UNION BUDGET (1982-83) PROPOSALS ARE INEFFECTIVE

H. P. RANINA

FORUM OF FREE ENTERPRISE
PIRAMAL MANSION, 235 DR. D. N. ROAD,
BOMBAY 400 001.

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by

H. P. RANINA*

When 1982 was christened the "Year of Productivity" and when a pragmatic man like Mr. Pranab Mukherjee was given the Finance Portfolio, great expectations were aroused. It was widely expected that ingenuous proposals would be made to accelerate the tempo of industrial growth which would give the requisite thrust to the twenty point Programme announced by the Prime Minister recently.

Unfortunately, there is nothing in the budget proposals to enable the industrial sector to grow at a rate higher than 8% recorded this year, nor is there any measure which would permit industry to replace and modernise its obsolete plant and machinery which is responsible for industrial sickness as pointed out in the economic survey presented to Parliament a few days ago.

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* Based on a public lecture delivered under the auspices of the Forum of Free Enterprise and other organisations in Bombay on 1st March 1982. The author is a well-known authority on taxation, and author of several books and articles on the subject.

It is indeed strange that an option to claim higher depreciation is not given to industry though the need for it was pointed out by the former Finance Minister, Mr. Venkataraman, in October, 1981, and which was suggested by the Direct Taxes Inquiry Committee.

If Indian industry is to have a higher rate of growth, it can only be done with modern and sophisticated machines. In other words, the strength of an industry lies in its being kept in a state of sophistication and the weakness of an industry is found in its obsolete machines.

The least that the Finance Minister could have proposed is to permit plough back of profit to the maximum possible extent which could be used for investment in capital assets, by providing for a lower rate of tax on retained profits which are so invested.

The only concession which has been given for encouraging industrial units to increase production is the scheme of Excise Duty concession. However, this scheme would cover only 38 tariff items including some basic raw materials, other important industrial inputs and certain finished products.

The Excise Duty concession would apply only for increased production of goods during the period of 12 months commencing on 1st March, 1982, and ending on 28th February, 1983. The benefit would be available only if the production in the 12 months exceeds 110% of the production for the 12 months ending on

28th February, 1982. The concession in Excise Duty is to be 1/5th of the total amount of duty paid on the excess production, where the goods carrying basic Excise Duty is not more than 20% ad valorem. The concession is 1/10th of the duty in other cases. However, this scheme would enable the industrial unit to claim the credit only while paying the Excise Duty during the financial year 1983-84. Therefore, there is no immediate benefit and hence the incentive for higher production would not be very effective.

The only other concession given to industry is for continuing the investment allowance at the rate of 35% under section 32-A (2-B) of the Income-tax Act, 1961. Under this provision, investment allowance of 35% is allowed where any new machinery or plant is installed for manufacturing or producing any article by using any technology or process or other know-how developed in a laboratory owned or financed by the Government or by public sector companies or a University or by an institution recognised by the prescribed authority.

The same concession is given where the new machinery or plant is used for manufacturing or producing an article or thing which is invented in such a laboratory. However, this benefit is available only if the following conditions are fulfilled :—

1. The right to use such technology or process or know-how or to manufacture or produce the article or thing has been acquired from the

owner of the laboratory or any person deriving title from such owner;

2. The assessee furnishes, alongwith his return of income for the assessment year for which the deduction is claimed, a certificate from the prescribed authority to the effect that such article or thing is manufactured or produced by using such technology or other know-how developed in such laboratory or is an article or thing invented in such laboratory; and

3. The machinery or plant is not used for the purpose of business of manufacture or production of any article or thing specified in the list in the Eleventh Schedule to the Act.

Depreciation at the rate of 30% is allowed on devices and systems for energy saving or for minimising environmental pollution or for conservation of natural resources. However, all the energy saving devices would not be covered, but only those which fall within the list to be notified by the Central Government.

The other benefit sought to be given to industry is that dividend received by a domestic company from an Indian company which manufactures basic drugs, synthetic rubber and rubber chemicals, would be entitled to exemption of 100% of the dividend under section 80M of the Income-tax Act. This benefit will be available for the assessment year 1983-84.

These are the only incentives proposed to be given to industry and there is no likelihood of these measures making any appreciable impact on industrial growth. It is quite possible that the year of productivity may prove to be a year of stagnation and at best, industry may be able to just about maintain the rate of growth of 8% achieved in 1981-82.

The position on the foreign exchange front is as depressing as the position on the agricultural front is cheerful. The adverse trade gap which is widening has not only caused grave concern but has prompted the Government of India to take the highest amount of loan sanctioned in the history of the International Monetary Fund.

India's exports in 1980-81 rose by 4% to Rs. 6,709.17 crores, whereas imports grew by 38% to Rs. 12,484.34 crores leaving an adverse trade gap of Rs. 5,775.17 crores.

In fact, the position is likely to worsen in view of the fact the traditional exports of India, namely, textile fabrics, jute and tea are facing unfavourable world market conditions. In the light of this situation, the Finance Minister has proposed giving an incentive for increasing exports for and from the assessment year 1983-84 for a period of five years.

Section 89-A seeks to grant tax relief to any Indian company or person who is resident in India, where the export turnover exceeds by more than 10%

of the export turnover during the preceding accounting year. However, the rate at which the deduction would be allowable is not specified in the section, but it would be specified by the Central Government and notified in the Official Gazette.

The goods or merchandise which are eligible for this deduction are also to be specified by the Central Government.

The Central Government would notify the rate and the product having regard to the following conditions :—

1. The cost of manufacture of such goods and the price of such goods in the foreign country.
2. The need to develop foreign market for such goods.
3. The need to earn foreign exchange.
4. Any other relevant factor.

The maximum amount of deduction to which the tax payer would be entitled would not exceed 10% of the amount of income-tax otherwise payable by the tax payer on the profits and gains from the export of such goods outside India. Where the total income of the tax payer includes other income besides such profits and gains, the income-tax payable on such profits and gains would be calculated appropriately in accordance with rules to be prescribed by the Central Board of Direct Taxes.

It is most unlikely that this so called relief will have any impact on export earnings. The maximum relief of 10% would at best bring insignificant relief to the tax payer who has taken pains to export the goods. It is important to note that the assessee is entitled to a deduction not from the amount of the income, but from the amount of the income-tax payable by him in respect of the export profits.

Generally it is difficult for an exporter to make profits when he exports his goods, in view of the low international prices and the cut-throat competition from countries like Japan, South Korea, Taiwan and even Hong Kong. It is for this reason that liberal subsidies are given by the Government in respect of exports.

Hence, to link the relief with the export profits would not have any effect whatsoever since profits themselves are hard to make on exports. In fact, it is a common experience of an industrialist who exports goods that the total earnings on exports after taking into account the export subsidy and the duty drawback is in the aggregate less than the price which could have been recovered if the exported goods had been sold in the domestic market.

If at all the Government wants to link the relief to the tax payable on the export profits, as and when they arise, the least that they can do is to make the profits completely exempt from tax as has been done by the Government of Sri Lanka, which grants 100%

exemption on export profits. In fact, exports from Sri Lanka have increased dramatically in the last few months and this is entirely attributable to the incentive which is given.

Another provision which is sought to be made in order to earn more foreign exchange is to grant a partial exemption to building contractors who undertake projects outside India. For this purpose it is proposed to insert a new section 80-HHB to provide that where an Indian company or a non corporate tax-payer resident in India, derives any profits and gains from the business of execution of a project under a contract entered into by him with the Government of a foreign state or any statutory or public authority or agency in a foreign state or with any foreign enterprise, he would be entitled to a deduction in computing his taxable income of 25% of such profits and gains from contracts undertaken outside India.

This concession would also be available where the assessee undertakes the execution of any work in connection with any foreign project undertaken by any other person. The benefit of this provision would be available in respect of projects for the construction of any building, road, dam, bridge, or other construction outside India or for the assembly or installation of machinery or plant outside India and the execution of such other work outside India of whatever nature as may be prescribed by the Board. The tax payer would not be eligible for this concession

unless the consideration for the execution of the project or work is payable in foreign currency.

Several conditions are attached before this deduction is allowed under Chapter VI-A which are as follows :—

1. The tax payer will have to maintain separate accounts in respect of the profits and gains derived from the business of the execution of the project. Further, these accounts will have to be audited by a Chartered Accountant where the tax payer is not a company or a co-operative society. Along with the return of income, the report of the audit would have to be attached.

2. The assessee would have to debit to the profit and loss account of the relevant accounting year in respect of which the deduction is to be allowed and he would have to credit to "foreign projects reserve account" a sum equal to 25% of the profits and gains from such project or work. The reserve has to be retained for five years and during that period it is to be utilised for the purpose of the business and not for distribution by way of dividends and profits.

3. The tax payer would be required to remit to India in foreign exchange an amount equal to 25% of the profits and gains within a period

of six months from the end of the relevant accounting year.

Where the tax payer does not credit to the foreign project reserve account the sum of 25% of the profits or where the amount actually remitted into India within the six months period is less than 25% of the profits and gains, the deduction would be restricted to the amount actually brought into India, whichever is less.

If before the expiry of the period of five years the tax payer utilises the amount credited to the foreign project reserve account for any non-business purpose or for the purpose of distribution of dividends by way of profits, the deduction which was originally granted to him would be withdrawn. This benefit is available for and from the assessment year 1983-84 and is not restricted to the five year period as in the case of the relief for exports.

While one has no quarrel with the principle behind this provision, it seems that the requirement of bringing 25% of the profits into India in foreign exchange within the six months period may be undesirable because it would prevent the tax payer from having sufficient funds to execute other projects. Further, the profits of a project may be locked up in current assets and therefore to bring 25% of the profits into India in foreign exchange may not the possible within six months from the end of the accounting year.

Therefore, the requirement of bringing the profits into India must be relaxed because in any view of the matter the Reserve Bank exercises considerable control and makes sure that not only the original investment permitted by it, but the whole of the profits are brought into India as soon as practicable. It would also be desirable for the Government to consider giving a higher deduction, in order to ensure that the full profits are accounted for and there is no leakage of foreign exchange. In fact, 100% exemption of profits would be quite appropriate especially in view of the fact that a similar benefit is given under section 80-0 for profits earned in the export of technology.

The Finance Minister has acknowledged the fact that remittances made by non-resident Indians are an important source of foreign exchange for the country. It has, therefore, been decided to improve the facilities available for non-residents for encouraging the flow of funds into India.

Any investment without repatriation rights made by non-residents of Indian origin would be permitted and would be treated on the same footing as that of resident Indians only. However, investments in commercial property and land would not be allowed.

Commercial property implies property meant for commercial or business exploitation, for example, running shops, theatres or providing office premises. Commercial property would not include residential

houses, the fact that the residential house is let out being irrelevant.

Therefore, non-resident Indians would be entitled to invest in the new Capital Investment Bonds which are completely free of income-tax and wealth-tax and without any limit. However, gift-tax is exempt upto Rs. 10 lakhs if the non-resident Indian has initially subscribed to the Bonds, it being irrelevant whether the gift is made to relatives or other persons.

Non-resident Indians would also be permitted to invest in shares of limited companies upto 40% of the capital. The investment so made would be repatriable together with the dividends and capital gains. However, no specific tax exemption is provided in respect of such investment except those which are normally given to Indian citizens.

Therefore, dividends would be exempt from tax upto a limit of Rs. 4,000 under section 80-L and wealth would be exempt from tax upto Rs. 1,65,000 under section 5 of the Wealth-tax Act. If these shares are gifted, gift-tax would be leviable since the property is in India and no specific exemption is provided. Non-resident Indians would also be permitted to buy shares of companies quoted on the stock exchange subject to specified limits.

An additional rate of 2% interest would be given to non-resident Indians who bring in fresh amounts in new deposits of one year or more. The

extra interest would be available in respect of deposits in the non-resident external account.

Gifts from this account would be completely free of gift-tax. For this purpose it would be necessary to consider whether the non-resident person is treated as such under the Foreign Exchange Regulations Act and not under the Income-tax Act.

In other words, even if the person is a resident under the Income-tax Act, but takes up a job outside India and therefore becomes a person resident outside India under the Foreign Exchange Regulations Act, he can make a gift to any person, whether a relative or not, out of the funds lying in the non-resident external account. Another amendment of the Gift-tax Act, seeks to provide that a non-resident Indian who is treated as such under the Income-tax Law can make a gift to any relative by way of foreign currency or foreign exchange remitted from abroad.

A relative for this purpose is defined to mean the husband, wife, brother or sister of the non-resident or any lineal ascendant or descendant of the non-resident. In this regard it must be noted that even at present gift-tax is not payable where the donor informs the donee of his intention of giving a gift and the donee requests the donor to send the draft by post.

In that case, the gift is deemed to be made outside India because it is received by the post office outside India as the agent of the donee. The afore-

said amendment would apply only where the gift is made to a relative though there may be no express request of the donee to send the amount by post.

The Finance Minister proposes to allow non-residents to invest in the 12% six year National Savings Certificates which were issued from last year onwards. These Certificates would be exempt from income-tax and wealth-tax without any limit. However, the exemption would be available only to persons who are non-residents under the Income-tax Law.

There is no limit on the amount which can be invested in these National Savings Certificates for getting the exemption. The only requirement is that the individual should subscribe to the Certificates in foreign currency or by remitting foreign exchange from a country outside India.

Therefore, non-resident Indians would now have two sources of investment, apart from shares in Indian companies, namely, the 12% six year National Savings Certificates and the Capital Investment Bonds. The former security is superior to the latter for three reasons :—

1. Whereas the National Savings Certificates have a maturity period of only six years, the Bonds have a period of ten years.

2. Whereas the former carries a rate of interest of 12%, the latter carries a rate of interest of 7%.

3. Whereas the former are free from gift-tax without any limit, the latter are free from gift-tax only up to Rs. 10 lakhs.

It must be emphasised that the six year National Savings Certificate is exempt from income-tax, wealth-tax and gift-tax only in the case of non-resident Indians. Therefore, the moment the Certificates are gifted to an Indian relative of the non-resident Indian, the interest of 12% will become taxable and the value of the Certificate will be liable to wealth-tax.

The other benefit given for attracting foreign investment is that facilities in non-resident external accounts and in Indian companies are sought to be extended to Companies, Partnership firms, Trusts, Societies and other corporate bodies owned by non-resident Indians to the extent of at least 60%.

The question which survives is whether these measures will have the desired effect of attracting adequate foreign exchange resources to the country. In one independent study it has been estimated that persons of Indian origin have as much as Rs. 90,000 crores invested in several countries, notably the European countries.

These countries offer return of 20-24% which is totally free of all taxes and repatriable without any restrictions. Therefore, a non-resident Indian may well ask himself as to why he should withdraw his funds from these investments and bring them to India

for a 12% return on a National Savings Certificate, the proceedings of which would not be repatriable.

The answer seems to be obvious and therefore the investment avenues in this country may still not be found attractive enough for adequate resources to flow into India. At best these measures will have a marginal effect on the inflow of foreign exchange.

It may still be possible for the Finance Minister to consider making dividends totally exempt from tax in respect of non-residents who invest in shares on a repatriable basis upto the specified limits. If the Government can pay tax-free interest running into crores of rupees to the I.M.F., there is no reason why it cannot give tax free dividends to investors who bring in their risk capital.

There seems to be no doubt that if dividends are made tax-free, not only would the flood gates of foreign investments be thrown open but it would also mean setting up of new industries, higher production, more employment opportunities, more revenue for the Government by way of excise duty and customs duty and several other benefits to the economy in general.

Great emphasis has been placed in the "Economic Survey" of India on the need to promote the growth of savings which have for the last few years been showing a healthy trend. Tremendous faith was, therefore, put in the new Finance Minister to come up with meaningful schemes to promote savings.

While the Finance Minister must be complimented for coming up with one novel idea, one cannot help feeling that some of the "reliefs" sought to be given make a mockery of that word. The increase of the deduction under section 80-L of the Income-tax Act, 1961, from Rs. 3,000 to Rs. 4,000 and under section 32 of the Unit Trust of India Act, 1963, from Rs. 2,000 to Rs. 3,000 is at best an attempt to take care of the inflation-eroded incomes of investors.

If an investor is to be left with the same income in real terms as he had when these reliefs were introduced more than a decade ago, the exemption in respect of dividends and bank interest should have been raised from Rs. 3,000 to at least Rs. 7,500 and for dividends from Unit Trust, the limit should have been raised from Rs. 2,000 to at least Rs. 5,000.

The Finance Minister's proposals for the increase would make no impact whatsoever on either the ability or desire to save. There is no doubt that the ability to save has been diminishing year after year with the investor being buffeted by inflationary forces on the one hand and heavy taxation on the other.

Therefore, the first task of the Finance Minister should have been to leave sufficient resources in the hands of the people which would thereafter be channelised to productive use. At the outset, it must be pointed out that there seems to be no justification for increasing the rates of taxes by 2½% on persons whose income is between Rs. 60,000 and Rs. 1 lakh. Most of

the persons affected by the increase are Managers in charge of industries and, therefore, in this year of productivity, to tax these persons more would not be in the best interests of the Nation.

The increase in the standard deduction from 20% to 25% with the retention of the ceiling of Rs. 5,000 will be so ineffective as a measure of promoting savings or improving the lot of the working class, that it would have been better if the Finance Minister had not cluttered the Finance Bill, 1982, with such a meaningless amendment. If a poor country like Sri Lanka can afford to give tax-free salary to its Government employees, there is no reason why India cannot also do so.

The higher deduction under section 80-C will again have merely a marginal effect on the capacity to save. The tax rebate works out to such a negligible figure that a man may not feel it worthwhile to make an effort to tighten his belt.

What is necessary is a total deduction of the amounts saved in approved forms of investment so that those who have sufficient resources and incomes are induced to restrict expenditure and refrain from luxurious living. Unless a very strong incentive is given by way of total exemption of incomes saved, there would neither be a motivation to work hard and earn more nor would there be a wholehearted desire to live frugally.

The increase in limits under section 80-C of 100% of the first Rs. 6,000, 50% of the next Rs. 6,000 and 40% of the balance, subject to the qualifying limit of Rs. 40,000 or 30% of the gross total income, whichever is less, would only result in a marginal saving in tax to persons in the higher brackets but would not in any way sharpen the inducement to save.

The revision of the limits under section 80-CC for investment in initial issue of equity shares floated by public limited companies from Rs. 10,000 to Rs. 20,000 is a step in the right direction. However, it is necessary to clarify as to when an issue is considered to be the initial issue because in most cases there is first a promoters' issue and thereafter a public issue and the former could be described as an initial issue.

The most novel and revolutionary idea of the new Finance Minister is that in respect of the Capital Investment Bond. This Bond has been made extremely attractive for every class of investors by making the 7% interest totally tax-free and by making the value of the bond free from wealth-tax.

The added incentive is that the bond can be gifted without attracting gift-tax upto a value of Rs. 10 lakhs. If after making the gift, the donor survives for two years, the value of the bonds would not be liable to estate duty upon the death of the donor.

The Capital Investment Bond which would be redeemable after 10 years from the date of the issue,

would be used for public sector enterprises. Nothing is mentioned about the purpose for which the funds would be used or the companies which are going to float them.

The main question is whether these bonds would serve as an incentive for spurring savings and investments. Ultimately, the ability to save depends on the amount of money remaining out of the annual income of a tax-payer after he pays the income-tax, wealth-tax and Compulsory Deposit, and after meeting his basic personal needs.

At present, the amount of money which so remains is a very paltry sum unless the income of an individual is an unusually high amount which is in very rare cases in this country. Even a person with a substantial wealth of say Rs. 30 lakhs at present, who mainly derives his income from investments, finds that he suffers a negative rate of return after paying all the taxes and the Compulsory Deposit.

Therefore, the Capital Investment Bond would not attract fresh savings as there is not much scope for it but this bond will mainly succeed in diverting funds from the private sector to the public sector.

This is because those who suffer a negative or a very low rate of return at present on their income in view of the various taxes, and those who wish to make a gift to their heirs without paying the tax, would find it very attractive to dispose of their pre-

sent investments in shares or fixed deposits with companies and banks and invest the amount in the Capital Investment Bond. This would not only ensure an income of 7% free of tax and Compulsory Deposit (which means 44% grossed up rate for those whose income is more than Rs. 1 lakh) but would also result in total exemption from wealth-tax.

Therefore, hereafter it would no longer be attractive for an investor to invest funds either in fixed deposits with companies or banks or in debentures of companies. Shares would be attractive only in case of certain select scripts where there are prospects of growth. However, generally companies will find it very difficult to raise funds unless the issue is made by a well-known group for a very attractive project. There is, therefore, not the slightest doubt that working capital funds of a company will dry up completely and that it would be extremely difficult to raise funds by way of fixed deposits which generally are used as working capital.

Hence, the Capital Investment Bonds will divert substantial funds from the private sector to the public sector and this would have a deleterious effect on the growth of industry in the year of productivity.

In fact, the main impediment in increasing production would be the paucity of working finance shortage of electric power and other raw and vital material inputs, and the general labour situation.

The second savings scheme is for small investors who can spare upto Rs. 5,000. The certificate would be repaid after 10 years to the extent of three times the original amount. In other words, Rs. 15,000 would be paid upon maturity of the certificate after 10 years.

There is a built-in insurance because it is provided that if the depositor dies before the date of maturity, his heirs or nominees would be paid the full amount of Rs. 15,000 immediately.

Therefore, this certificate will divert funds from the Life Insurance Corporation because the certificate bears a higher yield than what the Life Insurance Corporation gives. However, the benefit of this certificate is restricted only to those persons who are between 18 and 45 years.

The raising of the deduction from Rs. 2,400 to Rs. 3,600 for those who construct new houses after 31st March, 1982, is not likely to have much effect on the housing industry.

The only other benefit given to house owners is the increase in the standard deduction for self- occupation of property from Rs. 1,800 to Rs. 3,600 per annum.

Perhaps, the best concession given to individuals is in respect of capital gains. Under the existing provisions, capital gains arising on the transfer of a house property which in the two years immediately preceding the date of its transfer was used by the tax-payer or a parent of his for self-residence is exempted

from income-tax if the tax-payer, within a period of one year before or after that date, purchases or within a period of two years after the date of such transfer constructs a house property for the purpose of his own residence.

The exemption of capital gains is restricted to the amount of such capital gain utilised for the purchase or construction of the new house property. Where the amount of capital gain is greater than the cost of the house property so purchased or constructed, the balance amount of the capital gain is charged to tax. If, however, the amount of capital gain is equal to or less than the cost of the house property purchased or constructed, the capital gain is completely exempted from income-tax.

If such house property purchased or constructed is transferred within a period of three years of its purchase or construction, the capital gain on the property so transferred is calculated by reducing the cost of its acquisition by the amount of the capital gain exempted from income-tax.

The conditions of self-occupation of the property by the tax-payer or his parent before its transfer and the purchase or construction of the new property to be used for the residence of the tax-payer for the purpose of exemption of capital gains created hardship for tax-payers. This was mainly due to the fact of employment or business of the tax-payer at a place

different from the place where such property was situated.

It is proposed to make the following modifications in the provision :—

(i) The conditions of residence by the tax-payer or his parent in the property which was transferred, as also residence by the tax-payer in the new property purchased or constructed by him are being removed;

(ii) The period for construction of a new property is proposed to be be raised from two years to three years since tax-payers sometimes experience difficulty in complying with the existing time limit of two years for the construction of a house property;

(iii) It is proposed to clarify that this exemption will be allowed only in the case of individual tax-payers;

(iv) It is also being provided that this exemption will apply only in relation to long-term capital gains, that is, gains arising from the transfer of a house property which had been held by the tax-payer for a period exceeding 36 months.

Under the existing provisions of the Income-tax Act, any profits and gains arising from the transfer of a long-term capital asset are charged to tax on a concessional basis. For this purpose, a capital asset which

is held by a tax-payer for a period of more than 36 months is treated as a "long-term" capital asset.

With a view to encouraging house construction, the Finance Minister has proposed that where any capital gain arises from the transfer of any "long-term capital asset" (other than any building or land appurtenant thereto, the income from which is chargeable under the head "Income from house property") and the tax-payer purchases within a year before or after the date on which the transfer took place or constructs within a period of 3 years after the date of transfer, a residential house, the capital gain arising from the transfer will be treated in a concessional manner under the new section 54-F as under :—

(i) If the cost of the house that has been purchased or constructed is not less than the net consideration in respect of the capital asset transferred, the entire capital gain arising from the transfer will be exempt from tax;

(ii) If the cost of the newly acquired house is less than the net consideration in respect of the asset transferred, the exemption from long-term capital gain will be granted proportionately on the basis of investment of net consideration either for purchase or construction of the residential house.

This concession will not be available in a case where the assessee owns on the date of the transfer of the original asset any residential house, or pur-

chases, within the period of one year after such date, or constructs, within the period of three years after such date, any other residential house. Where the assessee purchases or constructs any other residential house within the period aforesaid, the exemption under the proposed provision, if allowed, shall stand forfeited.

"Net consideration" in respect of the transfer of a capital asset means the full value of the consideration received or accruing as a result of the transfer of the capital asset after deduction of any expenditure incurred wholly and exclusively in connection with the transfer.

If a taxpayer transfers the newly acquired residential house within three years of its purchase or construction, then the amount of capital gain arising from the transfer of the original asset which was not charged to tax shall be deemed to be the income of the year in which the new asset is transferred and such income shall be charged to tax under the head "Capital gains" relating to long-term capital assets.

Both these benefits are in the best interests of the people and will have the desired effect of enabling persons to own their own house property.

The Law in relation to capital gains has also been liberalised and a higher deduction is sought to be provided under section 80-T of the Act. Assets are classified into three categories — land and buildings, gold, bullion and jewellery, and other assets.

The deduction under section 80-T is for assets held for more than three years. However, different rates have been prescribed for assets held for various lengths of time. For assets held between three and five years, the deduction under section 80-T for land and buildings is 25% and 40% for other assets.

For the period between five and ten years, the deduction is 28% and 45% respectively, for the period between ten and fifteen years, the deduction is 33% and 50% respectively, for the period between fifteen and twenty years, the deduction would be 37% and 55% respectively and for the period exceeding 20 years, the deduction would be 40% and 60% respectively.

In respect of assets held for more than 20 years, the taxpayer would first compute the capital gain by adopting the fair market value on 1st January, 1964, as the cost of acquisition and, thereafter, apply the rate of 40% or 60% as the case may be. Hence, for land and buildings held for more than 20 years, the rate of tax applicable to the entire capital gains is 36% where an assessee is in the highest income bracket and for other assets, the rate is around 26%. The balance amount of capital gains would be tax-free.

This provision is a very healthy one as it would reduce the unaccounted portion of the value of the transaction and would induce taxpayers to declare the full consideration. Further, this provision is very fair to the taxpayer as it takes into account the inflation which has taken place during the last 20 years.

Under the Wealth-tax Law, tea, coffee, rubber and cardamom plantations are sought to be made exempt from wealth-tax on the ground that it is administratively cumbersome to recover this tax and there is lot of litigation. The same reasons can be given for several other provisions of the Act for justifying their deletion, which has not been done.

The Wealth-tax limit for exemption of motor vehicles has been rightly increased from Rs. 30,000 to Rs. 75,000. Similarly, the exemption limit for professional assets has been increased from Rs. 20,000 to Rs. 50,000, which is a step in the right direction.

The change in the test for residence is also a welcome move and will mitigate hardships caused to individuals, specially those who leave India to take up employment abroad. However, by merely increasing the limit to 182 days, may not help many persons who leave in the second half of a financial year.

It would have been eminently desirable for the Finance Minister to provide the same definition of a person resident outside India as given under the Foreign Exchange Regulation Act so that as soon as a person takes up employment abroad, he is deemed to be non-resident.

The test of maintenance of a house for 182 days or more has been omitted. This would put to rest all litigation on the meaning of the expression "maintained or caused to be maintained" which has been very controversial.

The provision to permit any non-resident to visit India for 90 days, whether on leave or vacation or otherwise, is also a correct move in the right direction and will enable Indians to come to India for a longer period even if they are engaged in a business or profession.

The exemption of the amount received for encashment of leave upto the maximum of six months' salary or Rs. 25,500, whichever is less, will have a salutary effect of making employees work harder and taking less leave which can be encashed without attracting any tax liability. This provision seeks to approve the decision of the Madras Bench of the Income-tax Appellate Tribunal in the case of *Tendolkar* where it was held that the amount so received is not liable to tax.

The liberalisation of law in respect of charitable trusts has been long overdue and the hardships caused to charitable trusts are sought to be removed by providing that exemption would not be denied for the assessment year 1982-83 if a charitable trust continued to invest its funds in the non-approved assets.

The avenues for investment by charitable trusts are sought to be widened by allowing them to invest in immovable properties. However, plant and machinery affixed to a land or attached to a building would not be treated as immovable properties for this purpose.

The Government has done nothing to attract funds from the parallel economy for economic development. It was expected that reduction in the rates of income-tax would be the first step in the fight against tax evasion.

However, far from there being any reduction, an increase in the rates has been made for income between Rs. 60,000 and Rs. 1 lakh. A reduction in the rates of tax would have had no effect on the budgetary position because the experience of the Government has been that with the reduction in the rates of income-tax, the total revenue is increased.

One more golden opportunity has passed which the new Finance Minister could have seized to make the coming financial year a landmark in the economic and industrial history of India.

The views expressed in this booklet are not necessarily the views of the Forum of Free Enterprise.

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HAVE YOU JOINED THE FORUM?

The Forum of Free Enterprise is a non-political and non-partisan organisation, started in 1956, to educate public opinion in India on free enterprise and its close relationship with the democratic way of life. The Forum seeks to stimulate public thinking on vital economic problems of the day through booklets and leaflets, meetings, essay competitions, and other means as befit a democratic society.

Membership is open to all who agree with the Manifesto of the Forum. Annual membership fee is Rs. 15/- (entrance fee, Rs. 10/-) and Associate Membership fee, Rs. 7/- only (entrance fee, Rs. 5/-). Graduate course students can get our booklets and leaflets by becoming Student Associates on payment of Rs. 3/- only. (No entrance fee.)

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