>and (iii).....</i> ... <i>the [30th day of September] of the assessment year;</i></p>		<p>undertaking international transactions, is 30th September of the relevant assessment year. Additionally, report of an accountant as required u/s 92E is also to be filed on or before this due date.</p> <p>On account of purported difficulty faced by the MNC carrying on international transactions, the due date of filing return by companies undertaking international transactions is proposed to be extended to 30th November of the Assessment year.</p> <p>One aptly fails to appreciate the logic behind extension of such due date to those MNC's which are well equipped and resourced in keeping a track of the contemporary comparable data</p>
		<p>Insertion of clause(a a)</p>		<p>"(aa) in the case of an assessee being a company, which is required to furnish a report referred to in section 92E, the 30th day of November of the assessment</p>		

				year;";		
	s.s(1C)	New insertion after s.s(1B)		"(1C) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification in the Official Gazette, exempt any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.";	1 st June, 2011	
	s.s(4C)	New insertion of clause (g) & clause(h) after clause(f) of s.s(4C)		"(g) body or authority or Board or Trust or Commission (by whatever name called) referred to in clause (46) of section 10; (h) infrastructure debt fund referred to in clause (47) of section 10,";	1 st June, 2011	
			shall, if the total income in respect of which such[<i>scientific research association</i>], news agency, association or institution, fund or trust or university or other educational	shall, if the total income in respect of which such[<i>scientific research association</i>], news agency, association or institution, fund or trust or university or other educational institution or any hospital or other medical institution		

			<p>institution or any hospital or other medical institution or trade union is assessable, without giving effect to the provisions of <u>section 10</u>, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).]</p>	<p>or trade union “or body or authority or Board or Trust or Commission or infrastructure debt fund” is assessable, without giving effect to the provisions of <u>section 10</u>, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).]</p>	
24	143(1B)	Amendment in sec. 143 s.s(1B)	(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in	(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that	Currently, the central government has been empowered to issue directions and instructions wrt processing of returns of income by the Central Processing centres, such however, not the issue directions

			the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, [2011].	any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, [2012].		beyond 31.03.2011, the power to issue directions has been extended till 31.03.2012. This is in spirit with the setting up of the Two new CPC at Manesar and Pune and New CPC to come at Kolkata.
25	153	Amendment in Explanat ion 1 clause(v ii)	(vii) <i>the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section (7) of section 245R,]</i>	(vii) <i>the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Commissioner under sub-section (7) of section 245R,or”]</i>	1 st June, 2011	
		Insertion of clause (viii) after clause(v ii)		the period commencing from the date on which a reference for exchange of information is made		This period shall also be excluded while computing the time limit.

		before shall be excluded		by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of six months, whichever is less,".		
26	153B	Amendment of clause (vii) of Explanation in s.s(1) OF SEC. 153b	<i>[(vii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A till the date of the receipt of the order setting aside the order of such annulment, by the Commissioner,]</i>	<i>[(vii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A till the date of the receipt of the order setting aside the order of such annulment, by the Commissioner,] or</i>	1 st June, 2011	This period shall also be excluded while computing the time limit.
		Insertion of clause (viii)		"(viii) the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the		

				information so requested is received by the Commissioner or a period of six months, whichever is less,".		
27	194LB	Insertion of sec. 194LB		Where any income by way of interest is payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund referred to in clause(47) of sec. 10, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five percent.	1 st June, 2011	Refer clause 4(c) (Supra)
28	245C	Clause(i a) inserted in proviso to s.s(1)		(ia) in a case where— (A) the applicant is related to the person referred to in clause (i) who has filed an application (hereafter in this sub-section referred to as "specified person"); and (B) the proceedings for assessment or re-	1 st June, 2011	Scope of application before Settlement Commission <u>widened to include, the application by relative / closely held entities, related to a person in whose case proceedings have been initiated as a result of search</u> , and where such person has filed an application before

assessment for any of the assessment years

referred to in clause (b) of sub-section (1) of section 153A or clause (b) of sub-section (1) of section 153B in case of the applicant, being a person referred to in section 153A or section 153C, have been initiated,

the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees,;

settlement commission. Further the additional amount of income-tax payable on the income disclosed in application by such relative or entity should exceed Rs. ten lakh.

It is not necessary that the year wise tax payment of ₹ 10 lakhs. The aggregate tax payable however for all year taken together by a related applicant should be ₹ 10 lakhs or more.

Insertion of Explanation after the proviso

"Explanation.— For the purposes of clause (ia),—

(a) the applicant, in relation to the specified person referred to in clause (ia), means,—

(i) where the specified person is an individual, any relative of the specified person;

(ii) where the specified person is a company, firm, association of persons or Hindu undivided family, any director of the company, partner of the firm, or member of the association or

family, or any relative of such director, partner or member;

(iii) any individual who has a substantial interest in the business or profession of the specified person, or any relative of such individual;

(iv) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the specified person or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member;

(v) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the specified person; or any director, partner or member of such company, firm, association or family

or any relative of such director, partner or member;

(vi) any person who carries on a business or profession,—
(A) where the specified person being an individual, or any relative of such specified person, has a substantial interest in the business or profession of that person; or

(B) where the specified person being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person;

(b) a person shall be deemed to have a substantial interest in a business or profession, if—
A) in a case where the business or profession is carried on by a company, such person is at any time during the

				previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend, whether with or without a right to participate in profits) carrying not less than twenty per cent. of the voting power; and		
				(B) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent. of the profits of such business or profession.".		
29	245D (6B)/ sec 22D of W. Tax Act	New Clause inserted, Power of the Settlement Commission to rectify its orders		"(6B) The Settlement Commission may, at any time within a period of six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4): Provided that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has	1 st June, 2011	Through the instant provision the ruling of Hon'ble Supreme Court in the case of Brij Lal v. CIT [2010] 328 ITR 0477 <u>has been nullified.</u> Now the Settlement Commission has been granted power to rectify its order passed u/s 245D(4) at any time within a <u>period of six months</u> from the date of its order, with a view to rectifying any mistake apparent <u>from the Record.</u> It is further provided that a rectification which has the effect of modifying the liability of the

				<p>given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard."</p>	<p>applicant shall not be made unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.[Similar amendment has been brought under Wealth Tax by inserting subsection (6B) to Section 22D See clause 34]</p>
30	282B	Sec. omitted	<p>(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,— (a) by post or by such courier services as may be approved by the Board; or</p> <p>(b) in such manner as provided under the Code of Civil Procedure, 1908</p>	<i>Now omitted</i>	<p>The Income Tax Authority is not required to allot computer DIN for correspondence and made with it. It is being felt that the department is not presently equipped with such measures though undisputedly, once the said provisions would have been made applicable, resort to tracing of documents, additional evidences, idea of non-filing etc would have been reduced, if not nullified.</p>

(5 of 1908) for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in subsection (1) may be delivered or transmitted to the person therein named.

Explanation.—
For the purposes of this section, the expressions “electronic mail” and “electronic mail message” shall have the

			meanings as assigned to them in Explanation to section 66A of the Information Technology Act, 2000 (21 of 2000).]			
31	285	New insertion		"Every person, being a non-resident having a liaison office in India set up in accordance with the guidelines issued by the Reserve Bank of India under the Foreign Exchange Management Act, 1999, shall, in respect of its activities in a financial year, prepare and deliver or cause to be delivered to the Assessing Officer having jurisdiction, within sixty days from the end of such financial year, a statement in such form and containing such particulars as may be prescribed.".	1 st June, 2011	Currently, business activities are carried out by the Liaison offices/ administrative offices of the MNC's in the guise of Liaison Office, thereby paying no tax on the income accruing as a result of Indian operation. Also in majority of cases, there is no mechanism with the revenue to ascertain the details of the local Liaison offices of the MNC's. As such, every LO of a MNC has now been required to furnish a return stating such information of its operations in India. <u>The return of information shall be annual, the format and the details of information desired shall be notified by the Board Later on.</u>

Amendment in sec. 296

The Central Government shall cause every rule made under this Act [the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255] and [every notification issued before the 1st day of June, 2007 under sub-clause (iv) of clause (23C) of section 10] to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the

The Central Government shall cause every rule made under this Act [the rules of procedure framed by the Settlement Commission under sub-section (7) of section 245F, the Authority for Advance Rulings under section 245V and the Appellate Tribunal under sub-section (5) of section 255] and [every notification issued before the 1st day of June, 2007 under sub-clause (iv) of clause (23C) of section 10] **and every notification issued under sub-section (1C) of section 139**” to be laid as soon as may be after the rule is made or the notification is issued before each House of Parliament while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

1st June, 2011

During the course of his budget speech, the FM had in clause 121 referred, that the Board shall soon notify a category of salaried tax payers who will not be required to file a return of income as their tax liability has been discharged by their employer through deduction at source. This clause together with clause no. 23 (partly) provides the enabling rules for notification of such scheme. This scheme reminds of an earlier such initiative of the Board, then popularly known as BFRS (Bulk Filing of return scheme by Salaried employees), which was withdrawn later on due to lack - lusture approach by the employees and employers too.

			<p>session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]]</p>	<p>aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, that rule or notification shall thereafter have effect, only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.]]</p>		
33	Fourth Schedule	Amendment in the schedule (only date is extended)				The power of commissioner to withdraw the recognition of provident fund has been extended to 31 st March, 2012.
34	22D (6B)		-	The Settlement Commission may, at any time within a period of six months from the date of		Refer clause 29

the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4):
Provided that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard