

Income Tax Act, 1961

February 22, 2013

INCOME-TAX ACT, 1961*[1]

[43 OF 1961]

[AS AMENDED BY FINANCE (NO. 2) ACT, 2014]

An Act to consolidate and amend the law relating to income-tax and super-tax

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows :—

CHAPTER I: PRELIMINARY

Section 1: Short title, extent and commencement.

1. (1) This Act may be called the Income-tax Act, 1961.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall come into force on the 1st day of April, 1962

Section – 2: Definitions.

2. In this Act, unless the context otherwise requires,—

[(1) “advance tax” means the advance tax payable in accordance with the provisions of Chapter XVII-C;]

[(1A)] “agricultural income”⁷ means⁸—

⁹[(a) any rent¹⁰ or revenue¹⁰ derived¹⁰ from land¹⁰ which is situated in India and is used for agricultural purposes;]

(b) any income derived from such land¹⁰ by—

(i) agriculture¹⁰; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market¹⁰; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii) of this sub-clause ;

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any process mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on :



⁹[**Provided** that—

(i) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(ii) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or where the land is not so assessed to land revenue or subject to a local rate, it is not situated—

(A) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand ¹¹[***]; or

^{11a}[(B) in any area within the distance, measured aerially,—

(I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than ten thousand but not exceeding one lakh; or

(II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than one lakh but not exceeding ten lakh; or

(III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (A) and which has a population of more than ten lakh.¹²

¹³[¹⁴[*Explanation 1.*—For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this section.]

¹⁵[*Explanation 2.*—For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub-clause (b) shall not be agricultural income.]

¹⁶[*Explanation 3.*—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income;]

¹⁷[*Explanation 4.*—For the purposes of clause (ii) of the proviso to sub-clause (c), “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;]

¹⁸[¹⁹[(1B)] “amalgamation”, in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that—



(i) all the property of the amalgamating company or companies immediately before the amalgamation becomes the property of the amalgamated company by virtue of the amalgamation ;

(ii) all the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation ;

(iii) shareholders holding not less than ²⁰[three-fourths] in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalga-mation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

otherwise than as a result of the acquisition of the property of one company by another company pursuant to the purchase of such property by the other company or as a result of the distribution of such property to the other company after the winding up of the first-mentioned company ;]

²¹[(1C) "Additional Commissioner" means a person appointed to be an Additional Commissioner of Income-tax under sub-section (1) of section 117 ;

(1D) "Additional Director" means a person appointed to be an Additional Director of Income-tax under sub-section (1) of section 117 ;]

(2) "annual value", in relation to any property, means its annual value as determined under section 23 ;

(3) ²²[* * *]

(4) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 ;

(5) "approved gratuity fund" means a gratuity fund which has been and continues to be approved by the ²³[^{23a}*Principal Chief Commissioner or*] Chief Commissioner or ^{23a}[*Principal Commissioner or*] Commissioner] in accordance with the rules contained in Part C of the Fourth Schedule ;

(6) "approved superannuation fund" means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the ²³[^{23a}*Principal Chief Commissioner or*] Chief Commissioner or ^{23a}[*Principal Commissioner or*] Commissioner] in accordance with the rules contained in Part B of the Fourth Schedule ;

²⁴(7) "assessee"²⁵ means a person by whom ²⁶[any tax] or any other sum of money is payable under this Act, and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income ²⁷[or assessment of fringe benefits] or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person ;

(b) every person who is deemed to be an assessee under any provision of this Act ;

(c) every person who is deemed to be an assessee in default under any provision of this Act ;



²⁸[(7A) "Assessing Officer" means the Assistant Commissioner ²⁹[or Deputy Commissioner] ³⁰[or Assistant Director] ²⁹[or Deputy Director] or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the ³¹[Additional Commissioner or] ³²[Additional Director or] ³³[Joint Commissioner or Joint Director] who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act ;]

(8) "assessment"³⁴ includes reassessment ;

(9) "assessment year" means the period of twelve months commencing on the 1st day of April every year ;

³⁵[(9A) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax ³⁶[or a Deputy Commissioner of Income-tax] under sub-section (1) of section 117 ;]

³⁷[(9B) "Assistant Director" means a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117;]

(10) "average rate of income-tax" means the rate arrived at by dividing the amount of income-tax calculated on the total income, by such total income ;

³⁸[(11) "block of assets" means a group of assets falling within a class of assets comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed ;]

(12) "Board" means the ³⁹[Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)] ;

⁴⁰[(12A) "books or books of account" includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;]

⁴¹(13) "business"⁴² includes any trade⁴², commerce or manufacture or any adventure⁴² or concern in the nature of trade⁴², commerce or manufacture ;

^{42a}[(13A) "*business trust*" means a trust registered as an Infrastructure Investment Trust or a Real Estate Investment Trust, the units of which are required to be listed on a recognised stock exchange, in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and notified by the Central Government in this behalf;]

⁴³(14) ^{43a}["*capital asset*" means property⁴⁴ of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

(i) any stock-in-trade], consumable stores or raw materials held for the purposes of his business or profession ;

⁴⁵[(ii) personal effects⁴⁶, that is to say, movable property (including wearing apparel and furniture) held for personal use⁴⁶ by the assessee or any member of his family dependent on



him, but excludes—

- (a) jewellery;
- (b) archaeological collections;
- (c) drawings;
- (d) paintings;
- (e) sculptures; or
- (f) any work of art.

^{46a}[Explanation.]—For the purposes of this sub-clause, “jewellery” includes—

- (a) ornaments made of gold, silver, platinum or any other precious metal or any alloy containing one or more of such precious metals, whether or not containing any precious or semi-precious stone, and whether or not worked or sewn into any wearing apparel;
- (b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel;]

The following *Explanation 2* shall be inserted after the renumbered *Explanation 1* by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Explanation 2.—*For the purposes of this clause—*

- (a) the expression “Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the Explanation to section 115AD;
- (b) the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)^{46b};

⁴⁷[(iii) agricultural land⁴⁸ in India, not being land situate—

- (a) in any area which is comprised within the jurisdiction of a municipality⁴⁸ (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population^{48a} of not less than ten thousand ⁴⁹[***] ; or

⁵⁰[(b) in any area within the distance, measured aerially,—

- (I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or
- (II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or
- (III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh.



Explanation.—For the purposes of this sub-clause, “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year⁵¹;]

⁵²[(iv) 6 per cent Gold Bonds, 1977,⁵³[or 7 per cent Gold Bonds, 1980,] ⁵⁴[or National Defence Gold Bonds, 1980,] issued by the Central Government ;]

⁵⁵[(v) Special Bearer Bonds, 1991, issued by the Central Government ;]

⁵⁶[(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government.]

⁵⁷[*Explanation.*—For the removal of doubts, it is hereby clarified that “property” includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever;]

⁵⁸[⁵⁹(15) ⁶⁰“charitable purpose”⁶¹ includes relief of the poor, education⁶¹, medical relief, ⁶²[preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other ⁶¹object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business⁶¹, or any activity of rendering any service in relation to any trade, commerce or business⁶¹, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity:]

⁶³[**Provided further** that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is ⁶⁴[twenty-five lakh rupees] or less in the previous year;]

⁶⁵[(15A) “Chief Commissioner” means a person appointed to be a Chief Commissioner of Income-tax or a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;]

⁶⁶[⁶⁷[(15B)] “child”, in relation to an individual, includes a step-child and an adopted child of that individual ;]

⁶⁸⁻⁷⁰[(16) “Commissioner” means a person appointed to be a Commissioner of Income-tax or a Director of Income-tax or a Principal Commissioner of Income-tax or a Principal Director of Income-tax under sub-section (1) of section 117;]

⁷¹[(16A) “Commissioner (Appeals)” means a person appointed to be a Commissioner of Income-tax (Appeals) under sub-section (1) of section 117 ;]

⁷²[(17) “company” means—

(i) any Indian company, or

(ii) any body corporate incorporated by or under the laws of a country outside India, or

(iii) any institution, association or body which is or was assessable or was assessed as a company for any assessment year under the Indian Income-tax Act, 1922 (11 of 1922), or which is or was assessable or was assessed under this Act as a company for any assessment year commencing on or before the 1st day of April, 1970, or



(iv) any institution, association or body, whether incorporated or not and whether Indian or non-Indian, which is declared by general or special order of the Board to be a company :

Provided that such institution, association or body shall be deemed to be a company only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration ;]

(18) "company in which the public are substantially interested"—a company is said to be a company in which the public⁷³ are substantially interested—

⁷⁴[(a) if it is a company owned by the Government or the Reserve Bank of India or in which not less than forty per cent of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank ; or]

⁷⁵[(aa) if it is a company which is registered under section 25 of the Companies Act, 1956 (1 of 1956)⁷⁶ ; or

(ab) if it is a company having no share capital and if, having regard to its objects, the nature and composition of its membership and other relevant considerations, it is declared by order of the Board to be a company in which the public are sub-stantially interested :

Provided that such company shall be deemed to be a company in which the public are substantially interested only for such assessment year or assessment years (whether commencing before the 1st day of April, 1971, or on or after that date) as may be specified in the declaration ; or]

⁷⁷[(ac) if it is a mutual benefit finance company, that is to say, a company which carries on, as its principal business, the business of acceptance of deposits from its members and which is declared by the Central Government under section 620A⁷⁸ of the Companies Act, 1956 (1 of 1956), to be a *Nidhi* or Mutual Benefit Society ; or]

⁷⁹[(ad) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies ;]

⁸⁰[(b) if it is a company which is not a ⁸¹private company as defined in the Companies Act, 1956 (1 of 1956), and the conditions specified either in item (A) or in item (B) are fulfilled, namely :—

(A) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) were, as on the last day of the relevant previous year, listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder ;

⁸²[(B) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by—

(a) the Government, or

(b) a corporation established by a Central, State or Provincial Act, or



(c) any company to which this clause applies or any subsidiary company of such company ⁸³[if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year.]

Explanation.—In its application to an Indian company whose business consists mainly in the construction of ships or in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or any other form of power, item (B) shall have effect as if for the words “not less than fifty per cent”, the words “not less than forty per cent” had been substituted ;]]

(19) “co-operative society” means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative societies ;

⁸⁴[(19A) “Deputy Commissioner” means a person appointed to be a Deputy Commissioner of Income-tax ⁸⁵[* * *] under sub-section (1) of section 117 ;

⁸⁶[(19AA) “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394⁸⁷ of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

(i) all the property of the undertaking, being transferred by the demerged company, immediately before the demerger, becomes the property of the resulting company by virtue of the demerger;

(ii) all the liabilities relatable to the undertaking, being transferred by the demerged company, immediately before the demerger, become the liabilities of the resulting company by virtue of the demerger;

(iii) the property and the liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at values appearing in its books of account immediately before the demerger;

(iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a proportionate basis ⁸⁸[except where the resulting company itself is a shareholder of the demerged company];

(v) the shareholders holding not less than three-fourths in value of the shares in the demerged company (other than shares already held therein immediately before the demerger, or by a nominee for, the resulting company or, its subsidiary) become share-holders of the resulting company or companies by virtue of the demerger,

otherwise than as a result of the acquisition of the property or assets of the demerged company or any undertaking thereof by the resulting company;

(vi) the transfer of the undertaking is on a going concern basis;

(vii) the demerger is in accordance with the conditions, if any, notified under sub-section (5) of section 72A by the Central Government in this behalf.

Explanation 1.—For the purposes of this clause, “undertaking” shall include any part of an undertaking, or a unit or division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity.



Explanation 2.—For the purposes of this clause, the liabilities referred to in sub-clause (ii), shall include—

- (a) the liabilities which arise out of the activities or operations of the undertaking;
- (b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and
- (c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

Explanation 3.—For determining the value of the property referred to in sub-clause (iii), any change in the value of assets consequent to their revaluation shall be ignored.

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils ⁸⁹[such conditions as may be notified in the Official Gazette⁹⁰, by the Central Government];

(19AAA) “demerged company” means the company whose undertaking is transferred, pursuant to a demerger, to a resulting company;]

(19B) “Deputy Commissioner (Appeals)” means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) ⁹¹[or an Additional Commissioner of Income-tax (Appeals)] under sub-section (1) of section 117 ;]

⁹²[(19C) “Deputy Director” means a person appointed to be a Deputy Director of Income-tax ⁹³[* * *] under sub-section (1) of section 117 ;]

(20) ⁹⁴“director”, “manager” and “managing agent”, in relation to a company, have the meanings respectively assigned to them in the Companies Act, 1956 (1 of 1956) ;

⁹⁵⁻⁹⁸[(21) “Director General or Director” means a person appointed to be a Director General of Income-tax or a Principal Director General of Income-tax or, as the case may be, a Director of Income-tax or a Principal Director of Income-tax, under sub-section (1) of section 117, and includes a person appointed under that sub-section to be an Additional Director of Income-tax or a Joint Director of Income-tax or an Assistant Director or Deputy Director of Income-tax;]

(22) ⁹⁹“dividend”¹ includes—

- (a) any distribution¹ by a company of accumulated profits¹, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;
- (b) any distribution¹ to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits¹, whether capitalised or not ;
- (c) any distribution¹ made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately



before its liquidation, whether capitalised or not ;

(d) any distribution² to its shareholders by a company on the reduction of its capital, to the extent to which the company possesses accumulated profits² which arose after the end of the previous year ending next before the 1st day of April, 1933, whether such accumulated profits have been capitalised or not ;

(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) ³[made after the 31st day of May, 1987, by way of advance⁴ or loan to a shareholder⁴, being a person who is 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) holding not less than ten per cent of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)] or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits⁵ ;

but "dividend" does not include—

(i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share issued for full cash consideration, where the holder of the share is not entitled in the event of liquidation to participate in the surplus assets ;

⁶[(ia) a distribution made in accordance with sub-clause (c) or sub-clause (d) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964, ⁷[and before the 1st day of April, 1965] ;]

(ii) any advance or loan made to a shareholder ⁸[or the said concern] by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (e), to the extent to which it is so set off;

⁹[(iv) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A¹⁰ of the Companies Act, 1956 (1 of 1956);

(v) any distribution of shares pursuant to a demerger by the resulting company to the shareholders of the demerged company (whether or not there is a reduction of capital in the demerged company).]

Explanation 1.—The expression "accumulated profits", wherever it occurs in this clause, shall not include capital gains arising before the 1st day of April, 1946, or after the 31st day of March, 1948, and before the 1st day of April, 1956.

Explanation 2.—The expression "accumulated profits" in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (c) shall include all profits of the company up to the date of liquidation, ¹¹[but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three



successive previous years immediately preceding the previous year in which such acquisition took place].

¹²[*Explanation 3.*—For the purposes of this clause,—

(a) “concern” means a Hindu undivided family, or a firm or an association of persons or a body of individuals or a company ;

(b) a person shall be deemed to have a substantial interest in a concern, other than a company, if he is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the income of such concern ;]

¹³[(22A) “domestic company” means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income ;]

¹⁴[(22AA) “document” includes an electronic record as defined in clause (t)¹⁵ of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);]

¹⁶[(22AAA) “electoral trust” means a trust so approved by the Board in accordance with the scheme¹⁷ made in this regard by the Central Government;]

¹⁸[¹⁹[(22B)] “fair market value”, in relation to a capital asset, means—

(i) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date ; and

(ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with the rules made under this Act ;]

²⁰[(23) (i) “firm” shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932)²¹, and shall include a limited liability partnership²² as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);

(ii) “partner” shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include,—

(a) any person who, being a minor, has been admitted to the benefits of partnership; and

(b) a partner of a limited liability partnership²² as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);

(iii) “partnership” shall have the meaning assigned to it in the Indian Partnership Act, 1932 (9 of 1932), and shall include a limited liability partnership²² as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);]

²³[(23A) “foreign company” means a company which is not a domestic company ;]

²⁴[(23B) “fringe benefits” means any fringe benefits referred to in section 115WB;]

²⁵(24) “income”²⁶ includes²⁶—

(i) profits and gains²⁶ ;



(ii) dividend ;

²⁷[(*iiia*) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes ²⁸[or by an association or institution referred to in clause (21) or clause (23)²⁹, or by a fund or trust or institution referred to in sub-clause (*iv*) or sub-clause (*v*) ³⁰[or by any university or other educational institution referred to in sub-clause (*iiia*) or sub-clause (*vi*) or by any hospital or other institution referred to in sub-clause (*iiiae*) or sub-clause (*vii*)] of clause (23C) of section 10 ³¹[or by an electoral trust]].

Explanation.—For the purposes of this sub-clause, “trust” includes any other legal obligation ;]

(iii) the value of any perquisite or profit in lieu of salary taxable under clauses (2) and (3) of section 17 ;

³²[(*iiia*) any special allowance or benefit, other than perquisite included under sub-clause (*iii*), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit ;

(*iiib*) any allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at a place where he ordinarily resides or to compensate him for the increased cost of living ;]

(*iv*) the value of any benefit or perquisite³³, whether convertible into money or not, obtained from a company either by a director or by a person who has a substantial interest in the company, or by a relative of the director or such person, and any sum paid by any such company in respect of any obligation which, but for such payment, would have been payable by the director or other person aforesaid ;

³⁴[(*iva*) the value of any benefit or perquisite³⁵, whether convertible into money or not, obtained by any representative assessee mentioned in clause (*iii*) or clause (*iv*) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the “beneficiary”) and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary ;]

(*v*) any sum chargeable to income-tax under clauses (*ii*) and (*iii*) of section 28 or section 41 or section 59 ;

³⁶[(*va*) any sum chargeable to income-tax under clause (*iiia*) of section 28 ;]

³⁷[(*vb*) any sum chargeable to income-tax under clause (*iiib*) of section 28 ;]

³⁸[(*vc*) any sum chargeable to income-tax under clause (*iiic*) of section 28 ;]

³⁹[(*vd*)] the value of any benefit or perquisite taxable under clause (*iv*) of section 28 ;

⁴⁰[(*ve*) any sum chargeable to income-tax under clause (*v*) of section 28 ;]

(*vi*) any capital gains chargeable under section 45 ;

(*vii*) the profits and gains of any business of insurance carried on by a mutual insurance company or by a co-operative society, computed in accordance with section 44 or any surplus taken to be such profits and gains by virtue of provisions contained in the First Schedule ;



⁴¹[(*vii*a) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;]

(*viii*) [*Omitted by the Finance Act, 1988, w.e.f. 1-4-1988. Original sub-clause (viii) was inserted by the Finance Act, 1964, w.e.f. 1-4-1964;*]

⁴²[(*ix*) any winnings from lotteries⁴³, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.]

⁴⁴[*Explanation.*—For the purposes of this sub-clause,—

(*i*) “lottery” includes winnings from prizes awarded to any person by draw of lots or by chance or in any other manner whatsoever, under any scheme or arrangement by whatever name called;

(*ii*) “card game and other game of any sort” includes any game show, an entertainment programme on television or electronic mode, in which people compete to win prizes or any other similar game ;]

⁴⁵[(*x*) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees’ State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees ;]

⁴⁶[(*xi*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause*, the expression “Keyman insurance policy” shall have the meaning assigned to it in the *Explanation* to clause (10D) of section 10 ;]



⁴⁷[(*xii*) any sum referred to in ⁴⁸[clause (*va*)] of section 28;]

⁴⁹[(*xiii*) any sum referred to in clause (*v*) of sub-section (2) of section 56;]

⁵⁰[(*xiv*) any sum referred to in clause (*vi*) of sub-section (2) of section 56;]

⁵¹[(*xv*) any sum of money or value of property referred to in clause (*vii*) ⁵²[or clause (*vii*a)] of sub-section (2) of section 56;]

⁵³[(*xvi*) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in clause (*vii*b) of sub-section (2) of section 56;]

The following sub-clause (*xvii*) shall be inserted after sub-clause (*xvi*) of clause (24) of section 2 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(*xvii*) any sum of money referred to in clause (*ix*) of sub-section (2) of section 56;

(25) “Income-tax Officer” means a person appointed to be an Income-tax Officer under ⁵⁴[* * *] section 117 ;

⁵⁵[(25A) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;]

(26) "Indian company" means a company formed and registered under the Companies Act, 1956^{55a} (1 of 1956), and includes—

(i) a company formed and registered under any law relating to companies formerly in force in any part of India (other than the State of Jammu and Kashmir ⁵⁶[and the Union territories specified in sub-clause (iii) of this clause]) ;

⁵⁷[(ia) a corporation established by or under a Central, State or Provincial Act ;

(ib) any institution, association or body which is declared by the Board to be a company under clause (17) ;]

(ii) in the case of the State of Jammu and Kashmir, a company formed and registered under any law for the time being in force in that State ;

⁵⁸[(iii) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa†, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory :]

Provided that the ⁵⁹[registered or, as the case may be, principal office of the company, corporation, institution, association or body] in all cases is in India ;

⁶⁰[(26A) "infrastructure capital company" means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80-IB or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;

(26B) "infrastructure capital fund" means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80-IB or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;]

(27) ⁶¹[* * *]

(28) "Inspector of Income-tax" means a person appointed to be an Inspector of Income-tax under sub-section ⁶²[(1)] of section 117 ;

⁶³[(28A) "interest"⁶⁵ means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised ;]

⁶⁶[(28B) "interest on securities" means,—

(i) interest on any security of the Central Government or a State Government ;

(ii) interest on debentures or other securities for money issued by or on behalf of a local authority or a company or a corporation established by a Central, State or Provincial Act ;]



⁶⁷[(28BB) "insurer" means an insurer, being an Indian insurance company, as defined under clause (7A) of section 2⁶⁸ of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;]

⁶⁹[(28C) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(28D) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;]

(29) "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908 (5 of 1908)⁷⁰ ;

⁷¹[(29A) "long-term capital asset" means a capital asset which is not a short-term capital asset ;

(29B) "long-term capital gain" means capital gain arising from the transfer of a long-term capital asset ;]

⁷²[(29BA) "manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing,—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;]

⁷³[(29C) "maximum marginal rate" means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual ⁷⁴[, association of persons or, as the case may be, body of individuals] as specified in the Finance Act of the relevant year ;]

⁷⁵[(29D) "National Tax Tribunal" means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;]

(30) "non-resident" means a person who is not a "resident" ⁷⁶[, and for the purposes of sections 92⁷⁷, 93 ⁷⁸[* * *] and 168, includes a person who is not ordinarily resident within the meaning of clause (6) of section 6] ;

⁷⁹(31) "person"⁸⁰ includes—

(i) an individual⁸⁰,

(ii) a Hindu undivided family⁸⁰,

(iii) a company,

(iv) a firm⁸¹,

(v) an association of persons⁸¹ or a body of individuals⁸¹, whether incorporated or not,

(vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses.



⁸²[*Explanation.*—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;]

(32) “person who has a substantial interest in the company”, in relation to a company, means a person who is 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 ;

(33) “prescribed” means prescribed by rules made under this Act ;

(34) “previous year” means the previous year as defined in section 3 ;

^{82a}[(34A) “Principal Chief Commissioner of Income-tax” means a person appointed to be a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;

(34B) “Principal Commissioner of Income-tax” means a person appointed to be a Principal Commissioner of Income-tax under sub-section (1) of section 117;

(34C) “Principal Director of Income-tax” means a person appointed to be a Principal Director of Income-tax under sub-section (1) of section 117;

(34D) “Principal Director General of Income-tax” means a person appointed to be a Principal Director General of Income-tax under sub-section (1) of section 117;]

⁸³(35) “principal officer”, used with reference to a local authority or a company or any other public body or any association of persons or any body of individuals, means—

(a) the secretary, treasurer, manager or agent of the authority, company, association or body, or

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the ⁸⁴[Assessing] Officer has served a notice of his intention of treating him as the principal officer thereof ;

⁸⁵(36) “profession” includes vocation⁸⁶ ;

⁸⁷[(36A) “public sector company” means any corporation established by or under any Central, State or Provincial Act or a Government company⁸⁸ as defined in section 617 of the Companies Act, 1956 (1 of 1956) ;]

(37) ⁸⁹“public servant” has the same meaning as in section 21 of the Indian Penal Code (45 of 1860) ;

⁹⁰[(37A) “rate or rates in force” or “rates in force”, in relation to an assessment year or financial year, means—

(i) for the purposes of calculating income-tax under the first proviso to sub-section (5) of section 132, or computing the income-tax chargeable under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 or deducting income-tax under section 192 from income chargeable under the head “Salaries” ⁹¹[* * *] or ⁹²[computation of the “advance tax” payable under Chapter XVII-C in a case not falling under ⁹³[section 115A or section 115B ⁹⁴[or section 115BB ⁹⁵[or section 115BBB] or section 115E] or] section 164 ⁹⁴[or section 164A ⁹⁶[* * *]] ⁹⁷[or section 167B], the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, and for the purposes of



computation of the "advance tax" payable under Chapter XVII-C ⁹⁸[in a case falling under section 115A or section 115B ⁹⁹[or section 115BB ¹[or section 115BBB] or section 115E] or section 164 ⁹⁹[or section 164A ²[* * *]] ³[or section 167B], the rate or rates specified in section 115A or ⁴[section 115B or section 115BB ⁵[or section 115BBB] or section 115E or section 164 or section 164A ²[* * *]] ³[or section 167B], as the case may be,] or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, whichever is applicable ;]

(ii) for the purposes of deduction of tax under sections 193, 194, 194A ⁶[, 194B] ⁷[, 194BB] ⁸[and 194D], the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year ;]

⁹[(iii) for the purposes of deduction of tax under section 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year or the rate or rates of income-tax specified in ¹⁰[an agreement entered into by the Central Government under section 90, or an agreement notified by the Central Government under section 90A, whichever is applicable by virtue of the provisions of section 90, or section 90A, as the case may be];]

¹¹(38) "recognised provident fund"¹² means a provident fund which has been and continues to be recognised by the ¹³[^{13a}[Principal Chief Commissioner or] Chief Commissioner or ^{13a}[Principal Commissioner or] Commissioner] in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees' Provident Funds Act, 1952 (19 of 1952) ;

(39) ¹⁴[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993;]

(40) "regular assessment"¹⁵ means the assessment made under ¹⁶[sub-section (3) of] section 143 or section 144 ;

(41) "relative", in relation to an individual, means the husband, wife, brother or sister or any lineal ascendant or descendant of that individual ;

¹⁷[(41A) "resulting company" means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;]

(42) "resident" means a person who is resident in India within the meaning of section 6 ;

¹⁸[¹⁹(42A) ²⁰"short-term capital asset" means a capital asset held by an assessee for not more than ²¹[thirty-six] months immediately preceding the date of its transfer²² :]

²³[**Provided** that in the case of ^{23a}[a share held in a company ²⁴[or any other security listed in a recognised stock exchange in India] or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or ^{24a}[a unit of a Mutual Fund specified under clause (23D) of section 10]] ²⁵[or a zero coupon bond], the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.]

The following second proviso shall be inserted after the existing proviso to clause (42A) of section 2 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided further that in case of a share of company (not being a share listed in a recognised stock exchange) or a unit of a Mutual Fund specified under clause (23D) of section 10, which is transferred during the period beginning on the 1st day of April, 2014 and ending on the 10th



day of July, 2014, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twelve months" had been substituted.

²⁶[Explanation 1].—(i) In determining the period for which any capital asset is held by the assessee—

(a) in the case of a share held in a company in liquidation, there shall be excluded the period subsequent to the date on which the company goes into liquidation ;

(b) in the case of a capital asset which becomes the property of the assessee in the circumstances mentioned in ²⁷[sub-section (1)] of section 49, there shall be included the period for which the asset was held by the previous owner referred to in the said section ;

²⁸[(c) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (vii) of section 47, there shall be included the period for which the share or shares in the amalgamating company were held by the assessee ;]

²⁹[(d) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset ;

(e) in the case of a capital asset, being the right to subscribe to any financial asset, which is renounced in favour of any other person, the period shall be reckoned from the date of the offer of such right by the company or institution, as the case may be, making such offer ;]

³⁰[(f) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset ;]

³¹[(g) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee ;]

³²[(h) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(ha) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;]

³³[(hb) in the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;]



^{33a}[(hc) in the case of a capital asset, being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in clause (xvii) of section 47, there shall be included the period for which the share or shares were held by the assessee;]

(ii) In respect of capital assets other than those mentioned in clause (i), the period for which any capital asset is held by the assessee shall be determined subject to any rules which the Board may make in this behalf.]

³⁴[Explanation 2.—For the purposes of this clause, the expression “security”³⁵ shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

³⁶[Explanation 3.—For the purposes of this clause, the expressions “specified security” and “sweat equity shares” shall have the meanings respectively assigned to them in the Explanation to clause (d) of sub-section (1) of section 115WB;]

The following Explanation 4 shall be inserted after Explanation 3 to clause (42A) of section 2 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Explanation 4.—For the purposes of this clause, the expression “equity oriented fund” shall have the meaning assigned to it in the Explanation to clause (38) of section 10;

³⁷[(42B) “short-term capital gain” means capital gain arising from the transfer of a short-term capital asset ;]

³⁸[(42C) “slump sale”³⁹ means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

Explanation 1.—For the purposes of this clause, “undertaking” shall have the meaning assigned to it in Explanation 1 to clause (19AA).

Explanation 2.—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities ;]

⁴⁰[(43) “tax” in relation to the assessment year commencing on the 1st day of April, 1965, and any subsequent assessment year means income-tax chargeable under the provisions of this Act, and in relation to any other assessment year income-tax and super-tax chargeable under the provisions of this Act prior to the aforesaid date ⁴¹[and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under section 115WA] ;]

⁴²[(43A) “tax credit certificate” means a tax credit certificate granted to any person in accordance with the provisions of Chapter XXII-B⁴³ and any scheme made thereunder ;]

(43B) ⁴⁴[* * *]

⁴⁵[(44) “Tax Recovery Officer” means any Income-tax Officer who may be authorised by the ^{45a}[Principal Chief Commissioner or] Chief Commissioner or ^{45a}[Principal Commissioner or] Commissioner, by general or special order in writing, to exercise the powers of a Tax Recovery Officer ⁴⁶[and also to exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer under this Act and which may be prescribed];]



(45) "total income" means the total amount of income referred to in section 5, computed in the manner laid down in this Act ;

(46) ⁴⁷[* * *]

⁴⁸(47) ⁴⁹["transfer"⁵⁰, in relation to a capital asset, includes,—

(i) the sale⁵⁰, exchange⁵⁰ or relinquishment⁵⁰ of the asset ; or

(ii) the extinguishment of any rights therein⁵⁰ ; or

(iii) the compulsory acquisition thereof under any law ; or

(iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment ;] ⁵¹[or]

⁵²[(iva) the maturity or redemption of a zero coupon bond; or]

⁵³[(v) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A⁵⁴ of the Transfer of Property Act, 1882 (4 of 1882) ; or

(vi) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immov-able property.

⁵⁵[*Explanation 1*.—For the purposes of sub-clauses (v) and (vi), "immovable property" shall have the same meaning as in clause (d) of section 269UA.]

⁵⁶[*Explanation 2*.—For the removal of doubts, it is hereby clarified that "transfer" includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India;]

⁵⁷[(48) "zero coupon bond" means a bond—

(a) issued by any infrastructure capital company or infrastructure capital fund or public sector company ⁵⁸[or scheduled bank] on or after the 1st day of June, 2005;

(b) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company ⁵⁸[or scheduled bank]; and

(c) which the Central Government may, by notification⁵⁹ in the Official Gazette, specify in this behalf.

⁶⁰[*Explanation*.—For the purposes of this clause, the expression "scheduled bank" shall have the meaning assigned to it in clause (ii) of the *Explanation* to sub-clause (c) of clause (viia) of sub-section (1) of section 36.]]

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Section – 3: ⁶¹["Previous year" defined.

3. For the purposes of this Act, "previous year" means the financial year immediately preceding the assessment year :

Provided that, in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said financial year, the previous year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year.]

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CHAPTER II: BASIS OF CHARGE

Section – 4: Charge of income-tax.

4. ⁶² ⁶³(1) Where any Central Act enacts that income-tax⁶⁴ shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year ⁶⁵in accordance with, and ⁶⁶[subject to the provisions (including provisions for the levy of additional income-tax) of, this Act] in respect of the total income⁶⁵ of the previous year ⁶⁷[* * *] of every person :

Provided that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.

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Section – 5: Scope of total income.

5. ⁶⁸ ⁶⁹(1) Subject to⁷⁰ the provisions of this Act, the total income⁶⁵ of any previous year of a person who is a resident includes all income from whatever source derived which—

(a) is received⁷¹ or is deemed to be received⁷¹ in India in such year by or on behalf of such person ; or

(b) accrues or arises⁷¹ or is ⁷¹deemed to accrue or arise to him in India during such year ; or

(c) accrues or arises⁷¹ to him outside India during such year :

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6)* of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

(2) Subject to⁷² the provisions of this Act, the total income⁷³ of any previous year of a person who is a non-resident includes all income from whatever source derived which—



(a) is received^{73a} or is deemed to be received^{73a} in India in such year by or on behalf of such person ; or

(b) accrues or arises^{73a} or is ^{73a}deemed to accrue or arise to him in India during such year.

Explanation 1.—Income accruing or arising outside India shall not be deemed to be received^{73a} in India within the meaning of this section by reason only of the fact that it is taken into account in a balance sheet prepared in India.

Explanation 2.—For the removal of doubts, it is hereby declared that income which has been included in the total income of a person on the basis that it has accrued⁷⁴ or arisen⁷⁴ or is deemed to have accrued⁷⁴ or arisen⁷⁴ to him shall not again be so included on the basis that it is received or deemed to be received by him in India.

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Section – 5A: 75[Apportionment of income between spouses governed by Portuguese Civil Code.

5A. (1) Where the husband and wife are governed by the system of community of property (known under the Portuguese Civil Code of 1860 as “COMMUNIAO DOS BENS”) in force in the State of Goa and in the Union territories of Dadra and Nagar Haveli and Daman and Diu, the income of the husband and of the wife under any head of income shall not be assessed as that of such community of property (whether treated as an association of persons or a body of individuals), but such income of the husband and of the wife under each head of income (other than under the head “Salaries”) shall be apportioned equally between the husband and the wife and the income so apportioned shall be included separately in the total income of the husband and of the wife respectively, and the remaining provisions of this Act shall apply accordingly.

(2) Where the husband or, as the case may be, the wife governed by the aforesaid system of community of property has any income under the head “Salaries”, such income shall be included in the total income of the spouse who has actually earned it.]

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Section – 6: Residence in India.

6. ⁷⁶ For the purposes of this Act,—

(1) An individual is said to be resident in India in any previous year, if he—

(a) is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more ; or

(b) ⁷⁷[* * *]

(c) having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.

⁷⁸[*Explanation.*—In the case of an individual,—

(a) being a citizen of India, who leaves India in any previous year ⁷⁹[as a member of the crew of an ⁸⁰Indian ship as defined in clause (18) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958), or] for the purposes of employment outside India, the provisions of sub-clause (c) shall



apply in relation to that year as if for the words "sixty days", occurring therein, the words "one hundred and eighty-two days" had been substituted ;

(b) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (e) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words "sixty days", occurring therein, the words "one hundred and ⁸¹[eighty-two] days" had been substituted.]

(2) A Hindu undivided family, firm or other association of persons is said to be resident in India in any previous year in every case except where during that year the control and management^{81a} of its affairs^{81a} is situated wholly^{81a} outside India.

(3) A company is said to be resident in India in any previous year, if—

(i) it is an Indian company ; or

(ii) during that year, the control and management⁸² of its affairs⁸² is situated wholly⁸² in India.

(4) Every other person is said to be resident in India in any previous year in every case, except where during that year the control and management of his affairs is situated wholly outside India.

(5) If a person is resident in India in a previous year relevant to an assessment year in respect of any source of income, he shall be deemed to be resident in India in the previous year relevant to the assessment year in respect of each of his other sources of income.

⁸³[(6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(a) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(b) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less.]

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Section – 7: Income deemed to be received.

7. The following incomes shall be deemed to be received in the previous year :—

(i) the annual accretion in the previous year to the balance at the credit of an employee participating in a recognised provident fund, to the extent provided in rule 6 of Part A of the Fourth Schedule ;

(ii) the transferred balance in a recognised provident fund, to the extent provided in sub-rule (4) of rule 11 of Part A of the Fourth Schedule ;

⁸⁴[(iii) the contribution made, by the Central Government ⁸⁵[or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.]



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Section – 8: Dividend income.

8. ⁸⁶[For the purposes of inclusion in the total income of an assessee,—

(a) any dividend] declared by a company or distributed or paid by it within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2 shall be deemed to be the income of the previous year in which it is so declared, distributed or paid, as the case may be ;

⁸⁷[(b) any interim dividend shall be deemed to be the income of the previous year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.]

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Section – 9: Income deemed to accrue or arise in India.

9. ⁸⁸ ⁸⁹(1) The following incomes shall be deemed⁹⁰ to accrue or arise in India :—

⁹¹(i) all income accruing or arising, whether directly or indirectly⁹², through or from any business connection⁹² in India, or through or from any property⁹² in India, or through or from any asset or source of income in India, ⁹³[* * *] or through the transfer of a capital asset situate in India.

⁹⁴[*Explanation 1*].—For the purposes of this clause—

(a) in the case of a business of which all the operations⁹⁵ are not carried out in India, the income of the business deemed under this clause to accrue or arise in India shall be only such part of the income as is reasonably attributable to the operations⁹⁵ carried out in India ;

(b) in the case of a non-resident, no income shall be deemed to accrue or arise in India to him through or from operations which are confined to the purchase of goods in India for the purpose of export ;

⁹⁶[* * *]

⁹⁷[(c) in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India ;]

⁹⁸[(d) in the case of a non-resident, being—

(1) an individual who is not a citizen of India ; or

(2) a firm which does not have any partner who is a citizen of India or who is resident in India ;
or

(3) a company which does not have any shareholder who is a citizen of India or who is resident in India,

no income shall be deemed to accrue or arise in India to such individual, firm or company through or from operations⁹⁹ which are confined to the shooting of any cinematograph film in



India.]

¹[*Explanation 2.*—For the removal of doubts, it is hereby declared that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or

(b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(c) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business :

Provided further that where such broker, general commission agent or any other agent works mainly or wholly on behalf of a non-resident (hereafter in this proviso referred to as the principal non-resident) or on behalf of such non-resident and other non-residents which are controlled by the principal non-resident or have a controlling interest in the principal non-resident or are subject to the same common control as the principal non-resident, he shall not be deemed to be a broker, general commission agent or an agent of an independent status.

Explanation 3.—Where a business is carried on in India through a person referred to in clause (a) or clause (b) or clause (c) of *Explanation 2*, only so much of income as is attributable to the operations carried out in India shall be deemed to accrue or arise in India.]

²[*Explanation 4.*—For the removal of doubts, it is hereby clarified that the expression “through” shall mean and include and shall be deemed to have always meant and included “by means of”, “in consequence of” or “by reason of”.

Explanation 5.—For the removal of doubts, it is hereby clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India;]

(ii) income which falls under the head “Salaries”, if it is earned³ in India.

⁴[*Explanation.*—For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

(a) service rendered in India; and

(b) the rest period or leave period which is preceded and succeeded by services rendered in India and forms part of the service contract of employment,

shall be regarded as income earned in India ;]



(iii) income chargeable under the head "Salaries" payable by the Government to a citizen of India for service outside India ;

(iv) a dividend paid by an Indian company outside India ;

⁵[(v) income by way of interest payable by—

(a) the Government ; or

(b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India ;

(vi) income by way of royalty⁶ payable by—

(a) the Government ; or

(b) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or

(c) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India :

Provided that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property, if such income is payable in pursuance of an agreement made before the 1st day of April, 1976, and the agreement is approved by the Central Government :

⁷[**Provided further** that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum payment made by a person, who is a resident, for the transfer of all or any rights (including the granting of a licence) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer-based equipment under any scheme approved under the Policy on Computer Software Export, Software Development and Training, 1986 of the Government of India.]

Explanation 1.—For the purposes of the ⁸[first] proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes chargeable to tax under this Act, whichever assessment year is later, the



company exercises an option by furnishing a declaration in writing to the ⁹[Assessing] Officer (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

Explanation 2.—For the purposes of this clause, “royalty” means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains”) for—

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret formula or process or trade mark or similar property ;

(iii) the use of any patent, invention, model, design, secret formula or process or trade mark or similar property ;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill ;

¹⁰[(iva) the use or right to use any industrial, commercial or scientific equipment^{10a} but not including the amounts referred to in section 44BB;]

(v) the transfer of all or any rights (including the granting of a licence) in respect of^{10a} any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films ; or

(vi) the rendering of any services in connection with the activities referred to in sub-clauses (i) to ¹⁰[(iv), (iva) and] (v).

¹¹[*Explanation 3.*—For the purposes of this clause, “computer software” means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data.]

¹²[*Explanation 4.*—For the removal of doubts, it is hereby clarified that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

Explanation 5.—For the removal of doubts, it is hereby clarified that the royalty includes and has always included consideration in respect of any right, property or information, whether or not—

(a) the possession or control of such right, property or information is with the payer;

(b) such right, property or information is used directly by the payer;

(c) the location of such right, property or information is in India.

Explanation 6.—For the removal of doubts, it is hereby clarified that the expression “process” includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret;]

(vii) income by way of fees for technical services¹³ payable by—

(a) the Government ; or

(b) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person¹⁴ outside India or for the purposes of making or earning any income from any source outside India¹³ ; or

(c) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in India or for the purposes of making or earning any income from any source in India :

¹⁵[**Provided** that nothing contained in this clause shall apply in relation to any income by way of fees for technical services payable in pursuance of an agreement made before the 1st day of April, 1976, and approved by the Central Government.]

¹⁵[*Explanation 1.*—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date.]

Explanation ¹⁵[2].—For the purposes of this clause, “fees for technical services” means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction¹⁶, assembly, mining or like project undertaken by the recipient¹⁶ or consideration which would be income of the recipient chargeable under the head “Salaries”.]

(2) Notwithstanding anything contained in sub-section (1), any pension payable outside India to a person residing permanently outside India shall not be deemed to accrue or arise in India, if the pension is payable to a person referred to in article 314 of the Constitution or to a person who, having been appointed before the 15th day of August, 1947, to be a Judge of the Federal Court or of a High Court within the meaning of the Government of India Act, 1935, continues to serve on or after the commencement of the Constitution as a Judge in India.

¹⁷[*Explanation.*—For the removal of doubts, it is hereby declared that for the purposes of this section, income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) and shall be included in the total income of the non-resident, whether or not,—

(i) the non-resident has a residence or place of business or business connection in India; or

(ii) the non-resident has rendered services in India.]

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CHAPTER III: INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

Section – 10: Incomes not included in total income.

1. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

(1) agricultural income ;



¹⁸(2) ¹⁹[subject to the provisions of sub-section (2) of section 64,] any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family ;

²⁰[(2A) ^{20a}in the case of a person being a partner of a firm which is separately assessed as such, his share in the total income of the firm.

Explanation.—For the purposes of this clause, the share of a partner in the total income of a firm separately assessed as such shall, notwithstanding anything contained in any other law, be an amount which bears to the total income of the firm the same proportion as the amount of his share in the profits of the firm in accordance with the partnership deed bears to such profits ;]

(3) ²¹[***]

²²[(4) (i) in the case of a non-resident, any income by way of interest on such securities or bonds as the Central Government may, by notification in the Official Gazette²³, specify in this behalf, including income by way of premium on the redemption of such bonds :

²⁴[**Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such securities or bonds on or after the 1st day of June, 2002;]

²⁵[²⁶(ii) in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with ²⁷[the Foreign Exchange Management Act, 1999 (42 of 1999)], and the rules made thereunder :

Provided that such individual is a person resident outside India as defined in clause (q) of section 2²⁸ of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account ;]]

²⁹[***]

³⁰[(4B) in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income from interest on such savings certificates issued ³¹[before the 1st day of June, 2002] by the Central Government as that Government may, by notification in the Official Gazette³², specify in this behalf :

Provided that the individual has subscribed to such certificates in convertible foreign exchange remitted from a country out- side India in accordance with the provisions of ³³[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder.

Explanation.—For the purposes of this clause,—

(a) a person shall be deemed to be of Indian origin if he, or either of his parents or any of his grandparents, was born in undivided India ;

(b) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of ³³[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder ;]

³⁴[(5) in the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

(a) from his employer for himself and his family, in connection with his proceeding on leave to any place in India ;



(b) from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service,

subject to such conditions as may be prescribed³⁵ (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government :

Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Explanation.—For the purposes of this clause, “family”, in relation to an individual, means—

(i) the spouse and children of the individual ; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual;]

(5A) ³⁶[*Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;*]

(5B) ³⁷[*Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;*]

(6) in the case of an individual who is not a citizen of India,—

(i) ³⁸[***]

³⁹[(ii) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity :

Provided that the remuneration received by him as a trade commissioner or other official representative in India of the Government of a foreign State (not holding office as such in an honorary capacity), or as a member of the staff of any of those officials, shall be exempt only if the remuneration of the corresponding officials or, as the case may be, members of the staff, if any, of the Government resident for similar purposes in the country concerned enjoys a similar exemption in that country :

Provided further that such members of the staff are subjects of the country represented and are not engaged in any business or profession or employment in India otherwise than as members of such staff ;]

(iii) to (v) [*Sub-clause (ii) substituted for sub-clauses (ii) to (v) by the Finance Act, 1988, w.e.f. 1-4-1989;*]

(vi) the remuneration received by him as an employee of a foreign enterprise for services rendered by him during his stay in India, provided the following conditions are fulfilled—

(a) the foreign enterprise is not engaged in any trade or business in India ;

(b) his stay in India does not exceed in the aggregate a period of ninety days in such previous year ; and

(c) such remuneration is not liable to be deducted from the income of the employer chargeable under this Act ;



(via) ⁴⁰[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

(vii) ⁴¹[Omitted by the Finance Act, 1993, w.e.f. 1-4-1993;]

(viii) ⁴²[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

(viii) any income chargeable under the head "Salaries" received by or due to any such individual being a non-resident as remuneration for services rendered in connection with his employment on a foreign ship where his total stay in India does not exceed in the aggregate a period of ninety days in the previous year ;

(ix) ⁴³[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

(x) ⁴⁴[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

⁴⁵[(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—

(i) the Government ; or

(ii) any company in which the entire paid-up share capital is held by the Central Government, or any State Government or Governments, or partly by the Central Government and partly by one or more State Governments ; or

(iii) any company which is a subsidiary of a company referred to in item (ii) ; or

(iv) any corporation established by or under a Central, State or Provincial Act ; or

(v) any society registered under the Societies Registration Act, 1860 (14 of 1860), or under any other corresponding law for the time being in force and wholly financed by the Central Government, or any State Government or State Governments, or partly by the Central Government and partly by one or more State Governments ;]

⁴⁶[(6A) where in the case of a foreign company deriving income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after the 31st day of March, 1976 ⁴⁷[but before the 1st day of June, 2002] ⁴⁸[and,—

(a) where the agreement relates to a matter included in the industrial policy, for the time being in force, of the Government of India, such agreement is in accordance with that policy ; and

(b) in any other case, the agreement is approved by the Central Government,

the tax on such income is payable, under the terms of the agreement, by Government or the Indian concern to the Central Government, the tax so paid].

Explanation.—For the purposes of this clause ⁴⁹[and clause (6B)],—

(a) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9 ;

(b) "foreign company" shall have the same meaning as in section 80B ;



(c) "royalty" shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;]

⁴⁹[(6B) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an agreement entered into ⁵⁰[before the 1st day of June, 2002] by the Central Government with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other related agreement approved ⁵⁰[before that date] by the Central Government, the tax so paid ;]

⁵¹[(6BB) where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under ⁵²[an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, or entered into after the ⁵³[31st day of March, ⁵⁴[2007]] and approved by the Central Government in this behalf] and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

Explanation.—For the purposes of this clause, the expression "foreign enterprise" means a person who is a non-resident;]

⁵⁵[(6C) any income arising to such foreign company, as the Central Government may, by notification⁵⁶ in the Official Gazette, specify in this behalf, by way of ⁵⁷[royalty or] fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India ;]

(7) any allowances or perquisites paid or allowed as such outside India by the Government to a citizen of India for rendering service outside India ;

(8) in the case of an individual who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of a foreign State (the terms whereof provide for the exemption given by this clause)—

(a) the remuneration received by him directly or indirectly from the Government of that foreign State for such duties, and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the Government of that foreign State ;

⁵⁸[(8A) in the case of a consultant—

(a) any remuneration or fee received by him or it, directly or indirectly, out of the funds made available to an international organisation [hereafter referred to in this clause and clause (8B) as the agency] under a technical assistance grant agreement between the agency and the Government of a foreign State ; and

(b) any other income which accrues or arises to him or it outside India, and is not deemed to accrue or arise in India, in respect of which such consultant is required to pay any income or social security tax to the Government of the country of his or its origin.

Explanation.—In this clause, "consultant" means—



(i) any individual, who is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; or

(ii) any other person, being a non-resident,

engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project, provided the following conditions are fulfilled, namely :—

(1) the technical assistance is in accordance with an agreement entered into by the Central Government and the agency ; and

(2) the agreement relating to the engagement of the consultant is approved by the prescribed authority⁵⁹ for the purposes of this clause ;

(8B) in the case of an individual who is assigned to duties in India in connection with any technical assistance programme and project in accordance with an agreement entered into by the Central Government and the agency—

(a) the remuneration received by him, directly or indirectly, for such duties from any consultant referred to in clause (8A) ; and

(b) any other income of such individual which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such individual is required to pay any income or social security tax to the country of his origin, provided the following conditions are fulfilled, namely :—

(i) the individual is an employee of the consultant referred to in clause (8A) and is either not a citizen of India or, being a citizen of India, is not ordinarily resident in India ; and

(ii) the contract of service of such individual is approved by the prescribed authority⁶⁰ before the commencement of his service ;]

(9) the income of any member of the family of any such individual as is referred to in clause (8)⁶¹[or clause (8A) or, as the case may be, clause (8B)] accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State ⁶²[or, as the case may be, country of origin of such member];

⁶³[⁶⁴(10) ⁶⁵(i) any death-cum-retirement gratuity received under the revised Pension Rules of the Central Government or, as the case may be, the Central Civil Services (Pension) Rules, 1972, or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority or any payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services ;

(ii) any gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4⁶⁶ of that Act ;

(iii) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service⁶⁷, ⁶⁸[calculated on the



basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit⁶⁹ as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government] :

Provided that where any gratuities referred to in this clause⁷⁰ are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause ⁷¹[shall not exceed the limit so specified] :

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause ⁷¹[shall not exceed the limit so specified] as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

⁷²[* * *]

Explanation.—⁷³[In this clause, and in clause (104A)], “salary” shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule ;]

⁷⁴[⁷⁵(10A) ⁷⁶(i) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government or under any similar scheme applicable ⁷⁷[to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority] or a corporation established by a Central, State or Provincial Act ;

(ii) any payment in commutation of pension received under any scheme of any other employer, to the extent it does not exceed—

(a) in a case where the employee receives any gratuity, the commuted value of one-third of the pension which he is normally entitled to receive, and

(b) in any other case, the commuted value of one-half of such pension,

such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality ;

⁷⁸[* * *]

⁷⁹[(iii) any payment in commutation of pension received from a fund under clause (23AAB) ;]

⁸⁰[⁸¹(10AA) (i) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his ⁸²retirement ⁸³[whether] on superannuation or otherwise ;

(ii) any payment of the nature referred to in sub-clause (i) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement ⁸³[whether] on superannuation ⁸²or otherwise as does not exceed ⁸⁴[ten] months, calculated on the basis of the average salary drawn by the employee during the period of ten months immediately preceding his retirement ⁸³[whether] on superannuation or otherwise, ⁸⁵[subject to such limit as the Central Government



may, by notification in the Official Gazette, specify in this behalf having regard to the limit⁸⁶ applicable in this behalf to the employees of that Government] :

Provided that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this sub-clause ⁸⁷[shall not exceed the limit so specified] :

Provided further that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount of such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this sub-clause ⁸⁸[shall not exceed the limit so specified], as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

⁸⁹[* * *]

Explanation.—For the purposes of sub-clause (ii),—

⁹⁰[* * *] the entitlement to earned leave of an employee shall not exceed thirty days for every year of actual service rendered by him as an employee of the employer from whose service he has retired ;

⁹¹[* * *]

⁹²[(10B) any compensation received by a workman under the Industrial Disputes Act, 1947 (14 of 1947), or under any other Act or Rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, ⁹³[at the time of his retrenchment :

Provided that the amount exempt under this clause shall not exceed—

(i) an amount calculated in accordance with the provisions of ⁹⁴clause (b) of section 25F of the Industrial Disputes Act, 1947 (14 of 1947) ; or

⁹⁵[(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification⁹⁶ in the Official Gazette, specify in this behalf,]

whichever is less :

Provided further that the preceding proviso shall not apply in respect of any compensation received by a workman in accordance with any scheme which the Central Government may, having regard to the need for extending special protection to the workmen in the undertaking to which such scheme applies and other relevant circumstances, approve in this behalf.]

Explanation.—For the purposes of this clause—

(a) compensation received by a workman at the time of the closing down of the undertaking in which he is employed shall be deemed to be compensation received at the time of his retrenchment ;

(b) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, shall be deemed to be compensation received at the time of his retrenchment if—



(i) the service of the workman has been interrupted by such transfer ; or

(ii) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer ; or

(iii) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer ;

⁹⁷(c) the expressions "employer" and "workman" shall have the same meanings as in the Industrial Disputes Act, 1947 (14 of 1947);]

⁹⁸[(10BB) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), and any scheme framed thereunder except payment made to any assessee in connection with the Bhopal Gas Leak Disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster ;]

⁹⁹[(10BC) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

Explanation.—For the purposes of this clause, the expression "disaster" shall have the meaning assigned to it under clause (d) of section 2¹ of the Disaster Management Act, 2005 (53 of 2005);]

²[(10C) ³any amount received⁴ ⁵[or receivable] by an employee of—

(i) a public sector company ; or

(ii) any other company ; or

(iii) an authority established under a Central, State or Provincial Act ; or

(iv) a local ⁶[authority ; or]

⁷[(v) a co-operative society ; or

(vi) a University established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956) ; or

(vii) an Indian Institute of Technology within the meaning of clause (g) of section 3⁸ of the Institutes of Technology Act, 1961 (59 of 1961) ; or

⁹[(viiia) any State Government; or]

¹⁰[(viiib) the Central Government; or]

¹¹[(viiic) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette¹², specify in this behalf; or]



(viii) such institute of management as the Central Government may, by notification¹³ in the Official Gazette, specify in this behalf,]

¹⁴[on his] ¹⁵[voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees] :

Provided that the schemes of the said companies or authorities ¹⁶[or societies or Universities or the Institutes referred to in sub-clauses (vii) and (viii)], as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including *inter alia* criteria of economic viability) as may be ¹⁷prescribed ¹⁸[***] :

Provided further that where exemption has been allowed to an employee under this clause for any assessment year, no exemption thereunder shall be allowed to him in relation to any other assessment year :]

¹⁹[**Provided also** that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year;]

²⁰[(10CC) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of clause (2) of section 17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200²¹ of the Companies Act, 1956 (1 of 1956);]

²²[(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

(a) any sum received under sub-section (3) of section 80DD or sub-section (3) of section 80DDA*; or

(b) any sum received under a Keyman insurance policy; or

(c) any sum received under an insurance policy issued on or after the 1st day of April, 2003 ²³[but on or before the 31st day of March, 2012] in respect of which the premium payable for any of the years during the term of the policy exceeds twenty per cent of the actual capital sum assured ²³[; or]

²³[(d) any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent of the actual capital sum assured:]

Provided that the provisions of ²⁴[sub-clauses (c) and (d)] shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under ²⁵[sub-clause (c)], effect shall be given to the ²⁶[Explanation to sub-section (3) of section 80C or the Explanation to sub-section (2A) of section 88, as the case may be] :

²⁷[**Provided also** that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—



(i) a person with disability or a person with severe disability as referred to in section 80U; or

(ii) suffering from disease or ailment as specified in the rules made under section 80DDB,

the provisions of this sub-clause shall have effect as if for the words "ten per cent", the words "fifteen per cent" had been substituted.]

²⁸[*Explanation 1*.—For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person ²⁹[and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration];]

³⁰[*Explanation 2*.—For the purposes of sub-clause (d), the expression "actual capital sum assured" shall have the meaning assigned to it in the Explanation to sub-section (3A) of section 80C;]

(11) any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies ³¹[or from any other provident fund set up by the Central Government and notified³² by it in this behalf in the Official Gazette];

(12) the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule ;

³³[(13) any payment from an approved superannuation fund made—

(i) on the death of a beneficiary ; or

(ii) to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement ; or

(iii) by way of refund of contributions on the death of a beneficiary ; or

(iv) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest thereon;]

³⁴[³⁵(13A) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent ³⁶[* * *] as may be prescribed³⁷ having regard to the area or place in which such accommodation is situate and other relevant considerations.]

³⁸[*Explanation*.—For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

(a) the residential accommodation occupied by the assessee is owned by him ; or

(b) the assessee has not actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him ;]

³⁹[(14) (i) any such special allowance or benefit, not being in the nature of a perquisite within the meaning of clause (2) of section 17, specifically granted to meet expenses wholly,



necessarily and exclusively incurred⁴⁰ in the performance of the duties of an office or employment of profit⁴¹, ⁴²[as may be prescribed], to the extent to which such expenses are actually incurred for that purpose ;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit⁴¹ are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, ⁴³[as may be prescribed and to the extent as may be prescribed] :]

⁴⁴[**Provided** that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence ;]

(14A) ⁴⁵[***]

(15) ⁴⁶[(i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification⁴⁷ in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification ;]

⁴⁸[(iib) ⁴⁹[in the case of an individual or a Hindu undivided family,] interest on such Capital Investment Bonds as the Central Government may, by notification⁵⁰ in the Official Gazette, specify in this behalf :]

⁵¹[**Provided** that the Central Government shall not specify, for the purposes of this sub-clause, such Capital Investment Bonds on or after the 1st day of June, 2002;]

⁵²[(iic) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds⁵³ as the Central Government may, by notification in the Official Gazette, specify in this behalf ;]

⁵⁴[(iid) interest on such bonds, as the Central Government may, by notification⁵⁵ in the Official Gazette, specify, arising to—

(a) a non-resident Indian, being an individual owning the bonds ; or

(b) any individual owning the bonds by virtue of being a nominee or survivor of the non-resident Indian ; or

(c) any individual to whom the bonds have been gifted by the non-resident Indian :

Provided that the aforesaid bonds are purchased by a non-resident Indian in foreign exchange and the interest and principal received in respect of such bonds, whether on their maturity or otherwise, is not allowable to be taken out of India :

Provided further that where an individual, who is a non-resident Indian in any previous year in which the bonds are acquired, becomes a resident in India in any subsequent year, the provisions of this sub-clause shall continue to apply in relation to such individual :

Provided also that in a case where the bonds are encashed in a previous year prior to their maturity by an individual who is so entitled, the provisions of this sub-clause shall not apply to such individual in relation to the assessment year relevant to such previous year :



⁵⁶[**Provided also** that the Central Government shall not specify, for the purposes of this sub-clause, such bonds on or after the 1st day of June, 2002.]

Explanation.—For the purposes of this sub-clause, the expression “non-resident Indian” shall have the meaning assigned to it in clause (e) of section 115C;]

(iii) interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949;

⁵⁷[(iia) interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the Reserve Bank of India, with any scheduled bank.

Explanation.—For the purposes of this sub-clause, “scheduled bank” shall have the meaning assigned to it in ⁵⁸[clause (ii) of the *Explanation* to clause (vii) of sub-section (1) of section 36];]

⁵⁹[(iib) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;]

⁶⁰[(iic) interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework-agreement for financial co-operation entered into on the 25th day of November, 1993 by the Central Government with that Bank;]

(iv) interest payable—

⁶¹[(a) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;]

(b) by an industrial undertaking in India on moneys borrowed by it under ⁶²[a loan agreement entered into before the 1st day of June, 2001 with any such financial institution] in a foreign country as may be approved⁶³ in this behalf by the Central Government by general or special order ;

⁶⁴(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it ⁶⁵[before the 1st day of June, 2001] in a foreign country in respect of the purchase outside India of raw materials ⁶⁶[or components] or capital plant and machinery, ⁶⁷[to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf⁶⁸, having regard to the terms of the loan or debt and its repayment.]

⁶⁹⁷⁰[*Explanation 1.*—For the purposes of this item, “purchase of capital plant and machinery” includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery.]

⁷¹[*Explanation 2.*—For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;]

⁷²[(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established



under the Industrial Development Bank of India Act, 1964 (18 of 1964), ⁷³[or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981),] ⁷⁴[or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987),] ⁷⁵[or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989),] or the Industrial Credit and Investment Corporation of India [a company formed and registered under the Indian Companies Act, 1913 (7 of 1913)], on any moneys borrowed by it from sources outside India ⁷⁶[before the 1st day of June, 2001], to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;]

⁷⁷[(e) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), on any moneys borrowed by it from sources outside India ⁷⁸[before the 1st day of June, 2001] under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;]

⁷⁹[(f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government ⁸⁰[before the 1st day of June, 2001] having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

⁸¹[(fa) by a scheduled bank ⁸²[***] ⁸³[to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6)† of section 6] on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

⁸⁴[Explanation.—For the purposes of this item, the expression “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), but does not include a co-operative bank;]

⁸⁵[(g) by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, ⁸⁶[being a company eligible for deduction under clause (viii) of sub-section (1) of section 36] on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government ⁸⁷[before the 1st day of June, 2003], to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.]

Explanation.—For the purposes of ⁸⁸[items (f) ⁸⁹[(fa)] and (g)], the expression ⁹⁰“foreign currency” shall have the meaning assigned to it in ⁹¹[the Foreign Exchange Management Act, 1999 (42 of 1999)];]



⁹²[(h) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification⁹³ in the Official Gazette, specify in this behalf;]

⁹⁴[(i) by Government on deposits made by an employee of the Central Government or a State Government ⁹⁵[or a public sector company], in accordance with such scheme as the Central Government may, by notification⁹⁶ in the Official Gazette, frame in this behalf, out of the moneys due to him on account of his retirement, whether on superannuation or otherwise.]

⁹⁷[⁹⁸*Explanation 1*.—For the purposes of this sub-clause, the expression “industrial undertaking” means any undertaking which is engaged in—

(a) the manufacture or processing of goods; or

⁹⁹[(aa) the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or]

(b) the business of generation or distribution of electricity or any other form of power; or

¹[(ba) the business of providing telecommunication services; or]

(c) mining; or

(d) the construction of ships; or

²[(da) the business of ship-breaking; or]

³[(e) the operation of ships or aircrafts or construction or operation of rail systems.]]

⁴[*Explanation 1A*.—For the purposes of this sub-clause, the expression “interest” shall not include interest paid on delayed payment of loan or on default if it is in excess of two per cent per annum over the rate of interest payable in terms of such loan.]

⁵[*Explanation 2*.—For the purposes of this clause, the expression “interest” includes hedging transaction charges on account of currency fluctuation;]

⁶[(v) interest on—

(a) securities held by the Welfare Commissioner, Bhopal Gas Victims, Bhopal, in the Reserve Bank’s SGL Account No. SL/DH 048;

(b) deposits for the benefit of the victims of the Bhopal gas leak disaster held in such account, with the Reserve Bank of India or with a public sector bank, as the Central Government may, by notification⁷ in the Official Gazette, specify, whether prospectively or retrospectively but in no case earlier than the 1st day of April, 1994 in this behalf.

Explanation.—For the purposes of this sub-clause, the expression “public sector bank” shall have the meaning assigned to it in the *Explanation* to clause (23D);]

⁸[(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 notified by the Central Government;]

⁹[(vii) interest on bonds—



(a) issued by a local authority or by a State Pooled Finance Entity; and

(b) specified by the Central Government by notification¹⁰ in the Official Gazette.

Explanation.—For the purposes of this sub-clause, the expression “State Pooled Finance Entity” shall mean such entity which is set up in accordance with the guidelines for the Pooled Finance Development Scheme notified by the Central Government in the Ministry of Urban Development;]

¹¹[(viii) any income by way of interest received by a non-resident or a person who is not ordinarily resident, in India on a deposit made on or after the 1st day of April, 2005, in an Offshore Banking Unit¹² referred to in clause (u) of section 2 of the Special Economic Zones Act, 2005;]

¹³[(15A) any payment made, by an Indian company engaged in the business of operation of aircraft, to acquire an aircraft or an aircraft engine (other than a payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease¹⁴ from the Government of a foreign State or a foreign enterprise under an agreement ¹⁵[¹⁶[, not being an agreement entered into between the 1st day of April, 1997 and the 31st day of March, 1999,] and] approved by the Central Government in this behalf :

¹⁷[**Provided** that nothing contained in this clause shall apply to any such agreement entered into on or after the ¹⁸[1st day of April, ¹⁹[2007]].]

Explanation.—For the purposes of this clause, the expression “foreign enterprise” means a person who is a non-resident;]

²⁰(16) ²¹scholarships granted to meet the cost of education;

²²[(17) any income by way of—

(i) daily allowance received by any person by reason of his membership of Parliament or of any State Legislature or of any Committee thereof; ²³[* * *]

²⁴[(ii) any allowance received by any person by reason of his membership of Parliament under the Members of Parliament (Constituency Allowance) Rules, 1986;

²⁵[(iii) any constituency allowance received by any person by reason of his membership of any State Legislature under any Act or rules made by that State Legislature;]]]

²⁶[(17A) any payment made, whether in cash or in kind,—

(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body and approved²⁷ by the Central Government in this behalf; or

(ii) as a reward by the Central Government or any State Government for such purposes as may be approved²⁷ by the Central Government in this behalf in the public interest;]

²⁸[(18) any income by way of—

(i) pension received by an individual who has been in the service of the Central Government or State Government and has been awarded “Param Vir Chakra” or “Maha Vir Chakra” or “Vir Chakra” or such other gallantry award as the Central Government may, by notification²⁹ in the Official Gazette, specify in this behalf;



(ii) family pension received by any member of the family of an individual referred to in sub-clause (i).

Explanation.—For the purposes of this clause, the expression “family” shall have the meaning assigned to it in the Explanation to clause (5);]

(18A) ³⁰[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

³¹[(19) family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including para-military forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed³²;]

³³[(19A) the annual value of any one palace in the occupation of a Ruler, being a palace, the annual value whereof was exempt from income-tax before the commencement of the Constitution (Twenty-sixth Amendment) Act, 1971, by virtue of the provisions of the Merged States (Taxation Concessions) Order, 1949, or the Part B States (Taxation Concessions) Order, 1950, or, as the case may be, the Jammu and Kashmir (Taxation Concessions) Order, 1958:

Provided that for the assessment year commencing on the 1st day of April, 1972, the annual value of every such palace in the occupation³⁴ of such Ruler during the relevant previous year shall be exempt from income-tax;]

³⁵(20) the income of a local authority which is chargeable under the head ³⁶[* * *] “Income from house property”, “Capital gains” or “Income from other sources” or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service ³⁷[(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area].

³⁸[Explanation.—For the purposes of this clause, the expression “local authority” means—

(i) Panchayat as referred to in clause (d) of article 243 of the Constitution³⁹; or

(ii) Municipality as referred to in clause (e) of article 243P of the Constitution⁴⁰; or

(iii) Municipal Committee and District Board,

legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or

(iv) Cantonment Board as defined in section 3⁴¹ of the Cantonments Act, 1924 (2 of 1924);]

(20A) ⁴²[***]

⁴³[(21) ⁴⁵any income of a ⁴⁶[research association] for the time being approved for the purpose of clause (ii) ⁴⁷[or clause (iii)] of sub-section (1) of section 35:

Provided that the ⁴⁶[research association]—

(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established, and the provisions of sub-section (2) and sub-section (3) of section 11 shall apply in relation to such accumulation subject to the following modifications, namely :—

(i) in sub-section (2),—

(1) the words, brackets, letters and figure "referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of ⁴⁸[scientific research or research in social science or statistical research]" shall be substituted;

(3) the reference to "Assessing Officer" in clause (a) thereof shall be construed as a reference to the "prescribed authority" referred to in clause (ii) ⁴⁷[or clause (iii)] of sub-section (1) of section 35;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the words "the purposes of ⁴⁸[scientific research or research in social science or statistical research]" shall be substituted; and

⁴⁹[(b) does not invest or deposit its funds, other than—

(i) any assets held by the ⁵⁰[research association] where such assets form part of the corpus of the fund of the association as on the 1st day of June, 1973;

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the ⁵⁰[research association] before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus of the fund mentioned in sub-clause (i), by way of bonus shares allotted to the ⁵⁰[research association];

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:]

⁵¹[**Provided further** that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the first proviso to this clause, subject to the condition that such voluntary contribution is not held by the ⁵⁰[research association], otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:

Provided also] that nothing contained in this clause shall apply in relation to any income of the ⁵⁰[research association], being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:]

⁵²[**Provided also** that where the ⁵⁰[research association] is approved by the Central Government and subsequently that Government is satisfied that—

(i) the ⁵⁰[research association] has not applied its income in accordance with the provisions contained in clause (a) of the first proviso; or

(ii) the ⁵⁰[research association] has not invested or deposited its funds in accordance with the provisions contained in clause (b) of the first proviso; or

(iii) the activities of the ⁵⁰[research association] are not genuine; or



(iv) the activities of the ⁵³[research association] are not being carried out in accordance with all or any of the conditions subject to which such association was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association and to the Assessing Officer;]

(22) ⁵⁴[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

(22A) ⁵⁵[Omitted by the Finance (No. 2) Act, 1998, w.e.f. 1-4-1999;]

⁵⁶[(22B) any income of such news agency set up in India solely for collection and distribution of news as the Central Government may, by notification⁵⁷ in the Official Gazette, specify in this behalf:

Provided that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members:

Provided further that any notification issued by the Central Government under this clause shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

⁵⁸[**Provided also** that where the news agency has been specified, by notification, by the Central Government and subsequently that Government is satisfied that such news agency has not applied or accumulated or distributed its income in accordance with the provisions contained in the first proviso, it may, at any time after giving a reasonable opportunity of showing cause, rescind the notification and forward a copy of the order rescinding the notification to such agency and to the Assessing Officer;]

(23) ⁵⁹[Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;]

⁶⁰[(23A) any income (other than income chargeable under the head ⁶²[* * *] "Income from house property" or any income received for rendering any specific services or income by way of interest or dividends derived from its investments) of an association or institution established in India having as its object the control, supervision, regulation or encouragement of the profession of law, medicine, accountancy, engineering or architecture or such other profession⁶³ as the Central Government may specify in this behalf, from time to time, by notification in the Official Gazette:

Provided that—

(i) the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established; and

(ii) the association or institution is for the time being approved⁶⁴ for the purpose of this clause by the Central Government by general or special order:]

⁶⁵[**Provided further** that where the association or institution has been approved by the Central Government and subsequently that Government is satisfied that—

(i) such association or institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or



(ii) the activities of the association or institution are not being carried out in accordance with all or any of the conditions subject to which such association or institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such association or institution and to the Assessing Officer;]

⁶⁶[(23AA) any income received by any person on behalf of any Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependants;]

⁶⁷[(23AAA) any income received by any person on behalf of a fund established, for such purposes as may be notified⁶⁸ by the Board in the Official Gazette, for the welfare of employees or their dependants and of which fund such employees are members if such fund fulfils the following conditions, namely :—

(a) the fund—

(i) applies its income or accumulates it for application, wholly and exclusively to the objects for which it is established; and

(ii) invests its funds and contributions and other sums received by it in the forms or modes specified in sub-section (5) of section 11;

(b) the fund is approved by the ^{68a}[Principal Commissioner or] Commissioner in accordance with the rules⁶⁹ made in this behalf:

Provided that any such approval shall at any one time have effect for such assessment year or years not exceeding three assessment years as may be specified in the order of approval;]

⁷⁰[(23AAB) any income of a fund, by whatever name called, set up by the Life Insurance Corporation of India on or after the 1st day of August, 1996 ⁷¹[or any other insurer] under a pension scheme,—

(i) to which contribution is made by any person for the purpose of receiving pension from such fund;

(ii) which is approved by the Controller of Insurance ⁷²[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), as the case may be].

Explanation.—For the purposes of this clause, the expression “Controller of Insurance” shall have the meaning assigned to it in clause (5B) of section 2 of the Insurance Act, 1938 (4 of 1938)⁷³;

⁷⁴[(23B) any income of an institution constituted as a public charitable trust or registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India, and existing solely for the development of khadi or village industries or both, and not for purposes of profit, to the extent such income is attributable to the business of production, sale, or marketing, of khadi or products of village industries:

Provided that—



(i) the institution applies its income, or accumulates it for application, solely for the development of khadi or village industries or both; and

(ii) the institution is, for the time being, approved for the purpose of this clause by the Khadi and Village Industries Commission:

Provided further that the Commission shall not, at any one time, grant such approval for more than three assessment years beginning with the assessment year next following the financial year in which it is granted:

⁷⁵**Provided also** that where the institution has been approved by the Khadi and Village Industries Commission and subsequently that Commission is satisfied that—

(i) the institution has not applied or accumulated its income in accordance with the provisions contained in the first proviso; or

(ii) the activities of the institution are not being carried out in accordance with all or any of the conditions subject to which such institution was approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned institution, by order, withdraw the approval and forward a copy of the order withdrawing the approval to such institution and to the Assessing Officer.]

Explanation.—For the purposes of this clause,—

(i) “Khadi and Village Industries Commission” means the Khadi and Village Industries Commission established under the Khadi and Village Industries Commission Act, 1956 (61 of 1956);

(ii) ⁷⁶“khadi” and “village industries” have the meanings respectively assigned to them in that Act;]

⁷⁷[(23BB) any income of an authority (whether known as the Khadi and Village Industries Board or by any other name) established in a State by or under a State or Provincial Act for the development of khadi or village industries in the State.

Explanation.—For the purposes of this clause, ⁷⁶“khadi” and “village industries” have the meanings respectively assigned to them in the Khadi and Village Industries Commission Act, 1956 (61 of 1956);]

⁷⁷[(23BBA) any income of any body or authority (whether or not a body corporate or corporation sole) established, constituted or appointed by or under any Central, State or Provincial Act which provides for the administration of any one or more of the following, that is to say, public religious or charitable trusts or endowments (including maths, temples, gurdwaras, wakfs, churches, synagogues, agiaries or other places of public religious worship) or societies for religious or charitable purposes registered as such under the Societies Registration Act, 1860 (21 of 1860), or any other law for the time being in force:

Provided that nothing in this clause shall be construed to exempt from tax the income of any trust, endowment or society referred to therein;]

⁷⁸[(23BBB) any income of the European Economic Community derived in India by way of interest, dividends or capital gains from investments made out of its funds under such scheme⁷⁹ as the Central Government may, by notification in the Official Gazette, specify in this behalf.



Explanation.—For the purposes of this clause, “European Economic Community” means the European Economic Community established by the Treaty of Rome of 25th March, 1957;]

⁸⁰[(23BBC) any income of the SAARC Fund for Regional Projects set up by Colombo Declaration issued on the 21st day of December, 1991 by the Heads of State or Government of the Member Countries of South Asian Association for Regional Cooperation established on the 8th day of December, 1985 by the Charter of the South Asian Association for Regional Cooperation;]

⁸¹[(23BBD) any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as “ASOSAI-SECRETARIAT” under the Societies Registration Act, 1860 (21 of 1860) for ⁸²[ten previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2011];

(23BBE) any income of the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]

⁸³[(23BBF) any income of the North-Eastern Development Finance Corporation Limited, being a company formed and registered under the Companies Act, 1956 (1 of 1956) ^{83a}:

Provided that in computing the total income of the North-Eastern Development Finance Corporation Limited, the amount to the extent of—

(i) twenty per cent of the total income for assessment year beginning on the 1st day of April, 2006;

(ii) forty per cent of the total income for assessment year beginning on the 1st day of April, 2007;

(iii) sixty per cent of the total income for assessment year beginning on the 1st day of April, 2008;

(iv) eighty per cent of the total income for assessment year beginning on the 1st day of April, 2009;

(v) one hundred per cent of the total income for assessment year beginning on the 1st day of April, 2010 and any subsequent assessment year or years,

shall be included in such total income;]

⁸⁴[(23BBG) any income of the Central Electricity Regulatory Commission constituted under sub-section (1) of section 76 of the Electricity Act, 2003 (36 of 2003);]

⁸⁵[(23BBH) any income of the Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990);]

⁸⁶[⁸⁷(23C) any income⁸⁸ received by any person on behalf of—

(i) the Prime Minister’s National Relief Fund; or

(ii) the Prime Minister’s Fund (Promotion of Folk Art); or

(iii) the Prime Minister’s Aid to Students Fund; ⁸⁹[or]



⁹⁰[(*iiia*) the National Foundation for Communal Harmony; or]

⁹¹[(*iiiab*) any university or other educational institution⁹² existing⁹² solely⁹² for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(*iiiac*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

The following *Explanation* shall be inserted after sub-clause (*iiiac*) of clause (23C) of section 10 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

*Explanation.—For the purposes of sub-clauses (*iiiab*) and (*iiiac*), any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year.*

(*iiiad*) any university or other educational institution⁹² existing⁹² solely⁹² for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed⁹³; or

(*iiiae*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed⁹³; or]

⁹⁴[(*iv*) ⁹⁵any other fund or institution established for charitable purposes ⁹⁶[which may be approved by the prescribed authority⁹⁷], having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or

(*v*) ⁹⁸any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, ⁹⁹[which may be approved by the prescribed authority¹], having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof;

²[(*vi*) any university or other educational institution³ existing³ solely³ for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiab*) or sub-clause (*iiiad*) and which may be approved⁴ by the prescribed authority⁵; or

(*via*) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (*iiiac*) or sub-clause (*iiiae*) and which may be approved⁶ by the prescribed authority⁷:]

Provided that the fund or trust or institution ⁸[or any university or other educational institution⁹ or any hospital or other medical institution] referred to in sub-clause (*iv*) or sub-clause (*v*) ⁸[or

sub-clause (vi) or sub-clause (via)] shall make an application in the prescribed form¹⁰ and manner to the prescribed authority¹¹ for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v) ¹²[or sub-clause (vi) or sub-clause (via)] :

¹³**Provided further** that the prescribed authority, before approving any fund or trust or institution or any university or other educational institution or any hospital or other medical institution, under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), may call for such documents (including audited annual accounts) or information from the fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, as it thinks necessary in order to satisfy itself about the genuineness of the activities of such fund or trust or institution or any university or other educational institution or any hospital or other medical institution, as the case may be, and the prescribed authority may also make such inquiries as it deems necessary in this behalf:]

Provided also that the fund or trust or institution ¹⁴[or any university or other educational institution¹⁵ or any hospital or other medical institution] referred to in sub-clause (iv) or sub-clause (v) ¹⁴[or sub-clause (vi) or sub-clause (via)]—

¹⁶[(a) applies its income, or accumulates it for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years; and]

¹⁷[(b) does not invest or deposit its funds, other than—

(i) any assets held by the fund, trust or institution ¹⁸[or any university or other educational institution¹⁹ or any hospital or other medical institution] where such assets form part of the corpus of the fund, trust or institution ²⁰[or any university or other educational institution or any hospital or other medical institution] as on the 1st day of June, 1973;

²¹[(ia) any asset, being equity shares of a public company, held by any university or other educational institution or any hospital or other medical institution where such assets form part of the corpus of any university or other educational institution or any hospital or other medical institution as on the 1st day of June, 1998;]

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation), acquired by the fund, trust or institution ²²[or any university or other educational institution²³ or any hospital or other medical institution] before the 1st day of March, 1983;

(iii) any accretion to the shares, forming part of the corpus mentioned in sub-clause (i) ²⁴[and sub-clause (ia)], by way of bonus shares allotted to the fund, trust or institution ^{24a}[or any university or other educational institution or any hospital or other medical institution] ;

(iv) voluntary contributions received and maintained in the form of jewellery, furniture or any other article as the Board may, by notification in the Official Gazette, specify,

for any period during the previous year otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11:]

Provided also that the exemption under sub-clause (iv) or sub-clause (v) shall not be denied in relation to any funds invested or deposited before the 1st day of April, 1989, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, ²⁵[1993] :



²⁶**Provided also** that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001:]

²⁷**Provided also** that the exemption under sub-clause (iv) or sub-clause (v) ²⁶[or sub-clause (vi) or sub-clause (via)] shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary contribution of the nature referred to in clause (b) of the third proviso to this sub-clause, subject to the condition that such voluntary contribution is not held by the trust or institution ²⁸[or any university or other educational institution or any hospital or other medical institution], otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, 1992, whichever is later:]

Provided also that nothing contained in sub-clause (iv) or sub-clause (v) ²⁹[or sub-clause (vi) or sub-clause (via)] shall apply in relation to any income of the fund or trust or institution ²⁹[or any university or other educational institution or any hospital or other medical institution], being profits and gains of business, unless the business is incidental to the attainment of its objectives and separate books of account are maintained by it in respect of such business:

Provided also that any ³⁰[notification issued by the Central Government under sub-clause (iv) or sub-clause (v), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President*, shall, at any one time³¹, have effect for such assessment year or years, not exceeding three assessment years] (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

³²**Provided also** that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President,* every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under ³³[sub-clause (iv) or sub-clause (v) or] sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received:

Provided also that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount which is not chargeable to tax in any previous year, such trust or institution or any university or other educational institution or any hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnish along with the return of income for the relevant assessment year, the report of such audit in the prescribed form³⁴ duly signed and verified by such accountant and setting forth such particulars as may be prescribed:]

³⁵**Provided also** that any amount of donation received by the fund or institution in terms of clause (d) of sub-section (2) of section 80G ³⁶[in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or] which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister's National Relief Fund on or before the 31st day of March, ³⁷[2004] shall be deemed to be the income of the previous year and shall accordingly be charged to tax:]



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³⁹[**Provided also** that where the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) does not apply its income during the year of receipt and accumulates it, any payment or credit out of such accumulation to any trust or institution registered under section 12AA or to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established :

Provided also that where the fund or institution referred to in sub-clause (iv) or trust or institution referred to in sub-clause (v) is notified by the Central Government ⁴⁰[or is approved by the prescribed authority, as the case may be,] or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), is approved by the prescribed authority and subsequently that Government or the prescribed authority is satisfied that—

(i) such fund or institution or trust or any university or other educational institution or any hospital or other medical institution has not—

(A) applied its income in accordance with the provisions contained in clause (a) of the third proviso; or

(B) invested or deposited its funds in accordance with the provisions contained in clause (b) of the third proviso; or

(ii) the activities of such fund or institution or trust or any university or other educational institution or any hospital or other medical institution—

(A) are not genuine; or

(B) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved,

it may, at any time after giving a reasonable opportunity of showing cause against the proposed action to the concerned fund or institution or trust or any university or other educational institution or any hospital or other medical institution, rescind the notification or, by order, withdraw the approval, as the case may be, and forward a copy of the order rescinding the notification or withdrawing the approval to such fund or institution or trust or any university or other educational institution or any hospital or other medical institution and to the Assessing Officer:]

⁴¹[**Provided also** that in case the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in the first proviso makes an application on or after the 1st day of June, 2006 for the purposes of grant of exemption or continuance thereof, such application shall be ⁴²[made on or before the 30th day of September of the relevant assessment year] from which the exemption is sought :]

⁴³[**Provided also** that any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of the said section shall be included in the total income :]



⁴⁴[**Provided also** that all pending applications, on which no notification has been issued under sub-clause (iv) or sub-clause (v) before the 1st day of June, 2007, shall stand transferred on that day to the prescribed authority and the prescribed authority may proceed with such applications under those sub-clauses from the stage at which they were on that day:]

⁴⁵[**Provided also** that the income of a trust or institution referred to in sub-clause (iv) or sub-clause (v) shall be included in its total income of the previous year if the provisions of the first proviso to clause (15) of section 2 become applicable to such trust or institution in the said previous year, whether or not any approval granted or notification issued in respect of such trust or institution has been withdrawn or rescinded;]

The following proviso and the *Explanation* shall be inserted after the seventeenth proviso to clause (23C) of section 10 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) has been notified by the Central Government or approved by the prescribed authority, as the case may be, or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), has been approved by the prescribed authority, and the notification or the approval is in force for any previous year, then, nothing contained in any other provision of this section [other than clause (1) thereof] shall operate to exclude any income received on behalf of such fund or trust or institution or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.

Explanation.—In this clause, where any income is required to be applied or accumulated, then, for such purpose the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this clause in the same or any other previous year;

⁴⁶[(23D) ⁴⁷[⁴⁸[⁴⁹[subject to the provisions of Chapter XII-E, any income of]—]

(i) a Mutual Fund registered under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder;

(ii) such other Mutual Fund set up by a public sector bank or a public financial institution or authorised by the Reserve Bank of India and subject to such conditions as the Central Government may, by notification⁵⁰ in the Official Gazette, specify in this behalf.]

Explanation.—For the purposes of this clause,—

(a) the expression “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new Bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Under-takings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Under-takings) Act, 1980 (40 of 1980) ⁵¹[and a bank included in the category “other public sector banks” by the Reserve Bank of India];

(b) the expression “public financial institution” shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956)⁵²;

⁵³⁻⁵⁴[(c) the expression “Securities and Exchange Board of India” shall have the meaning assigned to it in clause (a) of sub-section (1) of section 2 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

⁵⁵[(23DA) any income of a securitisation trust from the activity of securitisation.

Explanation.—For the purposes of this clause,—

(a) "securitisation" shall have the same meaning as assigned to it,—

(i) in clause (r) of sub-regulation (1) of regulation ²⁵⁶ of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or

(ii) under the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(b) "securitisation trust" shall have the meaning assigned to it in the Explanation below section 115TC;]

(23E) ⁵⁷[Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;]

⁵⁸[(23EA) any income ⁵⁹[, by way of contributions received from recognised stock exchanges and the members thereof,] of such Investor Protection Fund set up by recognised stock exchanges in India, either jointly or separately, as the Central Government may, by notification⁶⁰ in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a recognised stock exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax;]

⁶¹[(23EB) any income of the Credit Guarantee Fund Trust for Small ⁶²[***] Industries, being a trust created by the Government of India and the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), for five previous years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007;]

⁶³[(23EC) any income, by way of contributions received from commodity exchanges and the members thereof, of such Investor Protection Fund set up by commodity exchanges in India, either jointly or separately, as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the said Fund and not charged to income-tax during any previous year is shared, either wholly or in part, with a commodity exchange, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall accordingly be chargeable to income-tax.

Explanation.—For the purposes of this clause, "commodity exchange" shall mean a "registered association" as defined in clause (jj) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952)⁶⁴;

⁶⁵[(23ED) any income, by way of contributions received from a depository, of such Investor Protection Fund set up in accordance with the regulations by a depository as the Central Government may, by notification in the Official Gazette, specify in this behalf:

Provided that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with a depository, the whole of



the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.

Explanation.—For the purposes of this clause,—

(i) "depository" shall have the same meaning as assigned to it in clause (e) of sub-section (1) of section 2⁶⁶ of the Depositories Act, 1996 (22 of 1996);

(ii) "regulations" means the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Depositories Act, 1996 (22 of 1996);]

⁶⁷[(23F) any income by way of dividends or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved for the purposes of this clause by the prescribed authority⁶⁸ in accordance with the rules⁶⁹ made in this behalf and satisfies the prescribed conditions :

Provided further that any approval by the prescribed authority shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval :

⁷⁰[**Provided also** that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.]

⁷¹[* * *]

⁷¹[* * *]

Explanation.—For the purposes of this clause,—

(a) "venture capital fund" means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) "venture capital company" means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines;

⁷²[(c) "venture capital undertaking" means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified⁷³ by the Central Government in this behalf; and

(d) "infrastructure facility" means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;]



⁷⁴[(23FA) any income by way of dividends ⁷⁵[, other than dividends referred to in section 115-O], or long-term capital gains of a venture capital fund or a venture capital company from investments made by way of equity shares in a venture capital undertaking :

Provided that such venture capital fund or venture capital company is approved, for the purposes of this clause, by the Central Government on an application made to it in accordance with the rules⁷⁶ made in this behalf and which satisfies the prescribed conditions :

Provided further that any approval by the Central Government shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years, as may be specified in the order of approval :

⁷⁷[**Provided also** that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 2000.]

Explanation.—For the purposes of this clause,—

(a) “venture capital fund” means such fund, operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), established to raise monies by the trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines;

(b) “venture capital company” means such company as has made investments by way of acquiring equity shares of venture capital undertakings in accordance with the prescribed guidelines; and

(c) “venture capital undertaking” means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the—

(i) business of—

(A) software;

(B) information technology;

(C) production of basic drugs in the pharmaceutical sector;

(D) bio-technology;

(E) agriculture and allied sectors; or

(F) such other sectors as may be notified⁷⁸ by the Central Government in this behalf; or

(ii) production or manufacture of any article or substance for which patent has been granted to the National Research Laboratory or any other scientific research institution approved by the Department of Science and Technology;]

⁷⁹[(23FB) any income of a venture capital company or venture capital fund ⁸⁰[from investment] in a venture capital undertaking.

⁸¹[Explanation.—For the purposes of this clause,—

(a) “venture capital company” means a company which—



(A) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Securities and Exchange Board of India (Venture Capital Funds) Regulations, 1996 (hereinafter referred to as the Venture Capital Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(B) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 (hereinafter referred to as the Alternative Investment Funds Regulations) made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and which fulfils the following conditions, namely:—

(i) it is not listed on a recognised stock exchange;

(ii) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking; and

(iii) it has not invested in any venture capital undertaking in which its director or a substantial shareholder (being a beneficial owner of equity shares exceeding ten per cent of its equity share capital) holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking;

(b) "venture capital fund" means a fund—

(A) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908), which—

(I) has been granted a certificate of registration, before the 21st day of May, 2012, as a Venture Capital Fund and is regulated under the Venture Capital Funds Regulations; or

(II) has been granted a certificate of registration as Venture Capital Fund as a sub-category of Category I Alternative Investment Fund under the Alternative Investment Funds Regulations and which fulfils the following conditions, namely:—

(i) it has invested not less than two-thirds of its investible funds in unlisted equity shares or equity linked instruments of venture capital undertaking;

(ii) it has not invested in any venture capital undertaking in which its trustee or the settler holds, either individually or collectively, equity shares in excess of fifteen per cent of the paid-up equity share capital of such venture capital undertaking; and

(iii) the units, if any, issued by it are not listed in any recognised stock exchange; or

(B) operating as a venture capital scheme made by the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(c) "venture capital undertaking" means—

(i) a venture capital undertaking as defined in clause (n) of regulation 2 of the Venture Capital Funds Regulations⁸²; or

(ii) a venture capital undertaking as defined in clause (aa) of sub-regulation (1) of regulation 2 of the Alternative Investment Funds Regulations⁸²;

⁸³[***]



The following clauses (23FC) and (23FD) shall be inserted after clause (23FB) of section 10 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(23FC) any income of a business trust by way of interest received or receivable from a special purpose vehicle.

Explanation.—For the purposes of this clause, the expression "special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration;

(23FD) any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in clause (23FC);

(23G) ⁸⁴[Omitted by the Finance Act, 2006, w.e.f. 1-4-2007;]

⁸⁵[⁸⁶(24) any income chargeable under the heads "Income from house property" and "Income from other sources" of—

(a) a registered union within the meaning of the Trade Unions Act, 1926 (16 of 1926), formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen;

(b) an association of registered unions referred to in sub-clause (a);]

(25) (i) interest on securities which are held by, or are the property of, any provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies, and any capital gains of the fund arising from the sale, exchange or transfer of such securities;

(ii) any income received by the trustees on behalf of a recognised provident fund;

(iii) any income received by the trustees on behalf of an approved superannuation fund;

⁸⁷[(iv) any income received by the trustees on behalf of an approved gratuity fund;]

⁸⁸[(v) any income received—

(a) by the Board of Trustees constituted under the Coal Mines Provident Funds and Miscellaneous Provisions Act, 1948 (46 of 1948), on behalf of the Deposit-linked Insurance Fund established under section 3G of that Act; or

(b) by the Board of Trustees constituted under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), on behalf of the Deposit-linked Insurance Fund established under section 6C of that Act;]

⁸⁹[(25A) any income of the Employees' State Insurance Fund set up under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948);]

⁹⁰[(26) ⁹¹in the case of a member of a ⁹²Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing⁹³ in any area specified⁹³ in Part I or Part II of the Table appended to paragraph 20 of the Sixth Schedule to the Constitution or in the ⁹⁴[States of Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura] or in the areas covered by notification No. TAD/R/35/50/109, dated the 23rd February, 1951, issued by the Governor of Assam under the proviso to sub-paragraph (3) of the said paragraph 20 [as it stood immediately before the



commencement of the North-Eastern Areas (Reorganisation) Act, 1971 (81 of 1971)] ⁹⁵[or in the Ladakh region of the State of Jammu and Kashmir], any income which accrues or arises to him,—

(a) from any source in the areas ⁹⁶[or States aforesaid], or

(b) by way of dividend or interest on securities;]

⁹⁷[(26A) any income accruing or arising to any person ⁹⁸[* * *] from any source in the district of Ladakh or outside India in any previous year relevant to any assessment year commencing before the 1st day of April, ⁹⁹[1989], where such person is resident in the said district in that previous year :

Provided that this clause shall not apply in the case of any such person unless he was resident in that district in the previous year relevant to the assessment year commencing on the 1st day of April, 1962.

¹[*Explanation 1*].—For the purposes of this clause, a person shall be deemed to be resident in the district of Ladakh if he fulfils the requirements of sub-section (1)² or sub-section (2) or sub-section (3) or sub-section (4) of section 6, as the case may be, subject to the modifications that —

(i) references in those sub-sections to India shall be construed as references to the said district; and

(ii) in clause (i) of sub-section (3), reference to Indian company shall be construed as reference to a company formed and registered under any law for the time being in force in the State of Jammu and Kashmir and having its registered office in that district in that year.]

³[*Explanation 2*.—In this clause, references to the district of Ladakh shall be construed as references to the areas comprised in the said district on the 30th day of June, 1979;]

(26AA) ⁴[* * *]

⁵[(26AAA) ⁶in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

Explanation.—For the purposes of this clause, “Sikkimese” shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the “Register of Sikkim Subjects”), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or



(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grand-father or brother from the same father has been recorded in that register;]

⁷⁻⁸[(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;]

⁹[(26B) any income of a corporation established by a Central, State or Provincial Act or of any other body, institution or association (being a body, institution or association wholly financed by Government) where such corporation or other body or institution or association has been established or formed for promoting the interests of the ¹⁰[members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them].

¹¹[*Explanation.*—For the purposes of this clause,—

(a) ¹²"Scheduled Castes" and ¹³"Scheduled Tribes" shall have the meanings respectively assigned to them in clauses (24) and (25) of article 366 of the Constitution;

(b) "backward classes" means such classes of citizens, other than the Scheduled Castes and the Scheduled Tribes, as may be notified—

(i) by the Central Government; or

(ii) by any State Government,

as the case may be, from time to time;]

¹⁴[(26BB) any income of a corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community.

Explanation.—For the purposes of this clause, "minority community" means a community notified¹⁵ as such by the Central Government in the Official Gazette in this behalf;]

¹⁶[(26BBB) any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen being the citizens of India.

Explanation.—For the purposes of this clause, "ex-serviceman" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces of the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;]

¹⁷[(27) any income of a co-operative society formed for promoting the interests of the members of either the Scheduled Castes or Scheduled Tribes or both referred to in clause (26B) :

Provided that the membership of the co-operative society consists of only other co-operative societies formed for similar purposes and the finances of the society are provided by the Government and such other societies;]



(28) ¹⁸[* * *]

(29) ¹⁹[Omitted by the Finance Act, 2002, w.e.f. 1-4-2003;]

²⁰[(29A) any income accruing or arising to—

(a) the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(b) the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Board Act, 1947 (24 of 1947) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(c) the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1962 or the previous year in which such Board was constituted, whichever is later;

(d) the Tobacco Board constituted under the Tobacco Board Act, 1975 (4 of 1975) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1975 or the previous year in which such Board was constituted, whichever is later;

(e) the Marine Products Export Development Authority established under section 4 of the Marine Products Export Development Authority Act, 1972 (13 of 1972) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1972 or the previous year in which such Authority was constituted, whichever is later;

(f) the Agricultural and Processed Food Products Export Development Authority established under section 4 of the Agricultural and Processed Food Products Export Development Act, 1985 (2 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1985 or the previous year in which such Authority was constituted, whichever is later;

(g) the Spices Board constituted under sub-section (1) of section 3 of the Spices Board Act, 1986 (10 of 1986) in any previous year relevant to any assessment year commencing on or after the 1st day of April, 1986 or the previous year in which such Board was constituted, whichever is later;]

²¹[(h) the Coir Board established under section 4 of the Coir Industry Act, 1953 (45 of 1953);]

²²[(30) ²³in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme²⁴ for replantation or replacement of tea bushes ²⁵[or for rejuvenation or consolidation of areas used for cultivation of tea] as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the ²⁶[Assessing] Officer, along with his return of income²⁷ for the assessment year concerned or within such further time as the ²⁶[Assessing] Officer may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953);]



²⁸[(31) in the case of an assessee who carries on the business of growing and manufacturing rubber, coffee, cardamom or such other commodity in India, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the amount of any subsidy received from or through the concerned Board under any such scheme for replantation or replacement of rubber plants, coffee plants, cardamom plants or plants for the growing of such other commodity or for rejuvenation or consolidation of areas used for cultivation of rubber, coffee, cardamom or such other commodity as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the Assessing Officer, along with his return of income²⁹ for the assessment year concerned or within such further time as the Assessing Officer may allow, a certificate from the concerned Board, as to the amount of such subsidy paid to the assessee during the previous year.

Explanation.—In this clause, “concerned Board” means,—

(i) in relation to rubber, the Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947),

(ii) in relation to coffee, the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942),

(iii) in relation to cardamom, the Spices Board constituted under section 3 of the Spices Board Act, 1986 (10 of 1986),

(iv) in relation to any other commodity specified under this clause, any Board or other authority established under any law for the time being in force which the Central Government may, by notification in the Official Gazette, specify in this behalf;]

³⁰[(32) in the case of an assessee referred to in sub-section (1A) of section 64, any income includible in his total income under that sub-section, to the extent such income does not exceed one thousand five hundred rupees in respect of each minor child whose income is so includible;]

³¹[(33) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule I to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)³² and where the transfer of such asset takes place on or after the 1st day of April, 2002;]

³³[(34) any income by way of dividends referred to in section 115-O;

³⁴[***]

³⁵[(34A) any income arising to an assessee, being a shareholder, on account of buy back of shares (not being listed on a recognised stock exchange) by the company as referred to in section 115QA;]

(35) any income by way of,—

(a) income received in respect of the units of a Mutual Fund specified under clause (23D); or

(b) income received in respect of units from the Administrator of the specified undertaking; or

(c) income received in respect of units from the specified company:



Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

Explanation.—For the purposes of this clause,—

(a) "Administrator" means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)³⁶;

(b) "specified company" means a company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002)³⁶;

³⁷[(35A) any income by way of distributed income referred to in section 115TA received from a securitisation trust by any person being an investor of the said trust.

Explanation.—For the purposes of this clause, the expressions "investor" and "securitisation trust" shall have the meanings respectively assigned to them in the Explanation below section 115TC;]

(36) any income arising from the transfer of a long-term capital asset, being an eligible equity share in a company purchased on or after the 1st day of March, 2003 and before the 1st day of March, 2004 and held for a period of twelve months or more.

Explanation.—For the purposes of this clause, "eligible equity share" means,—

(i) any equity share in a company being a constituent of BSE-500 Index of the Stock Exchange, Mumbai as on the 1st day of March, 2003 and the transactions of purchase and sale of such equity share are entered into on a recognised stock exchange in India;

(ii) any equity share in a company allotted through a public issue on or after the 1st day of March, 2003 and listed in a recognised stock exchange in India before the 1st day of March, 2004 and the transaction of sale of such share is entered into on a recognised stock exchange in India;]

³⁸[(37) in the case of an assessee, being an individual or a Hindu undivided family, any income chargeable under the head "Capital gains" arising from the transfer of agricultural land, where—

(i) such land is situate in any area referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of section 2;

(ii) such land, during the period of two years immediately preceding the date of transfer, was being used for agricultural purposes by such Hindu undivided family or individual or a parent of his;

(iii) such transfer is by way of compulsory acquisition under any law, or a transfer the consideration for which is determined or approved by the Central Government or the Reserve Bank of India;

(iv) such income has arisen from the compensation or consideration for such transfer received by such assessee on or after the 1st day of April, 2004.

Explanation.—For the purposes of this clause, the expression "compensation or consideration" includes the compensation or con-sideration enhanced or further enhanced by any court, Tribunal or other authority;



(38) any income arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund ^{38a}[*or a unit of a business trust*] where—

(a) the transaction of sale of such equity share or unit is entered into on or after the date on which Chapter VII of the Finance (No. 2) Act, 2004 comes into force³⁹; and

(b) such transaction is chargeable to securities transaction tax under that Chapter :

⁴⁰[**Provided** that the income by way of long-term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB.]

The following proviso shall be inserted after the existing proviso to clause (38) of section 10 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided further *that the provisions of this clause shall not apply in respect of any income arising from transfer of units of a business trust which were acquired in consideration of a transfer referred to in clause (xvii) of section 47.*

Explanation.—For the purposes of this clause, “equity oriented fund” means a fund—

(i) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than ⁴¹[sixty-five] per cent of the total proceeds of such fund; and

(ii) which has been set up under a scheme of a Mutual Fund specified under clause (23D) :

Provided that the percentage of equity shareholding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;]

⁴²[(39) any specified income, arising from any international sporting event held in India, to the person or persons notified⁴³ by the Central Government in the Official Gazette, if such international sporting event—

(a) is approved by the international body regulating the international sport relating to such event;

(b) has participation by more than two countries;

(c) is notified⁴³ by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.—For the purposes of this clause, “the specified income” means the income, of the nature and to the extent, arising from the international sporting event, which the Central Government may notify⁴³ in this behalf;

(40) any income of any subsidiary company by way of grant or otherwise received from an Indian company, being its holding company engaged in the business of generation or transmission or distribution of power if receipt of such income is for settlement of dues in connection with reconstruction or revival of an existing business of power generation:

Provided that the provisions of this clause shall apply if reconstruction or revival of any existing business of power generation is by way of transfer of such business to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;

(41) any income arising from transfer of a capital asset, being an asset of an undertaking engaged in the business of generation or transmission or distribution of power where such



transfer is effected on or before the 31st day of March, 2006, to the Indian company notified under sub-clause (a) of clause (v) of sub-section (4) of section 80-IA;]

⁴⁴[(42) any specified income arising to a body or authority which—

(a) has been established or constituted or appointed under a treaty or an agreement entered into by the Central Government with two or more countries or a convention signed by the Central Government;

(b) is established or constituted or appointed not for the purposes of profit;

(c) is notified by the Central Government in the Official Gazette⁴⁵ for the purposes of this clause.

Explanation.—For the purposes of this clause, “specified income” means the income, of the nature and to the extent, arising to the body or authority referred to in this clause, which the Central Government may notify⁴⁵ in this behalf;]

⁴⁶[(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47;]

⁴⁷[(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882 (2 of 1882);]

⁴⁸[(45) any allowance or perquisite, as may be notified⁴⁹ 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;]

⁵⁰[(46) any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which—

(a) has been 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;

(b) is not engaged in any commercial activity; and

(c) is notified⁵¹ by the Central Government in the Official Gazette for the purposes of this clause.

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;

(47) any income of an infrastructure debt fund, set up in accordance with the guidelines as may be prescribed,⁵² which is notified by the Central Government in the Official Gazette for the purposes of this clause;]

⁵³[(48) any income received in India in Indian currency by a foreign company on account of
⁵⁴[sale of crude oil, any other goods or rendering of services, as may be notified by the Central Government in this behalf, to any person] in India:

Provided that—



(i) receipt of such income in India by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government;

(ii) having regard to the national interest, the foreign company and the agreement or arrangement are notified⁵⁵ by the Central Government in this behalf; and

(iii) the foreign company is not engaged in any activity, other than receipt of such income, in India;]

⁵⁶[(49) any income of the National Financial Holdings Company Limited, being a company set up by the Central Government, of any previous year relevant to any assessment year commencing on or before the 1st day of April, 2014.]

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Section – 10A: ⁵⁷[Special provision in respect of newly established undertakings in free trade zone, etc.⁵⁸

10A. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export⁵⁹ of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture⁵⁹ or produce such articles or things or computer software, as the case may be, shall be allowed from the total income⁵⁹ of the assessee :

Provided that where in computing the total income⁵⁹ of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to deduction referred to in this sub-section only for the unexpired period of the aforesaid ten consecutive assessment years :

Provided further that where an undertaking initially located in any free trade zone or export processing zone is subsequently located in a special economic zone by reason of conversion of such free trade zone or export processing zone into a special economic zone, the period of ten consecutive assessment years referred to in this sub-section shall be reckoned from the assessment year relevant to the previous year in which the ⁶⁰[undertaking began to manufacture or produce such articles or things or computer software] in such free trade zone or export processing zone :

⁶¹**Provided also** that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software :]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, ⁶²[2012] and subsequent years.

⁶³[(1A) Notwithstanding anything contained in sub-section (1), the deduction, in computing the total income of an undertaking, which begins to manufacture or produce articles or things or computer software during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2003, in any special economic zone, shall be,—

(i) hundred per cent of profits and gains derived from the export of such articles or things or computer software for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce such articles or things or computer software, as the case may be, and thereafter,



fifty per cent of such profits and gains for further two consecutive assessment years, and thereafter;

(ii) for the next three consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Allowance Reserve Account") to be created and utilised for the purposes of the business of the assessee in the manner laid down in sub-section (1B) :

⁶⁴[**Provided** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.]

(1B) The deduction under clause (ii) of sub-section (1A) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the amount credited to the Special Economic Zone Re-investment Allowance Reserve Account is to be utilised—

(i) for the purposes of acquiring new machinery or plant which is first put to use before the expiry of a period of three years next following the previous year in which the reserve was created; and

(ii) until the acquisition of new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be prescribed⁶⁵ in this behalf, have been furnished by the assessee in respect of new machinery or plant along with the return of income for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(1C) Where any amount credited to the Special Economic Zone Re-investment Allowance Reserve Account under clause (ii) of sub-section (1A),—

(a) has been utilised for any purpose other than those referred to in sub-section (1B), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (1B), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (1B),

and shall be charged to tax accordingly.]

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(i) it has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year—

(a) commencing on or after the 1st day of April, 1981, in any free trade zone; or



(b) commencing on or after the 1st day of April, 1994, in any electronic hardware technology park, or, as the case may be, software technology park;

(c) commencing on or after the 1st day of April, 2001 in any special economic zone;

(ii) it is not formed by the splitting up⁶⁶, or the reconstruction⁶⁶, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertakings as is referred to in section 33B, in the circumstances and within the period specified in that section;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds⁶⁶ of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2.—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

⁶⁷[(4) For the purposes of ⁶⁸[sub-sections (1) and (1A)], the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(5) The deduction under ⁶⁸[this section] shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form⁶⁹, alongwith the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years ⁷⁰[ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the



undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section (3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years ⁷⁰[ending before the 1st day of April, 2001];

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

⁷¹[(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.]

⁷²[(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2⁷³ of the Special Economic Zones Act, 2005, which has begun or begins to manufacture or produce articles or things or computer software during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone.]

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment years.

(9) ⁷⁴[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

(9A) ⁷⁵[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

Explanation 1.— ⁷⁶[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

Explanation 2.—For the purposes of this section,—



(i) "computer software" ⁷⁷ means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature, as may be notified⁷⁸ by the Board,

which is transmitted or exported from India to any place outside India by any means;

(ii) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of ⁷⁹[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder or any other corresponding law for the time being in force;

(iii) "electronic hardware technology park" means any park set up in accordance with the Electronic Hardware Technology Park (EHTP) Scheme notified⁸⁰ by the Government of India in the Ministry of Commerce and Industry;

(iv) "export turnover" means the consideration in respect of export ⁸¹[by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(v) "free trade zone" means the Kandla Free Trade Zone and the Santacruz Electronics Export Processing Zone and includes any other free trade zone which the Central Government may, by notification in the Official Gazette,⁸² specify for the purposes of this section;

(vi) "relevant assessment year" means any assessment year falling within a period of ten consecutive assessment years referred to in this section;

(vii) "software technology park" means any park set up in accordance with the Software Technology Park Scheme notified⁸³ by the Government of India in the Ministry of Commerce and Industry;

(viii) "special economic zone" means a zone which the Central Government may, by notification in the Official Gazette, specify as a special economic zone for the purposes of this section.]

⁸⁴[*Explanation 3.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

⁸⁵[*Explanation 4.*—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.]

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Section – 10AA: ⁸⁶[Special provisions in respect of newly established Units in Special Economic Zones.⁸⁷

10AA. (1) Subject to the provisions of this section, in computing the total income of an assessee, being an entrepreneur as referred to in clause (j) of section 2⁸⁸ of the Special Economic Zones Act, 2005, from his Unit, who begins to manufacture or produce articles or things or provide any services during the previous year relevant to any assessment year commencing on or after the 1st day of April, 2006⁸⁹, a deduction of—

(i) hundred per cent of profits and gains derived from the export, of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and fifty per cent of such profits and gains for further five assessment years and thereafter;

(ii) for the next five consecutive assessment years, so much of the amount not exceeding fifty per cent of the profit as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account (to be called the "Special Economic Zone Re-investment Reserve Account") to be created and utilized for the purposes of the business of the assessee in the manner laid down in sub-section (2).

(2) The deduction under clause (ii) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

(a) the amount credited to the Special Economic Zone Re-investment Reserve Account is to be utilised—

(i) for the purposes of acquiring machinery or plant which is first put to use before the expiry of a period of three years following the previous year in which the reserve was created; and

(ii) until the acquisition of the machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India;

(b) the particulars, as may be specified by the Central Board of Direct Taxes in this behalf, under clause (b) of sub-section (1B) of section 10A have been furnished by the assessee in respect of machinery or plant along with the return of income⁹⁰ for the assessment year relevant to the previous year in which such plant or machinery was first put to use.

(3) Where any amount credited to the Special Economic Zone Re-investment Reserve Account under clause (ii) of sub-section (1),—



(a) has been utilised for any purpose other than those referred to in sub-section (2), the amount so utilised; or

(b) has not been utilised before the expiry of the period specified in sub-clause (i) of clause (a) of sub-section (2), the amount not so utilised,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised; or

(ii) in a case referred to in clause (b), in the year immediately following the period of three years specified in sub-clause (i) of clause (a) of sub-section (2),

and shall be charged to tax accordingly :

Provided that where in computing the total income of the Unit for any assessment year, its profits and gains had not been included by application of the provisions of sub-section (7B) of section 10A, the undertaking, being the Unit shall be entitled to deduction referred to in this sub-section only for the unexpired period of ten consecutive assessment years and thereafter it shall be eligible for deduction from income as provided in clause (ii) of sub-section (1).

Explanation.—For the removal of doubts, it is hereby declared that an undertaking, being the Unit, which had already availed, before the commencement of the Special Economic Zones Act, 2005, the deductions referred to in section 10A for ten consecutive assessment years, such Unit shall not be eligible for deduction from income under this section :

Provided further that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone, the period of ten consecutive assessment years referred to above shall be reckoned from the assessment year relevant to the previous year in which the Unit began to manufacture, or produce or process such articles or things or services in such free trade zone or export processing zone :

Provided also that where a Unit initially located in any free trade zone or export processing zone is subsequently located in a Special Economic Zone by reason of conversion of such free trade zone or export processing zone into a Special Economic Zone and has completed the period of ten consecutive assessment years referred to above, it shall not be eligible for deduction from income as provided in clause (ii) of sub-section (1) with effect from the 1st day of April, 2006.

⁹¹[(4) This section applies to any undertaking, being the Unit, which fulfils all the following conditions, namely:—

(i) it has begun or begins to manufacture or produce articles or things or provide services during the previous year relevant to the assessment year commencing on or after the 1st day of April, 2006 in any Special Economic Zone;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking, being the Unit, which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;



(iii) it is not formed by the transfer to a new business, of machinery or plant previously used for any purpose.

Explanation.—The provisions of Explanations 1 and 2 to sub-section (3) of section 80-IA shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.]

(5) Where any undertaking being the Unit which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another undertaking, being the Unit in a scheme of amalgamation or demerger,—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged Unit, being the company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as they would have applied to the amalgamating or the demerged Unit being the company as if the amalgamation or demerger had not taken place.

(6) Loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, being the Unit shall be allowed to be carried forward or set off.

(7) For the purposes of sub-section (1), the profits derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on ⁹²[by the under-taking] :

⁹³[**Provided** that the provisions of this sub-section [as amended by section 6 of the Finance (No. 2) Act, 2009 (33 of 2009)] shall have effect for the assessment year beginning on the 1st day of April, 2006 and subsequent assessment years.]

(8) The provisions of sub-sections (5)^{93a} and (6) of section 10A shall apply to the articles or things or services referred to in sub-section (1) as if—

(a) for the figures, letters and word “1st April, 2001”, the figures, letters and word “1st April, 2006” had been substituted;

(b) for the word “undertaking”, the words “undertaking, being the Unit” had been substituted.

(9) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

The following sub-section (10) shall be inserted after sub-section (9) of section 10AA by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(10) Where a deduction under this section is claimed and allowed in respect of profits of any of the specified business, referred to in clause (c) of sub-section (8) of section 35AD, for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.

Explanation 1.—For the purposes of this section,—



(i) "export turnover" means the consideration in respect of export by the undertaking, being the Unit of articles or things or services received in, or brought into, India by the assessee but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India or expenses, if any, incurred in foreign exchange in rendering of services (including computer software) outside India;

(ii) "export in relation to the Special Economic Zones" means taking goods or providing services out of India from a Special Economic Zone by land, sea, air, or by any other mode, whether physical or otherwise;

(iii) "manufacture" shall have the same meaning as assigned to it in clause (r) of section 2 of the Special Economic Zones Act, 2005⁹⁴;

(iv) "relevant assessment year" means any assessment year falling within a period of fifteen consecutive assessment years referred to in this section;

(v) "Special Economic Zone" and "Unit" shall have the same meanings as assigned to them under clauses (za) and (zc)⁹⁴ of section 2 of the Special Economic Zones Act, 2005.

Explanation 2.—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

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Section – 10B: 95[Special provisions in respect of newly established hundred per cent export-oriented undertakings⁹⁶.

10B. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by a hundred per cent export-oriented undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software, as the case may be, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, its profits and gains had not been included by application of the provisions of this section as it stood immediately before its substitution by the Finance Act, 2000, the undertaking shall be entitled to the deduction referred to in this sub-section only for the unexpired period of aforesaid ten consecutive assessment years :

⁹⁷[**Provided** ⁹⁸[**further**] that for the assessment year beginning on the 1st day of April, 2003, the deduction under this sub-section shall be ninety per cent of the profits and gains derived by an undertaking from the export of such articles or things or computer software:]

Provided also that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, ⁹⁹[2012] and subsequent years :

¹[**Provided also** that no deduction under this section shall be allowed to an assessee who does not furnish a return of his income on or before the due date specified under sub-section (1) of section 139.]

(2) This section applies to any undertaking which fulfils all the following conditions, namely :—

(i) it manufactures or produces any articles or things or computer software;

(ii) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(iii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to subsection (2) of section 80-I shall apply for the purposes of clause (iii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) This section applies to the undertaking, if the sale proceeds of articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation 1.—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

Explanation 2.—The sale proceeds referred to in this sub-section shall be deemed to have been received in India where such sale proceeds are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

²[(4) For the purposes of sub-section (1), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things or computer software bears to the total turnover of the business carried on by the undertaking.]

(5) The deduction under sub-section (1) shall not be admissible for any assessment year beginning on or after the 1st day of April, 2001, unless the assessee furnishes in the prescribed form³, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of the previous year relevant to the assessment year immediately succeeding the last of the relevant assessment years, or of any previous year, relevant to any subsequent assessment year,—

(i) section 32, section 32A, section 33, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if every allowance or deduction referred to therein and relating to or allowable for any of the relevant assessment years ⁴[ending before the 1st day of April, 2001], in relation to any building, machinery, plant or furniture used for the purposes of the business of the undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and accordingly sub-section (2) of section 32, clause (ii) of sub-section



(3) of section 32A, clause (ii) of sub-section (2) of section 33, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such allowance or deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the undertaking, shall be carried forward or set-off where such loss relates to any of the relevant assessment years ⁵[ending before the 1st day of April, 2001];

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB in relation to the profits and gains of the undertaking; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment year.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

⁶[(7A) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or the demerger had not taken place.]

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee, before the due date for furnishing the return of income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him for any of the relevant assessment year.

(9) ⁷[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

(9A) ⁸[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

Explanation 1.— ⁹[Omitted by the Finance Act, 2003, w.e.f. 1-4-2004.]

Explanation 2.—For the purposes of this section,—

(i) “computer software” means—

(a) any computer programme recorded on any disc, tape, perforated media or other information storage device; or

(b) any customized electronic data or any product or service of similar nature as may be notified¹⁰ by the Board,

which is transmitted or exported from India to any place outside India by any means;



(ii) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of ¹¹[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder or any other corresponding law for the time being in force;

(iii) "export turnover" means the consideration in respect of export ¹²[by the undertaking] of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;

(iv) "hundred per cent export-oriented undertaking" means an undertaking which has been approved as a hundred per cent export-oriented undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14¹³ of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act;

(v) "relevant assessment years" means any assessment years falling within a period of ten consecutive assessment years, referred to in this section.]

¹⁴[*Explanation 3.*—For the removal of doubts, it is hereby declared that the profits and gains derived from on site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India.]

¹⁵[*Explanation 4.*—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.]



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Section – 10BA: ¹⁶[Special provisions in respect of export of certain articles or things.^{16a}

10BA. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section :

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely :—

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (ii) of sub-section (2) of that section;

(d) ninety per cent or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation.—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(4) For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form¹⁷, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation.—For the purposes of this section,—

(a) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(b) “eligible articles or things” means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;



(c) "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) "export out of India" shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station¹⁸ as defined in the Customs Act, 1962 (52 of 1962).]

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Section – 10BA: ¹⁶[Special provisions in respect of export of certain articles or things.^{16a}

10BA. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee :

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section :

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely :—

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence :

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (ii) of sub-section (2) of that section;

(d) ninety per cent or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible



foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation.—For the purposes of this sub-section, the expression “competent authority” means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(4) For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form¹⁷, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation.—For the purposes of this section,—

(a) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(b) “eligible articles or things” means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(c) “export turnover” means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) “export out of India” shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station¹⁸ as defined in the Customs Act, 1962 (52 of 1962).]

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Section – 10C: ²⁰[Special provision in respect of certain industrial undertakings in North-Eastern Region.

10C. (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking, which has begun or begins to manufacture or produce any article or thing on or after the 1st day of April, 1998 in any Integrated Infrastructure Development Centre or Industrial Growth Centre located in the North-Eastern Region (hereafter in this section

referred to as the industrial undertaking) shall not be included in the total income of the assessee.

(2) This section applies to any industrial undertaking which fulfils all the following conditions, namely :—

(i) it is not formed by the splitting up, or the reconstruction of, a business already in existence :

Provided that this condition shall not apply in respect of any industrial undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such industrial undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section ;

(ii) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (3) of section 80-IA shall apply for the purposes of clause (ii) of this sub-section as they apply for the purposes of clause (ii) of that sub-section.

(3) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of ten consecutive assessment years beginning with the assessment year relevant to the previous year in which the industrial undertaking begins to manufacture or produce articles or things.

(4) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee of any previous year relevant to any subsequent assessment year,—

(i) section 32, section 35 and clause (ix) of sub-section (1) of section 36 shall apply as if deduction referred to therein and relating to or allowable for any of the relevant assessment years, in relation to any building, machinery, plant or furniture used for the purposes of the business of the industrial undertaking in the previous year relevant to such assessment year or any expenditure incurred for the purposes of such business in such previous year had been given full effect to for that assessment year itself and, accordingly, sub-section (2) of section 32, sub-section (4) of section 35 or the second proviso to clause (ix) of sub-section (1) of section 36, as the case may be, shall not apply in relation to any such deduction;

(ii) no loss referred to in sub-section (1) of section 72 or sub-section (1) or sub-section (3) of section 74, in so far as such loss relates to the business of the industrial undertaking, shall be carried forward or set off where such loss relates to any of the relevant assessment years;

(iii) no deduction shall be allowed under section 80HH or section 80HHA or section 80-I or section 80-IA or section 80-IB or section 80JJA in relation to the profits and gains of the industrial undertakings; and

(iv) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the business of the industrial undertaking shall be computed as if the assessee had claimed and been actually allowed the deduction in respect of depreciation for each of the relevant assessment years.

(5) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the industrial undertaking referred to in this section as they apply for the purposes of the industrial undertaking referred to in section 80-IA or section 80-IB, as the case may be.



(6) Notwithstanding anything contained in the foregoing provisions of this section, where the assessee before the due date for furnishing the return of his income under sub-section (1) of section 139, furnishes to the Assessing Officer a declaration in writing that the provisions of this section may not be made applicable to him, the provisions of this section shall not apply to him in any of the relevant assessment years :

²¹[**Provided** that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.]

Explanation.—For the purposes of this section,—

(i) “Integrated Infrastructure Development Centre” means such centres located in the States of the North-Eastern Region, which the Central Government, may, by notification in the Official Gazette, specify²² for the purposes of this section;

(ii) “Industrial Growth Centre” means such centres located in the States of the North-Eastern Region, which the Central Government may, by notification in the Official Gazette, specify²² for the purposes of this section;

(iii) “North-Eastern Region” means the region comprising the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura;

(iv) “relevant assessment years” means the ten consecutive years beginning with the year in which the industrial undertaking begins to manufacture or produce articles or things.]

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Section – 11: ²³Income²⁴ from property held for charitable or religious purposes.

1. ²⁵ (1) Subject to the provisions of sections 60 to 63, the following income shall not be included in the total income of the previous year of the person in receipt of the income—

²⁶[(a) income derived from property²⁴ held under trust wholly²⁴ for charitable or religious purposes, to the extent to which such income²⁴ is applied²⁴ to such purposes in India; and, where any such income²⁴ is ²⁴accumulated or set apart for application to such purposes in India, to the extent to which the income so accumulated or set apart²⁷ is not in excess of ²⁸[fifteen] per cent of the income from such property;

(b) income derived from property held under trust in part²⁷ only for such purposes, the trust having been created before the commencement of this Act, to the extent to which such income²⁷ is applied to such purposes in India; and, where any such income is finally set apart for application to such purposes in India, to the extent to which the income so set apart is not in excess of ²⁸[fifteen] per cent of the income from such property;

(c) income ²⁹[derived] from property held under trust—

(i) created on or after the 1st day of April, 1952, for a charitable purpose which tends to promote international welfare in which India is interested, to the extent to which such income is applied to such purposes outside India, and

(ii) for charitable or religious purposes, created before the 1st day of April, 1952, to the extent to which such income is applied to such purposes outside India:

Provided that the Board, by general or special order, has directed in either case that it shall not be included in the total income of the person in receipt of such income;

³⁰[(d) income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus³¹ of the trust or institution.]

³²[*Explanation.*—For the purposes of clauses (a) and (b),—

(1) in computing the ³³[fifteen] per cent of the income which may be accumulated or set apart, any such voluntary contributions as are referred to in section 12 shall be deemed to be part of the income;

(2) if, in the previous year, the income applied to charitable or religious purposes in India falls short of ³⁴[eighty-five] per cent of the income derived during that year from property held under trust, or, as the case may be, held under trust in part, by any amount—

(i) for the reason that the whole or any part of the income has not been received during that year, or

(ii) for any other reason,

then—

(a) in the case referred to in sub-clause (i), so much of the income applied to such purposes in India during the previous year in which the income is received or during the previous year immediately following as does not exceed the said amount, and

(b) in the case referred to in sub-clause (ii), so much of the income applied to such purposes in India during the previous year immediately following the previous year in which the income was derived as does not exceed the said amount,

may, at the option of the person in receipt of the income (such option to be exercised in writing before the expiry of the time allowed under sub-section (1) ³⁵[* * *] of section 139 ³⁶[* * *] for furnishing the return of income) be deemed to be income applied to such purposes during the previous year in which the income was derived; and the income so deemed to have been applied shall not be taken into account in calculating the amount of income applied to such purposes, in the case referred to in sub-clause (i), during the previous year in which the income is received or during the previous year immediately following, as the case may be, and, in the case referred to in sub-clause (ii), during the previous year immediately following the previous year in which the income was derived.]

³⁷[(1A) For the purposes of sub-section (1),—

(a) where a capital asset, being property held under trust wholly for charitable or religious purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of such capital gain;

(ii) where only a part of the net consideration is utilised for acquiring the new capital asset, so much of such capital gain as is equal to the amount, if any, by which the amount so utilised exceeds the cost of the transferred asset;



(b) where a capital asset, being property held under trust in part only for such purposes, is transferred and the whole or any part of the net consideration is utilised for acquiring another capital asset to be so held, then, the appropriate fraction of the capital gain arising from the transfer shall be deemed to have been applied to charitable or religious purposes to the extent specified hereunder, namely:—

(i) where the whole of the net consideration is utilised in acquiring the new capital asset, the whole of the appropriate fraction of such capital gain;

(ii) in any other case, so much of the appropriate fraction of the capital gain as is equal to the amount, if any, by which the appropriate fraction of the amount utilised for acquiring the new asset exceeds the appropriate fraction of the cost of the transferred asset.

Explanation.—In this sub-section,—

(i) “appropriate fraction” means the fraction which represents the extent to which the income derived from the capital asset transferred was immediately before such transfer applicable to charitable or religious purposes;

(ii) “cost of the transferred asset” means the aggregate of the cost of acquisition (as ascertained for the purposes of sections 48 and 49) of the capital asset which is the subject of the transfer and the cost of any improvement thereto within the meaning assigned to that expression in sub-clause (b) of clause (1) of section 55;

(iii) “net consideration” means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.]

³⁸[(1B) Where any income in respect of which an option is exercised under clause (2) of the *Explanation* to sub-section (1) is not applied to charitable or religious purposes in India during the period referred to in sub-clause (a) or, as the case may be, sub-clause (b), of the said clause, then, such income shall be deemed to be the income of the person in receipt thereof—

(a) in the case referred to in sub-clause (i) of the said clause, of the previous year immediately following the previous year in which the income was received; or

(b) in the case referred to in sub-clause (ii) of the said clause, of the previous year immediately following the previous year in which the income was derived.]

³⁹[(2) ⁴⁰[Where ⁴¹[eighty-five] per cent of the income referred to in clause (a) or clause (b) of sub-section (1) read with the *Explanation* to that sub-section is not applied, or is not deemed to have been applied, to charitable or religious purposes in India during the previous year but is accumulated or set apart, either in whole or in part, for application to such purposes in India, such income so accumulated or set apart shall not be included in the total income of the previous year of the person in receipt of the income, provided the following conditions are complied with, namely:—]

(a) such person specifies, by notice in writing given to the ⁴²[Assessing] Officer in the prescribed⁴³ manner⁴⁴, the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed ten years;

⁴⁵[(b) the money so accumulated⁴⁶ or set apart is invested or deposited in the forms or modes specified in sub-section (5)]:]



⁴⁷[**Provided** that in computing the period of ten years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded:]

⁴⁸[**Provided further** that in respect of any income accumulated or set apart on or after the 1st day of April, 2001, the provisions of this sub-section shall have effect as if for the words "ten years" at both the places where they occur, the words "five years" had been substituted.]

⁴⁹[*Explanation.*—Any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1), read with the *Explanation* to that sub-section, which is not applied, but is accumulated or set apart, to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, shall not be treated as application of income for charitable or religious purposes, either during the period of accumulation or thereafter.]

⁵⁰[(3) Any income referred to in sub-section (2) which—

(a) is applied to purposes other than charitable or religious purposes as aforesaid or ceases to be accumulated or set apart for application thereto, or

⁵¹[(b) ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5), or]

(c) is not utilised⁵² for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of that sub-section or in the year immediately following the expiry thereof,

⁵³[(d) is credited or paid to any trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10,]

shall be deemed to be the income of such person of the previous year in which it is so applied or ceases to be so accumulated or set apart or ceases to remain so invested or deposited or ⁵³[credited or paid or], as the case may be, of the previous year immediately following the expiry of the period aforesaid.]

⁵⁴[(3A) Notwithstanding anything contained in sub-section (3), where due to circumstances beyond the control of the person in receipt of the income, any income invested or deposited in accordance with the provisions of clause (b) of sub-section (2) cannot be applied for the purpose for which it was accumulated or set apart, the ⁵⁵[Assessing] Officer may, on an application made to him in this behalf, allow such person to apply such income for such other charitable or religious purpose in India as is specified in the application by such person and as is in conformity with the objects of the trust; and thereupon the provisions of sub-section (3) shall apply as if the purpose specified by such person in the application under this sub-section were a purpose specified in the notice given to the ⁵⁵[Assessing] Officer under clause (a) of sub-section (2):]

⁵⁶[**Provided** that the Assessing Officer shall not allow application of such income by way of payment or credit made for the purposes referred to in clause (d) of sub-section (3) of section 11:]

⁵⁷[**Provided further** that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the



Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.]

(4) For the purposes of this section "property held under trust" includes a business undertaking so held, and where a claim is made that the income of any such undertaking shall not be included in the total income of the persons in receipt thereof, the ⁵⁸[Assessing] Officer shall have power to determine the income of such undertaking in accordance with the provisions of this Act relating to assessment; and where any income so determined is in excess of the income as shown in the accounts of the undertaking, such excess shall be deemed to be applied to purposes other than charitable or religious purposes ⁵⁹[* * *].

⁶⁰[(4A) Sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) shall not apply in relation to any income of a trust or an institution, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the trust or, as the case may be, institution, and separate books of account are maintained by such trust or institution in respect of such business.]

⁶¹[⁶²(5) The forms and modes of investing or depositing the money referred to in clause (b) of sub-section (2) shall be the following, namely :—

(i) investment in savings certificates as defined in clause (c) of section 2⁶³ of the Government Savings Certificates Act, 1959 (46 of 1959), and any other securities or certificates issued by the Central Government under the Small Savings Schemes of that Government;

(ii) deposit in any account with the Post Office Savings Bank;

(iii) deposit in any account with a scheduled bank or a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank).

Explanation.—In this clause, "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(iv) investment in units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(v) investment in any security for money created and issued by the Central Government or a State Government;

(vi) investment in debentures issued by, or on behalf of, any company or corporation both the principal whereof and the interest whereon are fully and unconditionally guaranteed by the Central Government or by a State Government;

(vii) investment or deposit⁶⁴ in any ⁶⁵[public sector company]:

⁶⁶[**Provided** that where an investment or deposit in any public sector company has been made and such public sector company ceases to be a public sector company,—

(A) such investment made in the shares of such company shall be deemed to be an investment made under this clause for a period of three years from the date on which such public sector



company ceases to be a public sector company;

(B) such other investment or deposit shall be deemed to be an investment or deposit made under this clause for the period up to the date on which such investment or deposit becomes repayable by such company;]

(viii) deposits with or investment in any bonds issued by a financial corporation which is engaged in providing long-term finance for industrial development in India and ⁶⁷[which is eligible for deduction under clause (viii) of sub-section (1) of section 36];

(ix) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes and ⁶⁷[which is eligible for deduction under clause (viii) of sub-section (1) of section 36];

⁶⁸[(ixa) deposits with or investment in any bonds issued by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for urban infrastructure in India.

Explanation.—For the purposes of this clause,—

(a) “long-term finance” means any loan⁶⁴ or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(b) “public company” ⁶⁹ shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(c) “urban infrastructure” means a project for providing potable water supply, sanitation and sewerage, drainage, solid waste management, roads, bridges and flyovers or urban transport;]

(x) investment in immovable property.

Explanation.—“Immovable property” does not include any machinery or plant (other than machinery or plant installed in a building for the convenient occupation of the building) even though attached to, or permanently fastened to, anything attached to the earth;]

⁷⁰[(xi) deposits with the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);]

⁷¹[(xii) any other form or mode of investment or deposit as may be prescribed.⁷²]

The following sub-sections (6) and (7) shall be inserted after sub-section (5) of section 11 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015:

(6) In this section where any income is required to be applied or accumulated or set apart for application, then, for such purposes the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this section in the same or any other previous year.

(7) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) of section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and the said registration is in force for any previous year, then, nothing contained in section 10 [other than clause (1)



and clause (23C) thereof] shall operate to exclude any income derived from the property held under trust from the total income of the person in receipt thereof for that previous year.

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Section – 12: ⁷³[Income of trusts or institutions from contributions.

2. ⁷⁴ ⁷⁵[(1)] ⁷⁶Any voluntary contributions⁷⁷ received by a trust created wholly for charitable or religious purposes or by an institution established wholly for such purposes (not being contributions made with a specific direction that they shall form part of the corpus of the trust or institution) shall for the purposes of section 11 be deemed to be income derived from⁷⁷ property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.]

⁷⁸[(2) The value of any services, being medical or educational services, made available by any charitable or religious trust running a hospital or medical institution or an educational institution, to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13, shall be deemed to be income of such trust or institution derived from property held under trust wholly for charitable or religious purposes during the previous year in which such services are so provided and shall be chargeable to income-tax notwithstanding the provisions of sub-section (1) of section 11.

Explanation.—For the purposes of this sub-section, the expression “value” shall be the value of any benefit or facility granted or provided free of cost or at concessional rate to any person referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3) of section 13.]

⁷⁹[(3) Notwithstanding anything contained in section 11, any amount of donation received by the trust or institution in terms of clause (d) of sub-section (2) of section 80G ⁸⁰[in respect of which accounts of income and expenditure have not been rendered to the authority prescribed under clause (v) of sub-section (5C) of that section, in the manner specified in that clause, or] which has been utilised for purposes other than providing relief to the victims of earthquake in Gujarat or which remains unutilised in terms of sub-section (5C) of section 80G and not transferred to the Prime Minister’s National Relief Fund on or before the 31st day of March, ⁸¹[2004] shall be deemed to be the income of the previous year and shall accordingly be charged to tax.]

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Section – 12A: ⁸²[⁸³Conditions for applicability of sections 11 and 12.]

⁸⁴**12A.** ⁸⁵[(1)] ⁸⁶The provisions of section 11 and section 12 shall not apply in relation to the income of any trust or institution unless the following conditions are fulfilled, namely:—

(a) the person in receipt of the income has made an application for registration of the trust or institution in the prescribed form⁸⁷ and in the prescribed manner to the ⁸⁸[***] ^{88a}[Principal Commissioner or] Commissioner before the 1st day of July, 1973, or before the expiry of a period of one year from the date of the creation of the trust or the establishment of the institution, ⁸⁹[whichever is later and such trust or institution is registered under section 12AA] :

⁹⁰[**Provided** that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of sections 11 and 12 shall apply in relation to

the income of such trust or institution,—

(i) from the date of the creation of the trust or the establishment of the institution if the ⁹¹[***]
^{91a}[Principal Commissioner or] Commissioner is, for reasons to be recorded in writing, satisfied that the person in receipt of the income was prevented from making the application before the expiry of the period⁹² aforesaid for sufficient reasons;

(ii) from the 1st day of the financial year in which the application is made, if the ⁹³[***]
^{93a}[Principal Commissioner or] Commissioner is not so satisfied:]

⁹⁴[**Provided further** that the provisions of this clause shall not apply in relation to any application made on or after the 1st day of June, 2007;]

⁹⁴[(aa) the person in receipt of the income has made an application for registration of the trust or institution on or after the 1st day of June, 2007 in the prescribed form⁹⁵ and manner to the ^{95a}[Principal Commissioner or] Commissioner and such trust or institution is registered under section 12AA;]

(b) where the total income of the trust or institution as computed under this Act without giving effect to ⁹⁶[the provisions of section 11 and section 12 exceeds the maximum amount which is not chargeable to income-tax in any previous year], the accounts of the trust or institution for that year have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the person in receipt of the income furnishes along with the return of income for the relevant assessment year the report of such audit in the prescribed form⁹⁷ duly signed and verified by such accountant and setting forth such particulars as may be prescribed.]

(c) ⁹⁸[***]

⁹⁹[(2) Where an application has been made on or after the 1st day of June, 2007, the provisions of sections 11 and 12 shall apply in relation to the income of such trust or institution from the assessment year immediately following the financial year in which such application is made:]

^{99a}[**Provided** that where registration has been granted to the trust or institution under section 12AA, then, the provisions of sections 11 and 12 shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration and the objects and activities of such trust or institution remain the same for such preceding assessment year:

Provided further that no action under section 147 shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year:

Provided also that provisions contained in the first and second proviso shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA.]

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Section – 12AA: 1[Procedure for registration.

12AA. (1) The ²[***] ^{2a}[Principal Commissioner or] Commissioner, on receipt of an application for registration of a trust or institution made under clause (a) ⁹⁹[or clause (aa) of sub-section



(1)] of section 12A, shall—

(a) call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf; and

(b) after satisfying himself about the objects of the trust or institution and the genuineness of its activities, he—

(i) shall pass an order in writing registering the trust or institution;

(ii) shall, if he is not so satisfied, pass an order in writing refusing to register the trust or institution,

and a copy of such order shall be sent to the applicant :

Provided that no order under sub-clause (ii) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

³[(1A) All applications, pending before the ^{2a}*[Principal Chief Commissioner or]* Chief Commissioner on which no order has been passed under clause (b) of sub-section (1) before the 1st day of June, 1999, shall stand transferred on that day to the ^{2a}*[Principal Commissioner or]* Commissioner and the ^{2a}*[Principal Commissioner or]* Commissioner may proceed with such applications under that sub-section from the stage at which they were on that day.]

(2) Every order granting or refusing registration under clause (b) of sub-section (1) shall be passed before the expiry of six months from the end of the month in which the application was received under clause (a) ⁴[or clause (aa) of sub-section (1)] of section 12A.]

⁵[(3) Where a trust or an institution has been granted registration under clause (b) of sub-section (1) ⁶[or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)]] and subsequently the ^{6a}*[Principal Commissioner or]* Commissioner is satisfied that the activities of such trust or institution are not genuine or are not being carried out in accordance with the objects of the trust or institution, as the case may be, he shall pass an order in writing cancelling the registration of such trust or institution:

Provided that no order under this sub-section shall be passed unless such trust or institution has been given a reasonable opportunity of being heard.]

^{6b}[(4) *Without prejudice to the provisions of sub-section (3), where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996)] and subsequently it is noticed that the activities of the trust or the institution are being carried out in a manner that the provisions of sections 11 and 12 do not apply to exclude either whole or any part of the income of such trust or institution due to operation of sub-section (1) of section 13, then, the Principal Commissioner or the Commissioner may by an order in writing cancel the registration of such trust or institution:*

Provided that the registration shall not be cancelled under this sub-section, if the trust or institution proves that there was a reasonable cause for the activities to be carried out in the said manner.]

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Section – 13: ⁷[Section 11 not to apply in certain cases.

3. ⁸ (1) Nothing contained in section 11 ⁹[or section 12] shall operate so as to exclude from the total income of the previous year of the person in receipt thereof—

(a) any part of the ¹⁰income from the property held under a trust for private religious purposes which does not enure for the benefit¹⁰ of the public;

(b) in the case of a trust for charitable purposes or a charitable institution created or established after the commencement of this Act, any income thereof if the trust or institution is created or established for the benefit¹⁰ of any particular religious community or caste;

(bb) ¹¹[* * *]

(c) in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof—

(i) if such trust or institution has been created or established after the commencement of this Act and under the terms of the trust or the rules governing the institution, any part of such income enures, or

(ii) if any part of such income or any property of the trust or the institution (whenever created or established) is during the previous year used or applied,

directly or indirectly for the benefit¹² of any person referred to in sub-section (3) :

Provided that in the case of a trust or institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3), if such use or application is by way of compliance with a mandatory term of the trust or a mandatory rule governing the institution :

Provided further that in the case of a trust for religious purposes or a religious institution (whenever created or established) or a trust for charitable purposes or a charitable institution created or established before the commencement of this Act, the provisions of sub-clause (ii) shall not apply to any use or application, whether directly or indirectly, of any part of such income or any property of the trust or institution for the benefit of any person referred to in sub-section (3) in so far as such use or application relates to any period before the 1st day of June, 1970;

¹³[(d) ¹⁴in the case of a trust for charitable or religious purposes or a charitable or religious institution, any income thereof, if for any period during the previous year—

(i) any funds¹⁵ of the trust or institution are invested or deposited¹⁵ after the 28th day of February, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11; or

(ii) any funds¹⁵ of the trust or institution invested or deposited¹⁵ before the 1st day of March, 1983 otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 continue to remain so invested or deposited after the 30th day of November, 1983; or

¹⁶[(iii) any shares in a company, other than—



(A) shares in a public sector company ;

(B) shares prescribed as a form or mode of investment under clause (xii) of sub-section (5) of section 11,

are held by the trust or institution after the 30th day of November, 1983:]

Provided that nothing in this clause shall apply in relation to—

(i) any assets held by the trust or institution where such assets form part of the corpus of the trust or institution as on the 1st day of June, 1973 ¹⁷[***];

¹⁸[(ia) any accretion to the shares, forming part of the corpus mentioned in clause (i), by way of bonus shares allotted to the trust or institution;]

(ii) any assets (being debentures issued by, or on behalf of, any company or corporation) acquired by the trust or institution before the 1st day of March, 1983;

¹⁹[(iia) any asset, not being an investment or deposit in any of the forms or modes specified in sub-section (5) of section 11, where such asset is not held by the trust or institution, otherwise than in any of the forms or modes specified in sub-section (5) of section 11, after the expiry of one year from the end of the previous year in which such asset is acquired or the 31st day of March, ²⁰[1993], whichever is later;]

(iii) any funds representing the profits and gains of business, being profits and gains of any previous year relevant to the assessment year commencing on the 1st day of April, 1984 or any subsequent assessment year.

Explanation.—Where the trust or institution has any other income in addition to profits and gains of business, the provisions of clause (iii) of this proviso shall not apply unless the trust or institution maintains separate books of account in respect of such business.]

²¹[*Explanation.*—For the purposes of sub-clause (ii) of clause (c), in determining whether any part of the income or any property of any trust or institution is during the previous year used or applied, directly or indirectly, for the benefit of any person referred to in sub-section (3), in so far as such use or application relates to any period before the 1st day of July, 1972, no regard shall be had to the amendments made to this section by section 7 [other than sub-clause (ii) of clause (a) thereof] of the Finance Act, 1972.]

(2) Without prejudice to the generality of the provisions of clause (c) ²²[and clause (d)] of sub-section (1), the income or the property²³ of the trust or institution or any part of such income or property shall, for the purposes of that clause, be deemed to have been used or applied for the benefit of a person referred to in sub-section (3),—

(a) if any part of the income or property²⁴ of the trust or institution is, or continues to be, lent²⁴ to any person referred to in sub-section (3) for any period during the previous year without either adequate security or adequate interest or both;

(b) if any land, building or other property²⁴ of the trust or institution is, or continues to be, made available for the use of any person referred to in sub-section (3), for any period during the previous year without charging adequate rent or other compensation;

(c) if any amount is paid by way of salary, allowance or otherwise during the previous year to any person referred to in sub-section (3) out of the resources of the trust or institution for



services rendered by that person to such trust or institution and the amount so paid is in excess of what may be reasonably paid for such services;

(d) if the services of the trust or institution are made available to any person referred to in sub-section (3) during the previous year without adequate remuneration or other compensation;

(e) if any share, security or other property is purchased by or on behalf of the trust or institution from any person referred to in sub-section (3) during the previous year for consideration which is more than adequate;

(f) if any share, security or other property is sold by or on behalf of the trust or institution to any person referred to in sub-section (3) during the previous year for consideration which is less than adequate;

²⁵[(g) if any income or property of the trust or institution is diverted during the previous year in favour of any person referred to in sub-section (3):

Provided that this clause shall not apply where the income, or the value of the property or, as the case may be, the aggregate of the income and the value of the property, so diverted does not exceed one thousand rupees;]

(h) if any funds²⁶ of the trust or institution are, or continue to remain, invested²⁶ for any period during the previous year (not being a period before the 1st day of January, 1971), in any concern²⁶ in which any person referred to in sub-section (3) has a substantial interest.

(3) The persons referred to in clause (c) of sub-section (1) and sub-section (2) are the following, namely :—

(a) the author of the trust or the founder²⁶ of the institution²⁶;

(b) any person who has made a substantial contribution to the trust or institution, ²⁷[that is to say, any person whose total contribution up to the end of the relevant previous year exceeds ²⁸[fifty] thousand rupees];

(c) where such author, founder or person is a Hindu undivided family, a member of the family;

²⁹[(cc) any trustee of the trust or manager (by whatever name called) of the institution;]

(d) any relative of any such author, founder, person, ³⁰[member, trustee or manager] as aforesaid;

(e) any concern in which any of the persons referred to in clauses (a), (b), (c) ³¹[(cc)] and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) ³²[but without prejudice to the provisions contained in clause (d) of that sub-section], in a case where the aggregate of the funds of the trust or institution invested in a concern in which any person referred to in sub-section (3) has a substantial interest, does not exceed five per cent of the capital³³ of that concern, the exemption under section 11 ³⁴[or section 12] shall not be denied in relation to any income other than the income arising to the trust or the institution from such investment, by reason only that the ³⁵[funds] of the trust or the institution have been invested in a concern in which such person has a substantial interest.

³⁶[(5) Notwithstanding anything contained in clause (d) of sub-section (1), where any assets (being debentures issued by, or on behalf of, any company or corporation) are acquired by the



trust or institution after the 28th day of February, 1983 but before the 25th day of July, 1991, the exemption under section 11 or section 12 shall not be denied in relation to any income other than the income arising to the trust or the institution from such assets, by reason only that the funds of the trust or the institution have been invested in such assets if such funds do not continue to remain so invested in such assets after the 31st day of March, 1992.]

³⁷[(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), but without prejudice to the provisions contained in sub-section (2) of section 12, in the case of a charitable or religious trust running an educational institution or a medical institution or a hospital, the exemption under section 11 or section 12 shall not be denied in relation to any income, other than the income referred to in sub-section (2) of section 12, by reason only that such trust has provided educational or medical facilities to persons referred to in clause (a) or clause (b) or clause (c) or clause (cc) or clause (d) of sub-section (3).]

³⁸[(7) Nothing contained in section 11 or section 12 shall operate so as to exclude from the total income of the previous year of the person in receipt thereof, any anonymous donation referred to in section 115BBC on which tax is payable in accordance with the provisions of that section.]

³⁹[(8) Nothing contained in section 11 or section 12 shall operate so as to exclude any income from the total income of the previous year of the person in receipt thereof if the provisions of the first proviso to clause (15) of section 2 become applicable in the case of such person in the said previous year.]

⁴⁰[*Explanation 1.*—For the purposes of sections 11, 12, 12A and this section, “trust” includes any other legal obligation and for the purposes of this section “relative”, in relation to an individual, means—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) any lineal ascendant or descendant of the individual;

(v) any lineal ascendant or descendant of the spouse of the individual;

(vi) spouse of a person referred to in sub-clause (ii), sub-clause (iii), sub-clause (iv) or sub-clause (v);

(vii) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.]

Explanation 2.—A trust or institution created or established for the benefit of Scheduled Castes, backward classes, Scheduled Tribes or women and children shall not be deemed to be a trust or institution created or established for the benefit of a religious community or caste within the meaning of clause (b) of sub-section (1).

Explanation 3.—For the purposes of this section, a person shall be deemed to have a substantial interest in a concern,—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned



beneficially by such person or partly by such person and partly by one or more of the other persons referred to in sub-section (3);

(ii) in the case of any other concern, if such person is entitled, or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.]

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Section – 13A: 41[Special provision relating to incomes of political parties.

13A. Any income of a political party which is chargeable under the head ⁴²[***] “Income from house property” or “Income from other sources” or ⁴³[“Capital gains” or] any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party :

Provided that—

(a) such political party keeps and maintains such books of account and other documents as would enable the ⁴⁴[Assessing] Officer to properly deduce its income therefrom;

(b) in respect of each such voluntary contribution in excess of ⁴⁵[twenty] thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; and

(c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 :

⁴⁶[**Provided further** that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year.]

⁴⁷[*Explanation.*—For the purposes of this section, “political party” means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).]

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Section – 13B: 48[Special provisions relating to voluntary contributions received by electoral trust.

13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951 (43 of 1951), during the said previous year, ninety-five per cent of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(b) *such electoral trust functions in accordance with the rules⁴⁹ made by the Central Government.*]



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Chapter IV: Computation of total income

Section -14: Heads of income

Heads of income.

4. ⁵⁰ Save as otherwise provided by this Act, all income shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income :—

A.—Salaries.

B.—⁵¹[***]

C.—Income from house property.

D.—Profits and gains of business or profession.

E.—Capital gains.

F.—Income from other sources.

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Section – 14A: 52[Expenditure incurred in relation to income not includible in total income⁵³.

14A. ⁵⁴[(1)] For the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred⁵⁵ by the assessee in relation to⁵⁵ income which does not form part of the total income⁵⁵ under this Act.]

⁵⁴[(2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed⁵⁶, if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

(3) The provisions of sub-section (2) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under this Act :]

⁵⁷[**Provided** that nothing contained in this section shall empower the Assessing Officer either to reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154, for any assessment year beginning on or before the 1st day of April, 2001.]

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Section – 15: Salaries

Salaries.

5. ⁵⁸ ⁵⁹The following income⁶⁰ shall be chargeable to income-tax under the head “Salaries” —

(a) any salary due⁶⁰ from an employer or a former employer to an assessee in the previous year, whether paid⁶⁰ or not;

(b) any salary paid⁶⁰ or allowed⁶⁰ to him in the previous year by or on behalf of an employer or a former employer though not due or before it became due to him;

(c) any arrears of salary paid or allowed to him in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.

⁶¹[*Explanation 1*].—For the removal of doubts, it is hereby declared that where any salary paid in advance is included in the total income of any person for any previous year it shall not be included again in the total income of the person when the salary becomes due.

⁶²[*Explanation 2*.—Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as “salary” for the purposes of this section.]

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Section – 16: Deductions from salaries.

6. ⁶³ The income chargeable under the head “Salaries” shall be computed after making the following deductions, namely :—

(i) ⁶⁴[***]

⁶⁵[(ii) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less;]

⁶⁶[(iii) a deduction of any sum paid by the assessee on account of a tax on employment within the meaning of clause (2) of article 276⁶⁷ of the Constitution, leviable by or under any law.]

(iv) ⁶⁸[***]

(v) ⁶⁹[***]

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Section – 17: “Salary”, “perquisite” and “profits in lieu of salary” defined.

7. ⁷⁰ ⁷¹For the purposes of sections 15 and 16 and of this section,—

(1) "salary" ⁷² includes⁷²—

(i) wages;

(ii) any annuity or pension;

(iii) any gratuity⁷²;

(iv) any fees⁷², commissions, perquisites or profits⁷² in lieu of or in addition to any salary or wages;

(v) any advance of salary;

⁷³[(va) any payment received by an employee in respect of any period of leave not availed of by him;]

(vi) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under rule 6 of Part A of the Fourth Schedule;

(vii) the aggregate of all sums that are comprised in the transferred balance as referred to in sub-rule (2) of rule 11 of Part A of the Fourth Schedule of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-rule (4) thereof; and

⁷⁴[(viii) the contribution made by the Central Government ⁷⁵[or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;]

⁷⁶(2) "perquisite" includes—

⁷⁷(i) the value of rent-free accommodation provided to the assessee by his employer;

(ii) the value of any concession in the matter of rent⁷⁸ respecting any accommodation provided to the assessee by his employer;

⁷⁹[Explanation 1.—For the purposes of this sub-clause, concession in the matter of rent shall be deemed to have been provided if,—

⁸⁰[(a) in a case where an unfurnished accommodation is provided by any employer other than the Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined at the specified rate in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation being the actual amount of lease rental paid or payable by the employer or fifteen per cent of salary, whichever is lower, in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;]

(b) in a case where a furnished accommodation is provided by the Central Government or any State Government, the licence fee determined by the Central Government or any State



Government in respect of the accommodation in accordance with the rules framed by such Government as increased by the value of furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the aggregate of the rent recoverable from, or payable by, the assessee and any charges paid or payable for the furniture and fixtures by the assessee;

(c) in a case where a furnished accommodation is provided by an employer other than the Central Government or any State Government and—

(i) the accommodation is owned by the employer, the value of the accommodation determined under sub-clause (i) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(ii) the accommodation is taken on lease or rent by the employer, the value of the accommodation determined under sub-clause (ii) of clause (a) as increased by the value of the furniture and fixtures in respect of the period during which the said accommodation was occupied by the assessee during the previous year, exceeds the rent recoverable from, or payable by, the assessee;

(d) in a case where the accommodation is provided by the employer in a hotel (except where the assessee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another), the value of the accommodation determined at the rate of twenty-four per cent of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, whichever is lower, for the period during which such accommodation is provided, exceeds the rent recoverable from, or payable by, the assessee.

Explanation 2.—For the purposes of this sub-clause, value of furniture and fixture shall be ten per cent per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the assessee during the previous year.

Explanation 3.—For the purposes of this sub-clause, “salary” includes the pay, allowances, bonus or commission payable monthly or otherwise or any monetary payment, by whatever name called, from one or more employers, as the case may be, but does not include the following, namely:—

(a) dearness allowance or dearness pay unless it enters into the computation of superannuation or retirement benefits of the employee concerned;

(b) employer’s contribution to the provident fund account of the employee;

(c) allowances which are exempted from the payment of tax;

(d) value of the perquisites specified in this clause;

(e) any payment or expenditure specifically excluded under the proviso to this clause.]

⁸¹[Explanation 4.—For the purposes of this sub-clause, “specified rate” shall be—

(i) fifteen per cent of salary in cities having population exceeding twenty-five lakhs as per 2001 census;



(ii) ten per cent of salary in cities having population exceeding ten lakhs but not exceeding twenty-five lakhs as per 2001 census; and

(iii) seven and one-half per cent of salary in any other place;]

(iii) the value of any benefit or amenity granted or provided free of cost or at concessional rate in any of the following cases—

(a) by a company to an employee who is a director thereof;

(b) by a company to an employee being a person who has a substantial interest in the company;

(c) by any employer (including a company) to an employee to whom the provisions of paragraphs (a) and (b) of this sub-clause do not apply and whose income ⁸²[under the head “Salaries” (whether due from, or paid or allowed by, one or more employers), exclusive of the value of all benefits or amenities not provided for by way of monetary payment, exceeds ⁸³[fifty] thousand rupees:]

⁸⁴[***]

⁸⁵[*Explanation.*—For the removal of doubts, it is hereby declared that the use of any vehicle provided by a company or an employer for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence, shall not be regarded as a benefit or amenity granted or provided to him free of cost or at concessional rate for the purposes of this sub-clause;]

(iia) ⁸⁶[***]

(iv) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee;

(v) any sum payable by the employer, whether directly or through a fund, other than a recognised provident fund or an approved superannuation fund ⁸⁷[or a Deposit-linked Insurance Fund established under section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or, as the case may be, section 6C of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)], to effect an assurance on the life of the assessee or to effect a contract for an annuity; ⁸⁸[***]

⁸⁹[(vi) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

Explanation.—For the purposes of this sub-clause,—

(a) “specified security” means the securities as defined in clause (h) of section 2⁹⁰ of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme;

(b) “sweat equity shares” means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;



(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares;

(d) "fair market value" means the value determined in accordance with the method as may be prescribed;

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees; and

(viii) the value of any other fringe benefit or amenity⁹¹ as may be prescribed⁹²;

⁹³[**Provided** that nothing in this clause shall apply to,—

(i) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

⁹⁴[(ii) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(a) in any hospital maintained by the Government or any local authority or any other hospital approved⁹⁵ by the Government for the purposes of medical treatment of its employees;

(b) in respect of the prescribed diseases⁹⁶ or ailments, in any hospital approved by the ^{96a}[*Principal Chief Commissioner or*] Chief Commissioner having regard to the prescribed guidelines⁹⁷ :

Provided that, in a case falling in sub-clause (b), the employee shall attach⁹⁸ with his return of income a certificate from the hospital specifying the disease or ailment for which medical treatment was required and the receipt for the amount paid to the hospital;]

(iii) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved by the Central Government ⁹⁹[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of clause (ib) of sub-section (1) of section 36;

(iv) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme approved by the Central Government ¹[or the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999),] for the purposes of section 80D;

(v) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family [other than the treatment referred to in clauses (i) and (ii)]; so, however, that such sum does not exceed ²[fifteen] thousand rupees in the previous year;

(vi) any expenditure incurred by the employer on—



(1) medical treatment of the employee, or any member of the family of such employee, outside India;

(2) travel ³[and] stay abroad of the employee or any member of the family of such employee for medical treatment;

(3) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment,

⁴[subject to the condition that—

(A) the expenditure on medical treatment and stay abroad shall be excluded from perquisite only to the extent permitted by the Reserve Bank of India; and

(B) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed two lakh rupees;]

(vii) any sum paid by the employer in respect of any expenditure actually incurred by the employee for any of the purposes specified in clause (vi) subject to the conditions specified in or under that clause :

⁵[**Provided further** that for the assessment year beginning on the 1st day of April, 2002, nothing contained in this clause shall apply to any employee whose income under the head "Salaries" (whether due from, or paid or allowed by, one or more employers) exclusive of the value of all perquisites not provided for by way of monetary payment, does not exceed one lakh rupees.]

Explanation.—For the purposes of clause (2),—

(i) "hospital" includes a dispensary or a clinic ⁶[or a nursing home];

(ii) "family", in relation to an individual, shall have the same meaning as in clause (5) of section 10; and

(iii) "gross total income" shall have the same meaning as in clause (5) of section 80B;]

⁷[* * *]

⁸(3) "profits⁹ in lieu of salary"⁹ includes—

(i) the amount of any compensation⁹ due to or received by an assessee from his employer or former employer at or in connection with the termination of his employment or the modification of the terms and conditions relating thereto;

(ii) any payment (other than any payment referred to in clause (10) ¹⁰[, clause (10A)] ¹¹[, clause (10B)], clause (11), ¹²[clause (12) ¹³[, clause (13)] or clause (13A)] of section 10), due to or received by an assessee from an employer or a former employer or from a provident or other fund ¹⁴[* * *], to the extent to which it does not consist of contributions by the assessee or ¹⁵[interest on such contributions or any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this sub-clause, the expression "Keyman insurance policy" shall have the meaning assigned to it in clause (10D) of section 10;]



¹⁶[(iii) any amount due to or received, whether in lump sum or otherwise, by any assessee from any person—

(A) before his joining any employment with that person; or

(B) after cessation of his employment with that person.]

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Section – 18, Income-tax Act, 1961-2014

¹⁷[***]

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Section – 19, Income-tax Act, 1961-2014

¹⁷[***]

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Section – 20, Income-tax Act, 1961-2014

¹⁷[***]

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Section – 21, Income-tax Act, 1961-2014

¹⁷[***]

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Section – 22: Income from house property

Income from house property.

2. ¹⁸ ¹⁹The annual value of property consisting of any buildings²⁰ or lands appurtenant²⁰ thereto of which the assessee is the owner²⁰, other than such portions of such property as he may occupy²⁰ for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property" .

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Section – 23: 21[Annual value how determined.

3. (1) For the purposes of section 22, the annual value of any property shall be deemed to be—

- (a) the sum for which the property might reasonably be expected to let from year to year; or
- (b) where the property or any part of the property is let and the actual rent received or receivable²⁰ by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable; or
- (c) where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable by the owner in respect thereof is less than the sum referred to in clause (a), the amount so received or receivable :

Provided that the taxes levied²² by any local authority in respect of the property shall be deducted (irrespective of the previous year in which the liability to pay such taxes was incurred by the owner according to the method of accounting regularly employed by him) in determining the annual value of the property of that previous year in which such taxes are actually paid by him.

Explanation.—For the purposes of clause (b) or clause (c) of this sub-section, the amount of actual rent received or receivable by the owner shall not include, subject to such rules²³⁻²⁴ as may be made in this behalf, the amount of rent which the owner cannot realise.

(2) Where the property consists of a house or part of a house which—

- (a) is in the occupation of the owner for the purposes of his own residence; or
- (b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him,

the annual value of such house or part of the house shall be taken to be *nil*.

(3) The provisions of sub-section (2) shall not apply if—

- (a) the house or part of the house is actually let during the whole or any part of the previous year; or
- (b) any other benefit therefrom is derived by the owner.

(4) Where the property referred to in sub-section (2) consists of more than one house—

- (a) the provisions of that sub-section shall apply only in respect of one of such houses, which the assessee may, at his option, specify in this behalf;
- (b) the annual value of the house or houses, other than the house in respect of which the assessee has exercised an option under clause (a), shall be determined under sub-section (1) as if such house or houses had been let.]

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Section – 24: ²⁵[Deductions from income from house property.

4. Income chargeable under the head "Income from house property" shall be computed after making the following deductions, namely:—

(a) a sum equal to thirty per cent of the annual value;

(b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23, the amount of deduction shall not exceed thirty thousand rupees :

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed ²⁶[within three years from the end of the financial year in which capital was borrowed], the amount of deduction under this clause shall not exceed ^{26a}[one lakh fifty thousand rupees].

Explanation.—Where the property has been acquired or constructed with borrowed capital, the interest, if any, payable on such capital borrowed for the period prior to the previous year in which the property has been acquired or constructed, as reduced by any part thereof allowed as deduction under any other provision of this Act, shall be deducted under this clause in equal instalments for the said previous year and for each of the four immediately succeeding previous years:]

²⁷[**Provided also** that no deduction shall be made under the second proviso unless the assessee furnishes a certificate, from the person to whom any interest is payable on the capital borrowed, specifying the amount of interest payable by the assessee for the purpose of such acquisition or construction of the property, or, conversion of the whole or any part of the capital borrowed which remains to be repaid as a new loan.

Explanation.—For the purposes of this proviso, the expression "new loan" means the whole or any part of a loan taken by the assessee subsequent to the capital borrowed, for the purpose of repayment of such capital.]

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Section – 25: Amounts not deductible from income from house property.

5. Notwithstanding anything contained in section 24, any ²⁸[***] interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938), on which tax has not been paid or deducted under Chapter XVII-B and in respect of which there is no person in India who may be treated as an agent under section 163 shall not be deducted in computing the income chargeable under the head "Income from house property" .

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Section – 25A: ²⁹[Special provision for cases where unrealised rent allowed as deduction is realised subsequently.

25A. Where a deduction has been made under clause (x) of sub-section (1) of section 24 ³⁰[as it stood immediately before its substitution by the Finance Act, 2001] in the assessment for any year in respect of rent from property let to a tenant which the assessee cannot realise and subsequently during any previous year the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax (without making any deduction under section 23 or section 24 ³¹[as it stood immediately before its substitution by the Finance Act, 2001]) as the income of that previous year, whether the assessee is the owner of that property in that year or not.]

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Section – 25AA: ³¹[Unrealised rent received subsequently to be charged to income-tax.

25AA. Where the assessee cannot realise rent from a property let to a tenant and subsequently the assessee has realised any amount in respect of such rent, the amount so realised shall be deemed to be income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is realised whether or not the assessee is the owner of that property in that previous year.]

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Section – 25B: ³²[Special provision for arrears of rent received.

25B. Where the assessee—

(a) is the owner of any property consisting of any buildings or lands appurtenant thereto which has been let to a tenant; and

(b) has received any amount, by way of arrears of rent from such property, not charged to income-tax for any previous year,

the amount so received, after deducting ³³[a sum equal to thirty per cent of such amount], shall be deemed to be the income chargeable under the head "Income from house property" and accordingly charged to income-tax as the income of that previous year in which such rent is received, whether the assessee is the owner of that property in that year or not.]

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Section – 26: Property owned by co-owners.

6. ³⁴ ³⁵Where property consisting of buildings or buildings and lands appurtenant thereto is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not in respect of such property be assessed as an association of persons, but the share of each such person in the income from the property as computed in accordance with sections 22 to 25 shall be included in his total income.



³⁶[*Explanation.*—For the purposes of this section, in applying the provisions of sub-section (2) of section 23 for computing the share of each such person as is referred to in this section, such share shall be computed, as if each such person is individually entitled to the relief provided in that sub-section.]

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Section – 27: “Owner of house property”, “annual charge”, etc., defined.

7. ³⁷ For the purposes of sections 22 to 26—

(i) an individual who transfers otherwise than for adequate consideration any house property to his or her spouse, not being a transfer in connection with an agreement to live apart, or to a minor child not being a married daughter, shall be deemed to be the owner of the house property so transferred;

(ii) the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate ;

³⁸[(iii) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association, as the case may be, shall be deemed to be the owner of that building or part thereof ;

(iiia) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in ³⁹section 53A of the Transfer of Property Act, 1882 (4 of 1882), shall be deemed to be the owner of that building or part thereof ;

(iiib) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or part thereof, by virtue of any such transaction as is referred to in clause (f) of section 269UA, shall be deemed to be the owner of that building or part thereof;]

(iv) ⁴⁰[***]

(v) ⁴⁰[***]

(vi) taxes levied by a local authority in respect of any property shall be deemed to include service taxes levied by the local authority in respect of the property.

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Section – 28: Profits and gains of business or profession

Profits and gains of business or profession.

8. ⁴¹ ⁴²The following income shall be chargeable to income-tax under the head “Profits and gains of business or profession”,—

(i) the profits and gains⁴³ of any business or profession⁴³ which was carried on by the assessee at any time during the previous year ;



(ii) any compensation⁴³ or other payment due to⁴³ or received by⁴³,—

(a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;

(b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto ;

(c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto ;

⁴⁴[(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business ;]

(iii) income derived by a trade, professional or similar⁴⁵ association from specific services⁴⁵ performed for its members ;

⁴⁶[(iia) profits on sale of a licence granted under the Imports (Control) Order, 1955, made under the Imports and Exports (Control) Act, 1947 (18 of 1947) ;]

⁴⁷[(iib) cash assistance (by whatever name called) received or receivable by any person against exports under any scheme of the Government of India ;]

⁴⁸[(iic) any duty of customs or excise re-paid or re-payable as drawback to any person against exports under the Customs and Central Excise Duties Drawback Rules, 1971 ;]

⁴⁹[(iidd) any profit⁵⁰ on the transfer of the Duty Entitlement Pass Book Scheme, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992);]

⁵¹[(iiie) any profit on the transfer of the Duty Free Replenishment Certificate, being the Duty Remission Scheme under the export and import policy formulated and announced under section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) ;]

⁵²[(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession ;]

⁵³[(v) any interest, salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from such firm :

Provided that where any interest, salary, bonus, commission or remuneration, by whatever name called, or any part thereof has not been allowed to be deducted under clause (b) of section 40, the income under this clause shall be adjusted to the extent of the amount not so allowed to be deducted ;]

⁵⁴[(va) any sum, whether received or receivable, in cash or kind, under an agreement for—

(a) not carrying out any activity in relation to any business; or

(b) not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the



manufacture or processing of goods or provision for services:

Provided that sub-clause (a) shall not apply to—

(i) any sum, whether received or receivable, in cash or kind, on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business, which is chargeable under the head “Capital gains” ;

(ii) any sum received as compensation, from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, in accordance with the terms of agreement entered into with the Government of India.

Explanation.—For the purposes of this clause,—

(i) “agreement” includes any arrangement or understanding or action in concert,—

(A) whether or not such arrangement, understanding or action is formal or in writing; or

(B) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

(ii) “service” means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as accounting, banking, communication, conveying of news or information, advertising, entertainment, amusement, education, financing, insurance, chit funds, real estate, construction, transport, storage, processing, supply of electrical or other energy, boarding and lodging;]

⁵⁵[(vi) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

Explanation.—For the purposes of this clause, the expression “Keyman insurance policy” shall have the meaning assigned to it in clause (10D) of section 10;]

⁵⁶[(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD.]

Explanation 1.—[Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]

Explanation 2.—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereinafter referred to as “speculation business”) shall be deemed to be distinct and separate from any other business.

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Section – 29: Income from profits and gains of business or profession, how computed.

9. ⁵⁷The income referred to in section 28 shall be computed in accordance with the provisions contained in sections 30 to ⁵⁸[43D].



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Section – 30: Rent, rates, taxes, repairs and insurance for buildings.

1. ⁵⁷ In respect of rent, rates, taxes, repairs and insurance for premises, used for the purposes of the business⁵⁹ or profession, the following deductions shall be allowed—

(a) where the premises are occupied by the assessee—

(i) as a tenant, the rent paid for such premises ; and further if he has undertaken to bear the cost of repairs to the premises, the amount paid on account of such repairs ;

(ii) otherwise than as a tenant, the amount paid by him on account of current repairs⁵⁹ to the premises ;

(b) any sums paid on account of land revenue, local rates or municipal taxes ;

(c) the amount of any premium paid in respect of insurance against risk of damage or destruction of the premises.

⁶⁰[Explanation.—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause (i), and the amount paid on account of current repairs referred to in sub-clause (ii), of clause (a), shall not include any expenditure in the nature of capital expenditure.]

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Section – 31: Repairs and insurance of machinery, plant and furniture.

1. ⁶¹ ⁶²In respect of repairs and insurance of machinery, plant or furniture used for the purposes of the business or profession, the following deductions shall be allowed—

(i) the amount paid on account of current repairs⁶³ thereto ;

(ii) the amount of any premium paid in respect of insurance against risk of damage or destruction thereof.

⁶⁴[Explanation.—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.]

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Section – 32: Depreciation.

2. ⁶⁵ (1) ⁶⁶[In respect of depreciation of—

(i) buildings⁶⁷, machinery⁶⁷, plant or furniture, being tangible assets;



(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature⁶⁷, being intangible assets acquired on or after the 1st day of April, 1998,

owned⁶⁷, wholly or partly, by the assessee⁶⁷ and used for the purposes of the business⁶⁷ or profession, the following deductions shall be allowed—]

⁶⁸[(i) in the case of assets of an undertaking engaged in generation or generation and distribution of power, such percentage on the actual cost thereof to the assessee as may be prescribed⁶⁹;]

(ii) ⁷⁰[in the case of any block of assets, such percentage on the written down value thereof as may be prescribed⁷¹:]

⁷²[***]

⁷³[**Provided** ⁷⁴[***] that no deduction shall be allowed under this clause in respect of—

(a) any motor car manufactured outside India, where such motor car is acquired by the assessee after the 28th day of February, 1975 ⁷⁵[but before the 1st day of April, 2001], unless it is used—

(i) in a business of running it on hire for tourists ; or

(ii) outside India in his business or profession in another country ; and

(b) any machinery or plant if the actual cost thereof is allowed as a deduction in one or more years under an agreement entered into by the Central Government under section 42 :]

⁷⁶[**Provided further** that where an asset referred to in clause (i) or clause (ii) ⁷⁷[or clause (iia)], as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in that previous year, the deduction under this sub-section in respect of such asset shall be restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (i) or clause (ii) ⁷⁷[or clause (iia)], as the case may be :]

⁷⁸[**Provided also** that where an asset being commercial vehicle is acquired by the assessee on or after the 1st day of October, 1998 but before the 1st day of April, 1999 and is put to use before the 1st day of April, 1999 for the purposes of business or profession, the deduction in respect of such asset shall be allowed on such percentage on the written down value thereof as may be prescribed.

Explanation.—For the purposes of this proviso,—

(a) the expression “commercial vehicle” means “heavy goods vehicle”, “heavy passenger motor vehicle”, “light motor vehicle”, “medium goods vehicle” and “medium passenger motor vehicle” but does not include “maxi-cab”, “motor-cab”, “tractor” and “road-roller” ;

(b) the expressions “heavy goods vehicle” ⁷⁹, “heavy passenger motor vehicle” ⁷⁹, “light motor vehicle” ⁷⁹, “medium goods vehicle” ⁷⁹, “medium passenger motor vehicle” ⁷⁹, “maxi-cab” ⁷⁹, “motor-cab” ⁷⁹, “tractor” ⁷⁹ and “road roller” shall have the meanings respectively as assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988):]

⁸⁰[**Provided also** that, in respect of the previous year relevant to the assessment year commencing on the 1st day of April, 1991, the deduction in relation to any block of assets under



this clause shall, in the case of a company, be restricted to seventy-five per cent of the amount calculated at the percentage, on the written down value of such assets, prescribed under this Act immediately before the commencement of the Taxation Laws (Amendment) Act, 1991:]

⁸¹[**Provided also** that the aggregate deduction, in respect of depreciation of buildings, machinery, plant or furniture, being tangible assets or know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets allowable to the predecessor and the successor in the case of succession referred to in ⁸²[clause (xiii), clause (xiib) and clause (xiv)] of section 47 or section 170 or to the amalgamating company and the amalgamated company in the case of amalgamation, or to the demerged company and the resulting company in the case of demerger, as the case may be, shall not exceed in any previous year the deduction calculated at the prescribed rates as if the succession or the amalgamation or the demerger, as the case may be, had not taken place, and such deduction shall be apportioned between the predecessor and the successor, or the amalgamating company and the amalgamated company, or the demerged company and the resulting company, as the case may be, in the ratio of the number of days for which the assets were used by them.]

⁸³[*Explanation 1.*—Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

Explanation 2.—For the purposes of this ⁸⁴[sub-section] “written down value of the block of assets” shall have the same meaning as in clause* (c) of sub-section† (6) of section 43.]

⁸⁵[*Explanation 3.*—For the purposes of this sub-section, ⁸⁶[the expression “assets”] shall mean —

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature⁸⁷.

Explanation 4.—For the purposes of this sub-section, the expression “know-how” means any industrial information or technique likely to assist in the manufacture or processing⁸⁷ of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto).

⁸⁸[*Explanation 5.*—For the removal of doubts, it is hereby declared that the provisions of this sub-section shall apply whether or not the assessee has claimed the deduction in respect of depreciation in computing his total income;]

⁸⁹[(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing ⁹⁰[or in the business of generation or generation and distribution of power], a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii) :

Provided that no deduction shall be allowed in respect of—

(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person; or

(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house; or

(C) any office appliances or road transport vehicles; or

(D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;]

⁹¹[(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof :

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(1) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is ⁹²[an Indian company or in a scheme of amalgamation of a banking company, as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a banking institution as referred to in sub-section (15) of section 45 of the said Act, sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of that Act⁹³, of any asset by the banking company to the banking institution.]]

(iv) ⁹⁴[***]

(v) ⁹⁵[***]

(vi) ⁹⁶[***]

(1A) ⁹⁷[***]

⁹⁸[(2) Where, in the assessment of the assessee, full effect cannot be given to any allowance under sub-section (1) in any previous year, owing to there being no profits or gains chargeable for that previous year⁹⁹, or owing to the profits or gains chargeable being less than the allowance, then, subject to the provisions of sub-section (2) of section 72 and sub-section (3) of section 73, the allowance or the part of the allowance to which effect has not been given, as the



case may be, shall be added to the amount of the allowance for depreciation for the following previous year and deemed to be part of that allowance, or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year, and so on for the succeeding previous years.]

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Section – 32A: ¹[Investment allowance.²

³**32A.** (1) In respect of a ship or an aircraft or machinery or plant specified in sub-section (2), which is owned by the assessee and is wholly used for the purposes of the business⁴ carried on by him, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, in respect of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed⁴ or, if the ship, aircraft, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, of a sum by way of investment allowance equal to twenty-five per cent of the actual cost of the ship, aircraft, machinery or plant to the assessee :

⁵[**Provided** that in respect of a ship or an aircraft or machinery or plant specified in sub-section (8B), this sub-section shall have effect as if for the words "twenty-five per cent", the words "twenty per cent" had been substituted :]

Provided ⁵[**further**] that no deduction shall be allowed under this section in respect of—

(a) any machinery or plant installed in any office premises or any residential accommodation, including any accommodation in the nature of a guest house ;

(b) any office appliances⁶ or road transport vehicles⁶ ;

(c) any ship, machinery or plant in respect of which the deduction by way of development rebate is allowable under section 33 ; and

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year.

⁵[*Explanation.*—For the purposes of this sub-section, "actual cost" means the actual cost of the ship, aircraft, machinery or plant to the assessee as reduced by that part of such cost which has been met out of the amount released to the assessee under sub-section (6) of section 32AB.]

(2) The ship or aircraft or machinery or plant referred to in sub-section (1) shall be the following, namely :—

(a) a new ship or new aircraft acquired after the 31st day of March, 1976, by an assessee engaged in the business of operation of ships or aircraft ;

(b) any new machinery or plant installed⁶ after the 31st day of March, 1976,—

(i) for the purposes of business of generation or distribution of electricity or any other form of power ; or

⁷[(ii) in a small-scale industrial undertaking⁸ for the purposes of business of manufacture⁸ or production⁸ of any article or thing⁸ ; or



(iii) in any other industrial undertaking⁸ for the purposes of business of construction, manufacture⁸ or production⁸ of any article or thing⁸, not being an article or thing⁸ specified in the list in the Eleventh Schedule :]

⁹[**Provided** that nothing contained in clauses (a) and (b) shall apply in relation to,—

(i) a new ship or new aircraft acquired, or

(ii) any new machinery or plant installed,

after the 31st day of March, 1987 but before the 1st day of April, 1988, unless such ship or aircraft is acquired or such machinery or plant is installed in the circumstances specified in clause (a) of sub-section (8B) and the assessee furnishes evidence to the satisfaction of the Assessing Officer as specified in that clause ;]

¹⁰[(c) any new machinery or plant installed after the 31st day of March, 1983, but before the ¹¹[1st day of April, 1987], for the purposes of business of repairs to ocean-going vessels or other powered craft if the business is carried on by an Indian company and the business so carried on is for the time being approved¹² for the purposes of this clause by the Central Government.]

Explanation.—For the purposes of this sub-section and ¹³[sub-sections (2B) ¹⁴[, (2C)] and (4)],—

¹⁵[(1)(a) “new ship” or “new aircraft” includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India ;

(b) “new machinery or plant” includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely :—

(i) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India ;

(ii) such machinery or plant is imported into India from any country outside India ; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee,]

(2) an industrial undertaking shall be deemed to be a small-scale industrial undertaking, if the aggregate value of the machinery and plant (other than tools, jigs, dies and moulds) installed, as on the last day of the previous year, for the purposes of the business of the undertaking ¹⁶[does not exceed,—

¹⁷[(i) in a case where the previous year ends before the 1st day of August, 1980, ten lakh rupees ;

(ii) in a case where the previous year ends after the 31st day of July, 1980, but before the 18th day of March, 1985, twenty lakh rupees; and

(iii) in a case where the previous year ends after the 17th day of March, 1985, thirty-five lakh rupees,]]



and for this purpose the value of any machinery or plant shall be,—

(a) in the case of any machinery or plant owned by the assessee, the actual cost thereof to the assessee ; and

(b) in the case of any machinery or plant hired by the assessee, the actual cost thereof as in the case of the owner of such machinery or plant.

¹⁸[(2A) The deduction under sub-section (1) shall not be denied in respect of any machinery or plant installed and used mainly for the purposes of business of construction, manufacture or production of any article or thing, not being an article or thing specified in the list in the Eleventh Schedule, by reason only that such machinery or plant is also used for the purposes of business of construction, manufacture or production of any article or thing specified in the said list.]

¹⁸[(2B) Where any new machinery or plant is installed after the 30th day of June, 1977, but before the 1st day of April, ¹⁹[1987], for the purposes of business of manufacture or production of any article or thing and such article or thing—

(a) is manufactured or produced by using any technology (including any process) or other know-how developed in, or

(b) is an article or thing invented in,

a laboratory owned or financed by the Government, or a laboratory owned by a public sector company or a University or by an institution recognised in this behalf by the prescribed authority,²⁰

the provisions of sub-section (1) shall have effect in relation to such machinery or plant as if for the words “twenty-five per cent”, the words “thirty-five per cent” had been substituted, if the following conditions are fulfilled, namely :—

(i) the right to use such technology (including any process) or other know-how or to manufacture or produce such article or thing has been acquired from the owner of such laboratory or any person deriving title from such owner ;

(ii) the assessee furnishes, along with his return of income for the assessment year for which the deduction is claimed, a certificate from the prescribed authority²⁰ to the effect that such article or thing is manufactured or produced by using such technology (including any process) or other know-how developed in such laboratory or is an article or thing invented in such laboratory ; and

(iii) 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.

Explanation.—For the purposes of this sub-section,—

(a) “laboratory financed by the Government” means a laboratory owned by any body [including a society registered under the Societies Registration Act, 1860 (21 of 1860)] and financed wholly or mainly by the Government;

(b) ²¹[***]

(c) “University” means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants



Commission Act, 1956 (3 of 1956) to be a University for the purposes of that Act.]

²²[(2C) Where any new machinery or plant, being machinery or plant which would assist in control of pollution or protection of environment and which has been notified²³ in this behalf by the Central Government in the Official Gazette, is installed after the 31st day of May, 1983 ²⁴[but before the 1st day of April, 1987], in any industrial undertaking referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (b) of sub-section (2), the provisions of subsection (1) shall have effect in relation to such machinery or plant as if for the words "twenty-five per cent", the words "thirty-five per cent" had been substituted.]

(3) Where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, or, as the case may be, the immediately succeeding previous year (the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A) is *nil* or is less than the full amount of the investment allowance,—

(i) the sum to be allowed by way of investment allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to *nil* ; and

(ii) the amount of the investment allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the investment allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the investment allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship or aircraft was acquired or the machinery or plant was installed or, as the case may be, the immediately succeeding previous year.

Explanation.—Where for any assessment year, investment allowance is to be allowed in accordance with the provisions of this sub-section in respect of any ship or aircraft acquired or any machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed after deduction of the allowances under section 33 and section 33A, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A) is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely :—

(a) the allowance under clause (ii) shall be made before any allowance under clause (i) is made; and

(b) where an allowance has to be made under clause (ii) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(4) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

(i) the particulars prescribed in this behalf have been furnished by the assessee in respect of the ship or aircraft or machinery or plant;

(ii) an amount equal to seventy-five per cent of the investment allowance to be actually allowed is debited to the profit and loss account of ²⁵[any previous year in respect of which the



deduction is to be allowed under sub-section (3) or any earlier previous year (being a previous year not earlier than the year in which the ship or aircraft was acquired or the machinery or plant was installed or the ship, aircraft, machinery or plant was first put to use)] and credited to a reserve account (to be called the "Investment Allowance Reserve Account") to be utilised—

(a) for the purposes of acquiring, before the expiry of a period of ten years next following the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of the ²⁶[second] proviso to sub-section (1)] for the purposes of the business of the undertaking; and

(b) until the acquisition of a new ship or a new aircraft or new machinery or plant as aforesaid, for the purposes of the business of the undertaking other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India:

Provided that this clause shall have effect in respect of a ship as if for the word "seventy-five", the word "fifty" had been substituted.

Explanation.—Where the amount debited to the profit and loss account and credited to the Investment Allowance Reserve Account under this sub-section is not less than the amount required to be so credited on the basis of the amount of deduction in respect of investment allowance claimed in the return made by the assessee under section 139, but a higher deduction in respect of the investment allowance is admissible on the basis of the total income as proposed to be computed by the ²⁷[Assessing] Officer under section 143, the ²⁷[Assessing] Officer shall, by notice in writing in this behalf, allow the assessee an opportunity to credit within the time specified in the notice or within such further time as the ²⁷[Assessing] Officer may allow, a further amount to the Investment Allowance Reserve Account out of the profits and gains of the previous year in which such notice is served on the assessee or of the immediately preceding previous year, if the accounts for that year have not been made up; and, if the assessee credits any further amount to such account within the time aforesaid, the amount so credited shall be deemed to have been credited to the Investment Allowance Reserve Account of the previous year in which the deduction is admissible and such amount shall not be taken into account in determining the adequacy of the reserve required to be created by the assessee in respect of the previous year in which such further credit is made:

Provided that such opportunity shall not be allowed by the ²⁷[Assessing] Officer in a case where the difference in the total income as proposed to be computed by him and the total income as returned by the assessee arises out of the application of the proviso to sub-section (1) of section 145 or sub-section (2) of that section or the omission by the assessee to disclose his income fully and truly.

(5) Any allowance made under this section in respect of any ship, aircraft, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act—

(a) if the ship, aircraft, machinery or plant is sold or otherwise transferred²⁸ by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed; or

(b) if at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of the ²⁹[second] proviso to sub-section (1)] for the purposes of the business of the undertaking; or

(c) if at any time before the expiry of the ten years aforesaid, the assessee utilises the amount credited to the reserve account under sub-section (4) for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any assets outside India or for any other purpose which is not a purpose of the business of the undertaking,

and the provisions of sub-section (4A) of section 155 shall apply accordingly:

Provided that nothing in clause (a) shall apply—

(i) where the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956³⁰ (1 of 1956); or

(ii) where the sale or transfer of the ship, aircraft, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (6) or sub-section (7).

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, aircraft, machinery or plant, in respect of which investment allowance has been allowed to the amalgamating company under sub-section (1),—

(a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (4) in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, aircraft, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (4A) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(b) the balance of investment allowance, if any, still outstanding to the amalgamating company in respect of such ship, aircraft, machinery or plant, shall be allowed to the amalgamated company in accordance with the provisions of sub-section (3), so, however, that the total period for which the balance of investment allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (3) and the amalgamated company shall be treated as the assessee in respect of such ship, aircraft, machinery or plant for the purposes of this section.

(7) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, aircraft, machinery or plant, the provisions of clauses (a) and (b) of sub-section (6) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this sub-section shall apply only where—

(i) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

(ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(8) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed



in respect of any ship or aircraft acquired or any machinery or plant installed after such date³¹[***] as may be specified therein.

³²[(8A) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, omit any article or thing from the list of articles or things specified in the Eleventh Schedule.]

³³[(8B) Notwithstanding anything contained in sub-section (8) or the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. GSR 870(E), dated the 12th June, 1986, issued thereunder, the provisions of this section shall apply in respect of,—

(a) (i) a new ship or new aircraft acquired after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had, before the 12th day of June, 1986, entered into a contract for the purchase of such ship or aircraft with the builder or manu-facturer or owner thereof, as the case may be;

(ii) any new machinery or plant installed after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that before the 12th day of June, 1986, he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant:

Provided that nothing contained in sub-section (1) shall entitle the assessee to claim deduction in respect of a ship or aircraft or machinery or plant referred to in this clause in any previous year except the previous year relevant to the assessment year commencing on the 1st day of April, 1989;

(b) a new ship or new aircraft acquired or any new machinery or plant installed after the 31st day of March, 1988, but before such date as the Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette³⁴, specify in this behalf.

(8C) Subject to the provisions of clause (ii) of sub-section (3), where a deduction has been allowed to an assessee under sub-section (1) in any assessment year, no deduction shall be allowed to the assessee under section 32AB in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year.]

(9) [Omitted by the Finance Act, 1990, w.r.e.f. 1-4-1976.]

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Section – 32AB: ³⁵[Investment deposit account.

32AB. (1) Subject to the other provisions of this section, where an assessee, whose total income includes income chargeable to tax under the head “Profits and gains of business or profession”, has, out of such income,—

(a) deposited any amount in an account (hereafter in this section referred to as deposit account) maintained by him with the Development Bank before the expiry of six months from the end of the previous year or before furnishing the return of his income, which-ever is earlier; or



(b) utilised any amount during the previous year for the purchase of any new ship, new aircraft, new machinery or plant, without depositing any amount in the deposit account under clause (a),

in accordance with, and for the purposes specified in, a scheme³⁶ (hereafter in this section referred to as the scheme) to be framed by the Central Government, or if the assessee is carrying on the business of growing and manufacturing tea in India, to be approved in this behalf by the Tea Board, the assessee shall be allowed a deduction ³⁷[(such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72)] of —

(i) a sum equal to the amount, or the aggregate of the amounts, so deposited and any amount so utilised; or

(ii) a sum equal to twenty per cent of the profits of ³⁸[***] business or profession as computed in the accounts of the assessee audited in accordance with sub-section (5),

whichever is less :

³⁹[**Provided** that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or as the case may be, any member of such firm, association of persons or body of individuals:]

⁴⁰[**Provided further** that no such deduction shall be allowed in relation to the assessment year commencing on the 1st day of April, 1991, or any subsequent assessment year.]

(2) For the purposes of this section,—

(i) ⁴¹[***]

⁴²[(ii) “new ship” or “new aircraft” includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(iii) “new machinery or plant” includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely :—

(a) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(b) such machinery or plant is imported into India from any country outside India; and

(c) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(iv) “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).]

(3) ⁴³[The profits of business or profession of an assessee for the purposes of sub-section (1) shall] be an amount arrived at after deducting an amount equal to the depreciation computed in accordance with the provisions of sub-section (1) of section 32 from the amounts of profits computed in accordance with the requirements of Parts II and III of the ⁴⁴[Schedule VI] to the Companies Act, 1956⁴⁵ (1 of 1956), ⁴⁶[as increased by the aggregate of—



- (i) the amount of depreciation;
- (ii) the amount of income-tax paid or payable, and provision therefor;
- (iii) the amount of surtax paid or payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964);
- (iv) the amounts carried to any reserves, by whatever name called;
- (v) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities;
- (vi) the amount by way of provision for losses of subsidiary companies; and
- (vii) the amount or amounts of dividends paid or proposed,

if any debited to the profit and loss account; and as reduced by any amount or amounts withdrawn from reserves or provisions, if such amounts are credited to the profit and loss account ⁴⁷[***].]

⁴⁸[***]

(4) No deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any road transport vehicles;

(d) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

⁴⁹[(e) any new machinery or plant to be installed in an industrial undertaking, other than a small-scale industrial undertaking, as defined in section 80HHA, for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.]

(5) The deduction under sub-section (1) shall not be admissible⁵⁰ unless the accounts of the business or profession of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form⁵¹ duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business or profession audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.



⁵²[(5A) Any amount standing to the credit of the assessee in the deposit account shall not be allowed to be withdrawn before the expiry of a period of five years from the date of deposit except for the purposes specified in the scheme ⁵³[or] in the circumstances specified below :—

- (a) closure of business;
- (b) death of an assessee;
- (c) partition of a Hindu undivided family;
- (d) dissolution of a firm;
- (e) liquidation of a company.]

⁵⁴[*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall affect the operation of the provisions of sub-section (5AA) or sub-section (6) in relation to any withdrawals made from the deposit account either before or after the expiry of a period of five years from the date of deposit.]

⁵⁴[(5AA) Where any amount, standing to the credit of the assessee in the deposit account, is withdrawn during any previous year by the assessee in the circumstance specified in clause (a) or clause (d) of sub-section (5A), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.]

⁵⁵[(5B) Where any amount standing to the credit of the assessee in the deposit account is utilised by the assessee for the purposes of any expenditure in connection with the ⁵⁶[***] business or profession in accordance with the scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession" .]

(6) Where any amount, standing to the credit of the assessee in the deposit account, released during any previous year by the Development Bank for being utilised by the assessee for the purposes specified in the scheme or at the closure of the account ⁵⁷[[in circumstances other than the circumstances specified in clauses (b), (c) and (e) of sub-section (5A)], is not utilised in accordance with ⁵⁸[, and within the time specified in,] the scheme, either wholly or in part, ⁵⁹[***] the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

(7) Where any asset acquired in accordance with the scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deductions allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956⁶⁰ (1 of 1956); or



(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(8) The Central Government may, if it considers it necessary or expedient so to do, by notification in the Official Gazette, omit any article or thing from the list of articles or things specified in the Eleventh Schedule.

(9) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the provisions of this section shall not apply to any class of assessee, with effect from such date as it may specify in the notification.

⁶¹[(10) Where a deduction has been allowed to an assessee under this section in any assessment year, no deduction shall be allowed to the assessee under sub-section (1) of section 32A in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year].

Explanation.—In this section,—

(a) “computers” does not include calculating machines and calculating devices;

(b) “Development Bank” means—

(i) in the case of an assessee carrying on business of growing and manufacturing tea in India, the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(ii) in the case of other assessee, the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) and includes such bank or institution as may be specified in the scheme in this behalf.]

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Section – 32AC: ⁶²[Investment in new plant or machinery.

32AC. (1) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new asset after the 31st day of March, 2013 but before the 1st day of April, 2015 and the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees, then, there shall be allowed a deduction,—



(a) for the assessment year commencing on the 1st day of April, 2014, of a sum equal to fifteen per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2014, if the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees; and

(b) for the assessment year commencing on the 1st day of April, 2015, of a sum equal to fifteen per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2015, as reduced by the amount of deduction allowed, if any, under clause (a).

The following sub-sections (1A) and (1B) shall be inserted after sub-section (1) of section 32AC by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(1A) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets acquired and installed during any previous year exceeds twenty-five crore rupees, then, there shall be allowed a deduction of a sum equal to fifteen per cent of the actual cost of such new assets for the assessment year relevant to that previous year:

Provided that no deduction under this sub-section shall be allowed for the assessment year commencing on the 1st day of April, 2015 to the assessee, which is eligible to claim deduction under sub-section (1) for the said assessment year.

(1B) No deduction under sub-section (1A) shall be allowed for any assessment year commencing on or after the 1st day of April, 2018.

(2) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) ^{62a} [or sub-section (1A)] in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

(3) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger within a period of five years from the date of its installation, the provisions of sub-section (2) shall apply to the amalgamated company or the resulting company, as the case may be, as they would have applied to the amalgamating company or the demerged company.

(4) For the purposes of this section, "new asset" means any new plant or machinery (other than ship or aircraft) but does not include—

(i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle; or

(v) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.]



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Section – 33: Development rebate.

3. ⁶³[(1)(a) In respect of a new ship⁶⁴ or new machinery or plant (other than office appliances or road transport vehicles) which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section and of section 34, be allowed a deduction, in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, a sum by way of development rebate as specified in clause (b).

(b) The sum referred to in clause (a) shall be—

(A) in the case of a ship, forty per cent of the actual cost thereof to the assessee;

(B) in the case of machinery or plant,—

(i) where the machinery or plant is installed for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule,—

(a) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(b) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(ii) where the machinery or plant is installed after the 31st day of March, 1967, by an assessee being an Indian company in premises used by it as a hotel and such hotel is for the time being approved in this behalf by the Central Government,—

(a) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(b) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(iii) where the machinery or plant is installed after the 31st day of March, 1967, being an asset representing expenditure of a capital nature on scientific research related to the business carried on by the assessee,—

(a) thirty-five per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(b) twenty-five per cent of such cost, where it is installed after the 31st day of March, 1970;

(iv) in any other case,—

(a) twenty per cent of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(b) fifteen per cent of such cost, where it is installed after the 31st day of March, 1970.]



⁶⁵[⁶⁶(1A)(a) An assessee who, after the 31st day of March, 1964, acquires any ship which before the date of acquisition by him was used by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely :—

(i) such ship was not previous to the date of such acquisition owned at any time by any person resident in India;

(ii) such ship is wholly used for the purposes of the business carried on by the assessee; and

(iii) such other conditions as may be prescribed.

(b) An assessee who installs any machinery or plant (other than office appliances or road transport vehicles) which before such installation by the assessee was used outside India by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely :—

(i) such machinery or plant was not used in India at any time previous to the date of such installation by the assessee;

(ii) it is imported in India by the assessee from any country outside India;

(iii) no deduction on account of depreciation or development rebate in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(iv) such machinery or plant is wholly used for the purposes of the business carried on by the assessee; and

(v) such other conditions as may be prescribed.

(c) The development rebate under this sub-section shall be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.]

(2) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be (the total income for this purpose being computed without making any allowance under sub-section (1) ⁶⁷[or sub-section (1A)] ⁶⁸[of this section or sub-section (1) of section 33A] ⁶⁹[or any deduction under Chapter VI-A ⁷⁰[***]]) is *nil* or is less than the full amount of the development rebate calculated at the rate applicable thereto under ⁷¹[sub-section (1) or sub-section (1A), as the case may be],—

(i) the sum to be allowed by way of development rebate for that assessment year under sub-section (1) ⁷²[or sub-section (1A)] shall be only such amount as is sufficient to reduce the said total income to *nil* ; and

(ii) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be allowed for the following assessment year shall be such amount as is sufficient to



reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however, that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be.

Explanation.—Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (2) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year (the total income for this purpose being computed without making any allowance under sub-section (1) ⁷³[or sub-section (1A)] ⁷⁴[of this section or sub-section (1) of section 33A] ⁷⁵[or any deduction under Chapter VI-A ⁷⁶[***]] is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely :—

(i) the allowance under clause (ii) of sub-section (2) shall be made before any allowance under clause (i) of that sub-section is made; and

(ii) where an allowance has to be made under clause (ii) of sub-section (2) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

⁷⁷[(3) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, machinery or plant in respect of which development rebate has been allowed to the amalgamating company under sub-section (1) or sub-section (1A),—

(a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) of section 34 in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(b) the balance of development rebate, if any, still outstanding to the amalgamating company in respect of such ship, machinery or plant shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of this section and section 34.]

(4) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (a) and (b) of sub-section (3) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this clause shall apply only where—

(i) all the property of the firm relating to the business immediately before the succession becomes the property of the company;



(ii) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

⁷⁸[(5) The Central Government, if it considers it necessary or expedient so to do, may, by notification⁷⁹ in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of a ship acquired or machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein.]

⁸⁰[(6) Notwithstanding anything contained in the foregoing provisions of this section, no deduction by way of development rebate shall be allowed in respect of any machinery or plant installed after the 31st day of March, 1965, in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house:]

⁸¹[**Provided** that the provisions of this sub-section shall not apply in the case of an assessee being an Indian company, in respect of any machinery or plant installed by it in premises used by it as a hotel, where the hotel is for the time being approved in this behalf by the Central Government.]

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Section – 33A: ⁸²[Development allowance.

⁸³**33A.** (1) In respect of planting of tea bushes on any land in India owned by an assessee who carries on business of growing and manufacturing tea in India, a sum by way of development allowance equivalent to—

(i) where tea bushes have been planted on any land not planted at any time with tea bushes or on any land which had been previously abandoned, ⁸⁴[fifty] per cent of the actual cost of planting; and

(ii) where tea bushes are planted in replacement of tea bushes that have died or have become permanently useless on any land already planted, ⁸⁵[thirty] per cent of the actual cost of planting,

shall, subject to the provisions of this section, be allowed as a deduction ⁸⁶[in the manner specified hereunder, namely :—

(a) the amount of the development allowance shall, in the first instance, be computed with reference to that portion of the actual cost of planting which is incurred during the previous year in which the land is prepared for planting or replanting, as the case may be, and in the previous year next following, and the amount so computed shall be allowed as a deduction in respect of such previous year next following; and

(b) thereafter, the development allowance shall again be computed with reference to the actual cost of planting, and if the sum so computed exceeds the amount allowed as a deduction under clause (a), the amount of the excess shall be allowed as a deduction in respect of the third succeeding previous year next following the previous year in which the land has been prepared for planting or replanting, as the case may be :]



⁸⁷[**Provided** that no deduction under clause (i) shall be allowed unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1990 :

Provided further that no deduction shall be allowed under clause (ii) unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1970.]

(2) Where the total income of the assessee assessable for the assessment year relevant to ⁸⁸[the previous year in respect of which the deduction is required to be allowed under sub-section (1)] ⁸⁹[(the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A ⁹⁰[***])] is *nil* or is less than the full amount of the development allowance calculated at the rates ⁹¹[and in the manner] specified in sub-section (1)—

(i) the sum to be allowed by way of development allowance for that assessment year under sub-section (1) shall be only such amount as is sufficient to reduce the said total income to *nil* ; and

(ii) the amount of the development allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the development allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the development allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year in which the deduction was first allowable.

Explanation.—Where for any assessment year development allowance is to be allowed in accordance with the provisions of sub-section (2) in respect of more than one previous year, and the total income of the assessee assessable for that assessment year ⁹²[(the total income for this purpose being computed after deduction of the allowance under sub-section (1) or sub-section (1A) or clause (ii) of sub-section (2) of section 33, but without making any deduction under sub-section (1) of this section or any deduction under Chapter VI-A ⁹³[***])] is less than the amount of the development allowance due to be made in respect of that assessment year, the following procedure shall be followed, namely :—

(i) the allowance under clause (ii) of sub-section (2) of this section shall be made before any allowance under clause (i) of that sub-section is made; and

(ii) where an allowance has to be made under clause (ii) of sub-section (2) of this section in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(3) The deduction under sub-section (1) shall be allowed only if the following conditions are fulfilled, namely :—

(i) the particulars prescribed⁹⁴ in this behalf have been furnished by the assessee;

(ii) an amount equal to seventy-five per cent of the development allowance to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—



- (a) for distribution by way of dividends or profits; or
- (b) for remittance outside India as profits or for the creation of any asset outside India; and
- (iii) such other conditions as may be prescribed.

(4) If any such land is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which the deduction under sub-section (1) was allowed, any allowance under this section shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5A) of section 155 shall apply accordingly :

Provided that this sub-section shall not apply—

- (i) where the land is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act, or a Government company as defined in section 617 of the Companies Act, 1956⁹⁵ (1 of 1956); or
- (ii) where the sale or transfer of the land is made in connection with the amalgamation or succession referred to in sub-section (5) or sub-section (6).

⁹⁶[(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any land in respect of which development allowance has been allowed to the amalgamating company under sub-section (1),—

- (a) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (3) in respect of the reserve created by the amalgamating company and in respect of the period within which such land shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (5A) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and
- (b) the balance of development allowance, if any, still outstanding to the amalgamating company in respect of such land shall be allowed to the amalgamated company in accordance with the provisions of sub-section (2), so, however, that the total period for which the balance of development allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (2) and the amalgamated company shall be treated as the assessee in respect of such land for the purposes of this section.]

(6) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any land on which development allowance has been allowed, the provisions of clauses (a) and (b) of sub-section (5) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this sub-section shall apply if the conditions laid down in the *Explanation* to sub-section (4) of section 33 are fulfilled.

(7) For the purposes of this section, “actual cost of planting” means the aggregate of—

- (i) the cost of preparing the land;
- (ii) the cost of seeds, cutting and nurseries;
- (iii) the cost of planting and replanting; and



(iv) the cost of upkeep thereof for the previous year in which the land has been prepared and the three successive previous years next following such previous year,

reduced by that portion of the cost, if any, as has been met directly or indirectly by any other person or authority:

⁹⁷[**Provided** that where such cost exceeds—

(i) forty thousand rupees per hectare in respect of land situate in a hilly area comprised in the district of Darjeeling; or

(ii) thirty-five thousand rupees per hectare in respect of land situate in a hilly area comprised in an area other than the district of Darjeeling; or

(iii) thirty thousand rupees per hectare in any other area,

then, the excess shall be ignored.

Explanation.—For the purposes of this proviso, “district of Darjeeling” means the district of Darjeeling as on the 28th day of February, 1981, being the date of introduction of the Finance Bill, 1981, in the House of the People.]

(8) The Board may, having regard to the elevation and topography, by general or special order, declare any areas to be ⁹⁸hilly areas for the purposes of this section and such order shall not be questioned before any court of law or any other authority.

⁹⁹[*Explanation.*—For the purposes of this section, an assessee having a leasehold or other right of occupancy in any land shall be deemed to own such land and where the assessee transfers such right, he shall be deemed to have sold or otherwise transferred such land.]



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Section – 33AB: ¹[Tea development account ²[coffee development account and rubber development account].

33AB. (1) Where an assessee carrying on business of growing and manufacturing tea ²[or coffee or rubber] in India has, before the expiry of six months from the end of the previous year or before ²[the due date of] furnishing the return of his income, ³[whichever is earlier,—

(a) deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Tea Board ⁴[or the Coffee Board or the Rubber Board] ; or

(b) ⁵[deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Government,]

the assessee shall, subject to the provisions of this section,] be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off

under section 72) of—

- (a) a sum equal to the amount or the aggregate of the amounts so deposited ; or
- (b) a sum equal to ⁶[forty] per cent of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less :

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or as the case may be, any member of such firm, association of persons or body of individuals :

Provided further that where any deduction, in respect of any amount deposited in the special account ⁷[, or in the ⁸[***] Deposit Account], has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form⁹ duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in ¹⁰[the special account or the ¹¹[***] Deposit Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme] or in the circumstances specified below :
—

- (a) closure of business ;
- (b) death of an assessee ;
- (c) partition of a Hindu undivided family ;
- (d) dissolution of a firm ;
- (e) liquidation of a company.

¹²[(4) Notwithstanding anything contained in sub-section (3), where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—

- (a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;
- (b) any office appliances (not being computers);



(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.]

(5) Where any amount, standing to the credit of the assessee in the special account ¹³[or in the ¹⁴[***] Deposit Account], is withdrawn during any previous year by the assessee in the circumstance specified in clause (a) or clause (d) of sub-section (3), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.

(6) Where any amount standing to the credit of the assessee in the special account ¹⁵[or in the ¹⁴[***] Deposit Account] is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme ¹⁵[or the deposit scheme], such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession" .

(7) Where any amount, standing to the credit of the assessee in the special account ¹⁶[or in the ¹⁷[***] Deposit Account], which is released during any previous year by the National Bank ¹⁶[or which is withdrawn by the assessee from the ¹⁷[***] Deposit Account] for being utilised by the assessee for the purposes of such business in accordance with the scheme ¹⁶[or the deposit scheme] is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year :

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in circumstances specified in clauses (b), (c) and (e) of sub-section (3).

(8) Where any asset acquired in accordance with the scheme ¹⁶[or the deposit scheme] is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year :

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company¹⁸ as defined in section 617 of the Companies Act, 1956 (1 of 1956) ; or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells



or otherwise transfers to the company any asset and the scheme ¹⁹[or the deposit scheme] continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company ;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company ; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—In this section,—

²⁰[(a) “Coffee Board” means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(aa) “National Bank” means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(ab) “Rubber Board” means the Rubber Board constituted under sub-section (1) of section 4 of the Rubber Act, 1947 (24 of 1947);]

(b) “Tea Board” means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).]

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Section – 33ABA: ²¹[Site Restoration Fund.²²

33ABA. (1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (a) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

- (i) a sum equal to the amount or the aggregate of the amounts so deposited; or
- (ii) a sum equal to twenty per cent of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less :

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals :

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year :

Provided also that any amount credited in the special account or the Site Restoration Account by way of interest shall be deemed to be a deposit.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form²³ duly signed and verified by such accountant :

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

(4) Notwithstanding anything contained in sub-section (3), no deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.



(5) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is withdrawn on closure of the account during any previous year by the assessee, the amount so withdrawn from the account, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

Explanation.—Where any amount is withdrawn on closure of the account in a previous year in which the business carried on by the assessee is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession" .

(7) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year.

24[***]

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (1) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year :

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company²⁵ as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(a) “State Bank of India” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(b) the expression “amount standing to the credit of the assessee in the special account or the Site Restoration Account” includes interest accrued to such accounts.]

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Section – 33AC: ²⁶[Reserves for shipping business.

33AC. (1) ²⁷[In the case of an assessee, being a Government company or a public company formed and registered in India with the main object of carrying on the business of operation of ships, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount not exceeding fifty per cent of profits derived from the business of operation of ships (computed under the head “Profits and gains of business or profession” and before making any deduction under this section), as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account, to be utilised in the manner laid down in sub-section (2) :]

²⁸[**Provided** that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the aggregate of the amounts of the paid-up share capital, the general reserves and amount credited to the share premium account of the assessee, no allowance under this sub-section shall be made in respect of such excess :]

²⁹[**Provided further** that for five assessment years commencing on or after the 1st day of April, 2001 and ending before the 1st day of April, 2006, the provisions of this sub-section shall have effect as if for the words “an amount not exceeding fifty per cent of profits”, the words “an amount not exceeding the profits” had been substituted:]

³⁰[**Provided also** that no deduction shall be allowed under this section for any assessment year commencing on or after the 1st day of April, 2005.]

(2) The amount credited to the reserve account under sub-section (1) shall be utilised by the assessee before the expiry of a period of eight years next following the previous year in which the amount was credited—

(a) for acquiring a new ship for the purposes of the business of the assessee ; and

(b) until the acquisition of a new ship, for the purposes of the business of the assessee other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(3) Where any amount credited to the reserve account under sub-section (1),—



(a) has been utilised for any purpose other than that referred to in clause (a) or clause (b) of sub-section (2), the amount so utilised ; or

(b) has not been utilised for the purpose specified in clause (a) of sub-section (2), the amount not so utilised ; or

(c) has been utilised for the purpose of acquiring a new ship as specified in clause (a) of sub-section (2), but such ship is sold or otherwise transferred ³¹[, other than in any scheme of demerger] by the assessee to any person at any time before the expiry of ³²[three] years from the end of the previous year in which it was acquired, the amount so utilised in acquiring the ship,

shall be deemed to be the profits,—

(i) in a case referred to in clause (a), in the year in which the amount was so utilised ; or

(ii) in a case referred to in clause (b), in the year immediately following the period of eight years specified in sub-section (2) ; or

(iii) in a case referred to in clause (c), in the year in which the sale or transfer took place,

and shall be charged to tax accordingly.

³³[(4) Where the ship is sold or otherwise transferred (other than in any scheme of demerger) after the expiry of the period specified in clause (c) of sub-section (3) and the sale proceeds are not utilised for the purpose of acquiring a new ship within a period of one year from the end of the previous year in which such sale or transfer took place, ³⁴[so much of such sale proceeds which represent the amount credited to the reserve account and utilised for the purposes mentioned in clause (c) of sub-section (3)] shall be deemed to be the profits of the assessment year immediately following the previous year in which the ship is sold or transferred.]

Explanation.—For the purposes of this section,—

(a) ³⁵“public company” shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956) ;

³⁶[(aa) ³⁷“Government company” shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956) ;]

(b) “new ship” shall have the same meaning as in clause (ii) of sub-section (2) of section 32AB.]

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Section – 33B: ³⁸[Rehabilitation allowance.

33B. Where the business of any industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of—

(i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature ; or

(ii) riot or civil disturbance ; or

(iii) accidental fire or explosion ; or

(iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

and, thereafter, at any time before the expiry of three years from the end of such previous year, the business is re-established, reconstructed or revived by the assessee, he shall, in respect of the previous year in which the business is so re-established, reconstructed or revived, be allowed a deduction of a sum by way of rehabilitation allowance equivalent to sixty per cent of the amount of the deduction allowable to him under clause (iii) of sub-section (1) of section 32 in respect of the building, machinery, plant or furniture so damaged or destroyed :

³⁹[**Provided** that no deduction under this section shall be allowed in relation to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year.]

Explanation.—In this section, “industrial undertaking” means any undertaking which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.]

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Section – 34: Conditions for depreciation allowance and development rebate.

4. (1) ⁴⁰[***]

(2) ⁴¹[***]

(3)(a) The deduction referred to in section 33 shall not be allowed unless an amount equal to seventy-five per cent of the development rebate to be actually allowed is debited to the profit and loss account of ⁴²[any previous year in respect of which the deduction is to be allowed under sub-section (2) of that section or any earlier previous year (being a previous year not earlier than the year in which the ship was acquired or the machinery or plant was installed or the ship, machinery or plant was first put to use)] and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(i) for distribution by way of dividends or profits ; or

(ii) for remittance outside India as profits or for the creation of any asset outside India :

Provided that this clause shall not apply where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 (54 of 1948)⁴³, or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958 :

⁴⁴[**Provided further** that where a ship has been acquired after the 28th day of February, 1966, this clause shall have effect in respect of such ship as if for the words “seventy-five”, the word “fifty” had been substituted.]

Explanation.—[Omitted by the Finance Act, 1990, w.r.e.f. 1-4-1962. Earlier, it was inserted by the Finance Act, 1966, w.r.e.f. 1-4-1962.]



(b) If any ship, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed, any allowance made under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of that ship, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (5) of section 155 shall apply accordingly :

Provided that this clause shall not apply—

(i) where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958 ; or

(ii) where the ship, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a ⁴⁵Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) ; or

(iii) where the sale or transfer of the ship, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (3) or sub-section (4) of section 33.

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Section – 34A: ⁴⁶[Restriction on unabsorbed depreciation and unabsorbed investment allowance for limited period in case of certain domestic companies.



34A. (1) In computing the profits and gains of the business of a domestic company in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1992, where effect is to be given to the unabsorbed depreciation allowance or unabsorbed investment allowance or both in relation to any previous year relevant to the assessment year commencing on or before the 1st day of April, 1991, the deduction shall be restricted to two-third of such allowance or allowances and the balance,—

(a) where it relates to depreciation allowance, be added to the depreciation allowance for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 and be deemed to be part of that allowance or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year and so on for the succeeding previous years ;

(b) where it relates to investment allowance, be carried forward to the assessment year commencing on the 1st day of April, 1993 and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and where the period of eight years has expired before the portion of such balance is adjusted, the said period shall be extended beyond eight years till such time the portion of the said balance is absorbed in the profits and gains of the business of the domestic company.

(2) For the assessment year commencing on the 1st day of April, 1992, the provisions of sub-section (2) of section 32 and sub-section (3) of section 32A shall apply to the extent such provisions are not inconsistent with the provisions of sub-section (1) of this section.

(3) Nothing contained in sub-section (1) shall apply where the amount of unabsorbed depreciation allowance or of the unabsorbed investment allowance, as the case may be, or the

aggregate amount of such allowances in the case of a domestic company is less than one lakh rupees.

(4) Nothing contained in sections 234B and 234C shall apply to any shortfall in the payment of any tax due on the assessed tax or, as the case may be, returned income where such shortfall is on account of restricting the amount of depreciation allowance or investment allowance under this section and the assessee has paid the amount of shortfall before furnishing the return of income under sub-section (1) of section 139.]

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Section – 35: ⁴⁷[Expenditure on scientific research.

5. ⁴⁸ (1) In respect of expenditure on scientific research, the following deductions shall be allowed—

(i) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the ⁴⁹business.

⁵⁰[*Explanation.*—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in *Explanation 2*⁵¹ below sub-section (5) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authority⁵² to have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced ;]

⁵³(ii) ⁵⁴[an amount equal to ⁵⁵[one and three-fourth] times of any sum paid] to a ⁵⁶[research association] which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research :

⁵⁷[**Provided** that such association, university, college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) such association, university, college or other institution is specified as such, by notification⁵⁸ in the Official Gazette, by the Central Government;]

⁵⁹[(iia) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

Provided that such company—

(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed⁶⁰;

⁶¹[⁶²(iii) ⁶³[an amount equal to one and one-fourth times of ⁶⁴[any sum paid to a research association which has as its object the undertaking of research in social science or statistical research or to a university]], college or other institution to be used for research in social science or statistical research :

⁶⁵[**Provided** that ⁶⁶[such association, university], college or other institution for the purposes of this clause—

(A) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(B) ⁶⁶[such association, university], college or other institution is specified as such, by notification⁶⁷ in the Official Gazette, by the Central Government.]

⁶⁸[*Explanation.*—The deduction, to which the assessee is entitled in respect of any sum paid to a ⁶⁹[research association], university, college or other institution to which clause (ii) or clause (iii) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (ii) or clause (iii) has been withdrawn;]

(iv) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (2) :

⁷⁰[**Provided** that the ⁶⁹[research association], university, college or other institution referred to in clause (ii) or clause (iii) shall make an application in the prescribed form and manner to the ⁷¹[Central Government] for the purpose of grant of approval, or continuance thereof, under clause (ii) or, as the case may be, clause (iii) :

Provided further that the ⁷¹[Central Government] may, before granting approval under clause (ii) or clause (iii), call for such documents (including audited annual accounts) or information from the ⁶⁹[research association], university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the ⁶⁹[research association], university, college or other institution and that ⁷²[Government] may also make such inquiries as it may deem necessary in this behalf :

Provided also that any ⁷³[notification issued, by the Central Government under clause (ii) or clause (iii), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President†, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years] (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

⁷⁴[**Provided also** that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President†, every notification under clause (ii) or clause (iii) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government.]

(2) For the purposes of clause (iv) of sub-section (1),—

⁷⁵[(i) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous



year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years ;

(ia) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year⁷⁶ shall be deducted for that previous year :]

⁷⁷[**Provided** that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984.]

⁷⁸[*Explanation 1*].—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

⁷⁷[*Explanation 2*.—For the purposes of this clause,—

(a) "land" includes any interest in land ; and

(b) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908 (16 of 1908), or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A⁷⁹ of the Transfer of Property Act, 1882 (4 of 1882), the date on which he has so taken or retained possession of such land or part ;]

(ii) notwithstanding anything contained in clause (i), where an asset representing expenditure of a capital nature ⁸⁰[incurred before the 1st day of April, 1967,] ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (i) falls short of the said expenditure, then—

(a) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

(b) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year ;

(iii) if the asset mentioned in clause (ii) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation ; and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place ;

(iv) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under ⁸¹[clause (ii) of sub-section (1)] of section 32 for the same ⁸²[or any other] previous year in respect of that asset ;

(v) where the asset ⁸³[mentioned in clause (ii)] is used in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under ⁸⁴[clause (ii) of sub-section (1)] of section 32.



⁸⁵[(2A) ⁸⁶Where ⁸⁷[, before the 1st day of March, 1984,] the assessee pays any sum ⁸⁸[(being any sum paid with a specific direction that the sum shall not be used for the acquisition of any land or building or construction of any building)] to a scientific research association or university or college or other institution referred to in clause (ii) of sub-section (1) ⁸⁹[or to a public sector company] to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority⁹⁰ having regard to the social, economic and industrial needs of India, then,—

(a) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under clause (ii) of sub-section (1) for the same or any other assessment year.]

⁹¹[*Explanation.*—For the purposes of this sub-section, “public sector company” shall have the same meaning as in clause (b) of the *Explanation* below sub-section (2B) of section 32A.]

⁹²[(2AA) ⁹³Where the assessee pays any sum to a National Laboratory ⁹⁴[or a ⁹⁵[University or an Indian Institute of Technology or a specified person] with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority⁹⁶, then—

(a) there shall be allowed a deduction of a sum equal to ⁹⁷[two] times the sum so paid ; and

(b) no deduction in respect of such sum shall be allowed under any other provision of this Act :

⁹⁸[**Provided** that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the ^{98a}[*Principal Director General or*] Director General in such form as may be prescribed.⁹⁹]

¹[*Explanation 1.*—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(a) such Laboratory, or specified person has been withdrawn; or

(b) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.]

²[*Explanation* ³[2].—For the purposes of this section,—

(a) “National Laboratory” means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed ;

(b) “University” shall have the same meaning as in *Explanation* to clause (ix) of section 47 ;

(c) “Indian Institute of Technology” shall have the same meaning as that of “Institute” in clause (g) of section 3⁴ of the Institutes of Technology Act, 1961 (59 of 1961)];

⁵[(d) “specified person” means such person as is approved by the prescribed authority.]



⁶[(2AB)(1) Where a company engaged in the business of ⁷[bio-technology or in ⁸[any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule]] incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority⁹, then, there shall be allowed a deduction of ¹⁰[a sum equal to ¹¹[two] times of the expenditure] so incurred.

¹²[*Explanation.*—For the purposes of this clause, “expenditure on scientific research”, in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).]

(2) No deduction shall be allowed in respect of the expenditure mentioned in clause (1) under any other provision of this Act.

(3) No company shall be entitled for deduction under clause (1) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and for audit of the accounts maintained for that facility.

(4) The prescribed authority shall submit its report in relation to the approval of the said facility to the ^{12a}[*Principal Director General or*] Director General in such form and within such time as may be prescribed.]

¹³[(5) No deduction shall be allowed in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, ¹⁴[2017].

¹⁵[(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (1) in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2008.]

¹⁶[(2B)(a) Where ¹⁷[, before the 1st day of March, 1984,] an assessee has incurred any expenditure (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(b) Where a deduction has been allowed under clause (a) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (i) of sub-section (1) or clause (ia) of sub-section (2) for the same or any other previous year.

(c) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under ¹⁸[clause (ii) of sub-section (1)] of section 32 for the same or any subsequent previous year.

(d) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (5B) of section 155 shall apply accordingly.]



¹⁹[(3) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to—

(a) the Central Government, when such question relates to any activity under clauses (ii) and (iii) of sub-section (1), and its decision shall be final;

(b) the prescribed authority²⁰, when such question relates to any activity other than the activity specified in clause (a), whose decision shall be final.]

(4) The provisions of sub-section (2) of section 32 shall apply in relation to deductions allowable under clause (iv) of sub-section (1) as they apply in relation to deductions allowable in respect of depreciation.

²¹[(5) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(i) the amalgamating company shall not be allowed the deduction under clause (ii) or clause (iii) of sub-section (2); and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.]]

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Section – 35A: ²²[Expenditure on acquisition of patent rights or copyrights.

35A. (1) In respect of any expenditure of a capital nature incurred after the 28th day of February, 1966 ²³[but before the 1st day of April, 1998], on the acquisition of patent rights or copyrights (hereafter, in this section, referred to as rights) used for the purposes of the business, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

(i) “relevant previous years” means the fourteen previous years beginning with the previous year in which such expenditure is incurred or, where such expenditure is incurred before the commencement of the business, the fourteen previous years beginning with the previous year in which the business commenced :

Provided that where the rights commenced, that is to say, became effective, in any year prior to the previous year in which expenditure on the acquisition thereof was incurred by the assessee, this clause shall have effect with the substitution for the reference to fourteen years of a reference to fourteen years less the number of complete years which, when the rights are acquired by the assessee, have elapsed since the commencement thereof, and if fourteen years have elapsed as aforesaid, of a reference to one year;

(ii) “appropriate fraction” means the fraction the numerator of which is one and the denominator of which is the number of the relevant previous years.

(2) Where the rights come to an end without being subsequently revived or where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) are not less than the cost of acquisition thereof remaining unallowed, no deduction under sub-section (1) shall be allowed in respect of the previous year in which the rights come to an end or, as the case may be, the whole or any part of the rights is sold or in respect of any subsequent previous year.

(3) Where the rights either come to an end without being subsequently revived or are sold in their entirety and the proceeds of the sale (so far as they consist of capital sums) are less than the cost of acquisition thereof remaining unallowed, a deduction equal to such cost remaining unallowed or, as the case may be, such cost remaining unallowed as reduced by the proceeds of the sale, shall be allowed in respect of the previous year in which the rights come to an end, or, as the case may be, are sold.

(4) Where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) exceed the amount of the cost of acquisition thereof remaining unallowed, so much of the excess as does not exceed the difference between the cost of acquisition of the rights and the amount of such cost remaining unallowed shall be chargeable to income-tax as income of the business of the previous year in which the whole or any part of the rights is sold.

Explanation.—Where the whole or any part of the rights is sold in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(5) Where a part of the rights is sold and sub-section (4) does not apply, the amount of the deduction to be allowed under sub-section (1) shall be arrived at by—

(a) subtracting the proceeds of the sale (so far as they consist of capital sums) from the amount of the cost of acquisition of the rights remaining unallowed; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the rights are sold.]

²⁴[(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the rights to the amalgamated company (being an Indian company),—

(i) the provisions of sub-sections (3) and (4) shall not apply in the case of the amalgamating company; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the rights.]

²⁵[(7) Where in a scheme of demerger, the demerged company sells or otherwise transfers the rights to the resulting company (being an Indian company),—

(i) the provisions of sub-sections (3) and (4) shall not apply in the case of the demerged company; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the latter had not sold or otherwise transferred the rights.]

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Section – 35AB: ²⁶[Expenditure on know-how.

35AB. (1) Subject to the provisions of sub-section (2), where the assessee has paid in any previous year ²⁷[relevant to the assessment year commencing on or before the 1st day of April, 1998] any lump sum consideration for acquiring²⁸ any know-how for use ²⁸for the purposes of his business, one-sixth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance amount shall be deducted in equal instalments for each of the five immediately succeeding previous years.

(2) Where the know-how referred to in sub-section (1) is developed in a laboratory, university or institution referred to in sub-section (2B) of section 32A, one-third of the said lump sum consideration paid in the previous year by the assessee shall be deducted in computing the profits and gains of the business for that year, and the balance amount shall be deducted in equal instalments for each of the two immediately succeeding previous years.

²⁹[(3) Where there is a transfer of an undertaking under a scheme of amalgamation or demerger and the amalgamating or the demerged company is entitled to a deduction under this section, then, the amalgamated company or the resulting company, as the case may be, shall be entitled to claim deduction under this section in respect of such undertaking to the same extent and in respect of the residual period as it would have been allowable to the amalgamating company or the demerged company, as the case may be, had such amalgamation or demerger not taken place.]

Explanation.—For the purposes of this section, “know-how” means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil well or other sources of mineral deposits (including the searching for, discovery or testing of deposits or the winning of access thereto).]



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Section – 35ABB: ³⁰[Expenditure for obtaining licence to operate telecommunication services.

35ABB. (1) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to operate telecommunication services ³¹[either before the commencement of the business to operate telecommunication services or thereafter at any time during any previous year] and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

³²[(i) “relevant previous years” means,—

(A) in a case where the licence fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(B) in any other case, the previous years beginning with the previous year in which the licence fee is actually paid,

and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;]

(ii) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(iii) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(2) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(3) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation.—Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(4) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (1) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(5) Where a part of the licence is transferred in a previous year and sub-section (3) does not apply, the deduction to be allowed under sub-section (1) for expenditure incurred remaining unallowed shall be arrived at by—

(a) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(b) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(6) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company),—

(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the amalgamating company; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the licence.]

³³[(7) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the licence to the resulting company (being an Indian company),—



(i) the provisions of sub-sections (2), (3) and (4) shall not apply in the case of the demerged company; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company if the latter had not transferred the licence.]

³⁴[(8) Where a deduction for any previous year under sub-section (1) is claimed and allowed in respect of any expenditure referred to in that sub-section, no deduction shall be allowed under sub-section (1) of section 32 for the same previous year or any subsequent previous year.]

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Section – 35AC: ³⁵[Expenditure on eligible projects or schemes].³⁶

35AC. (1) Where an assessee incurs any expenditure by way of payment of any sum to a public sector company or a local authority or to an association or institution approved³⁷ by the National Committee³⁸ for carrying out any eligible project or scheme, the assessee shall, subject to the provisions of this section, be allowed a deduction of the amount of such expenditure incurred during the previous year :

Provided that a company may, for claiming the deduction under this sub-section, incur expenditure either by way of payment of any sum as aforesaid or directly on the eligible project or scheme.

(2) The deduction under sub-section (1) shall not be allowed unless the assessee furnishes along with his return of income a certificate—

³⁹(a) where the payment is to a public sector company or a local authority or an association or institution referred to in sub-section (1), from such public sector company or local authority or, as the case may be, association or institution;

⁴⁰(b) in any other case, from an accountant, as defined in the *Explanation* below sub-section (2) of section 288,

in such form, manner and containing such particulars (including particulars relating to the progress in the work relating to the eligible project or scheme during the previous year) as may be prescribed.

⁴¹[*Explanation.*—The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company or a local authority or to an association or institution for carrying out the eligible project or scheme referred to in this section applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(a) the approval granted to such association or institution has been withdrawn; or

(b) the notification notifying the eligible project or scheme carried out by the public sector company or local authority or association or institution has been withdrawn.]

(3) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.



⁴²[(4) Where an association or institution is approved by the National Committee under sub-section (1), and subsequently—

(i) that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted; or

(ii) such association or institution, to which approval has been granted, has not furnished to the National Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed⁴³,

the National Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval:

Provided that a copy of the order withdrawing the approval shall be forwarded by the National Committee to the Assessing Officer having jurisdiction over the concerned association or institution.

(5) Where any project or scheme has been notified as an eligible project or scheme under clause (b) of the Explanation, and subsequently—

(i) the National Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which such project or scheme was notified; or

(ii) a report in respect of such eligible project or scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed⁴⁴,

such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be:

Provided further that a copy of the notification by which the notification of the eligible project or scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or local authority, as the case may be, carrying on such eligible project or scheme.]

⁴⁵[(6) Notwithstanding anything contained in any other provision of this Act, where—

(i) the approval of the National Committee, granted to an association or institution, is withdrawn under sub-section (4) or the notification in respect of eligible project or scheme is withdrawn in the case of a public sector company or local authority or an association or institution under sub-section (5); or

(ii) a company has claimed deduction under the proviso to sub-section (1) in respect of any expenditure incurred directly on the eligible project or scheme and the approval for such project or scheme is withdrawn by the National Committee under sub-section (5),

the total amount of the payment received by the public sector company or the local authority or the association or the institution, as the case may be, in respect of which such company or authority or association or institution has furnished a certificate referred to in clause (a) of sub-section (2) or the deduction claimed by a company under the proviso to sub-section (1) shall be



deemed to be the income of such company or authority or association or institution, as the case may be, for the previous year in which such approval or notification is withdrawn and tax shall be charged on such income at the maximum marginal rate in force for that year.]

Explanation.—For the purposes of this section,—

(a) “National Committee” means the Committee constituted by the Central Government, from amongst persons of eminence in public life, in accordance with the rules made under this Act;

(b) “eligible project or scheme” means such project or scheme for promoting the social and economic welfare of, or the uplift of, the public as the Central Government may, by notification in the Official Gazette, specify⁴⁶ in this behalf on the recommendations of the National Committee.]

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Section – 35AD: ⁴⁷[Deduction in respect of expenditure on specified business.

35AD. (1) An assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him :

Provided that the expenditure incurred, wholly and exclusively, for the purposes of any specified business, shall be allowed as deduction during the previous year in which he commences operations of his specified business, if—

(a) the expenditure is incurred prior to the commencement of its operations; and

(b) the amount is capitalised in the books of account of the assessee on the date of commencement of its operations.

⁴⁸[(1A) Where the specified business is of the nature referred to in sub-clause (i) or sub-clause (ii) or sub-clause (v) or sub-clause (vii) or sub-clause (viii) of clause (c) of sub-section (8) and has commenced its operations on or after the 1st day of April, 2012, the deduction under sub-section (1) shall be allowed of an amount equal to one and one-half times of the expenditure referred to therein.]

(2) This section applies to the specified business which fulfils all the following conditions, namely :—

(i) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(ii) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(iii) where the business is of the nature referred to in sub-clause (iii) of clause (c) of sub-section (8), such business,—

(a) is owned by a company formed and registered in India under the Companies Act, 1956 (1 of 1956)^{48a} or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;



(b) has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) and notified by the Central Government in the Official Gazette in this behalf;

(c) has made not less than ⁴⁹[such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006)] available for use on common carrier basis by any person other than the assessee or an associated person; and

(d) fulfils any other condition as may be prescribed.

⁵⁰[(3) Where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of ^{50a}[*section 10AA and*] Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*" in relation to such specified business for the same or any other assessment year.]

(4) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year.

(5) The provisions of this section shall apply to the specified business referred to in sub-section (2) if it commences its operations,—

(a) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network; ⁵¹[***]

⁵²[(aa) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government;

(ab) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;

(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 the guidelines as may be prescribed; ⁵³[***]

⁵⁴[(ad) on or after the 1st day of April, 2011, where the specified business is in the 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;

(ae) 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; ⁵⁵[***]

⁵⁶[(af) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(ag) on or after the 1st day of April, 2012, where the specified business is in the nature of bee-keeping and production of honey and beeswax;



(ah) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating a warehousing facility for storage of sugar; ^{56a}[and]]

The following clauses (ai) and (aj) shall be inserted after clause (ah) of sub-section (5) of section 35AD by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(ai) on or after the 1st day of April, 2014, where the specified business is in the nature of laying and operating a slurry pipeline for the transportation of iron ore;

(aj) on or after the 1st day of April, 2014, where the specified business is in the nature of setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed; and

(b) on or after the 1st day of April, 2009, in all other cases not falling under ⁵⁷[any of the above clauses].

(6) The assessee carrying on the business of the nature referred to in clause (a) of sub-section (5) shall be allowed, in addition to deduction under sub-section (1), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

(a) the business referred to in clause (a) of sub-section (5) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(b) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

⁵⁸[(6A) Where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business referred to in sub-clause (iv) of clause (c) of sub-section (8).]

(7) The provisions contained in sub-section (6) of section 80A and the provisions of sub-sections (7) and (10) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

The following sub-sections (7A), (7B) and (7C) shall be inserted after sub-section (7) of section 35AD by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(7A) Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of eight years beginning with the previous year in which such asset is acquired or constructed.

(7B) Where any asset, in respect of which a deduction is claimed and allowed under this section, is used for a purpose other than the specified business during the period specified in sub-section (7A), otherwise than by way of a mode referred to in clause (vii) of section 28, the total amount of deduction so claimed and allowed in one or more previous years, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

(7C) Nothing contained in sub-section (7B) shall apply to a company which has become a sick industrial company under sub-section (1) of section 17 of the Sick Industrial Companies (Special



Provisions) Act, 1985 (1 of 1986)^{58a}, during the period specified in sub-section (7A).

(8) For the purposes of this section,—

(a) an “associated person”, in relation to the assessee, means a person,—

(i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the capital of the assessee;

(iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent of the total borrowings of the assessee;

(b) “cold chain facility” means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(c) “specified business” means any one or more of the following business, namely :—

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

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

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

⁵⁹[(iv) building and operating, anywhere in India, a ⁶⁰[hotel] of two-star or above category as classified by the Central Government;

(v) building and operating, anywhere in India, a ⁶¹[hospital] with at least one hundred beds for patients;

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

⁶²[(vii) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed⁶³;

(viii) production of fertilizer in India;]

⁶⁴[(ix) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

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

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



The following sub-clauses (xii) and (xiii) shall be inserted after sub-clause (xi) of clause (c) of sub-section (8) of section 35AD by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

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

(xiii) *setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed;*

(d) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

(ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee;

(e) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in such business, then, for the purposes of clause (ii) of sub-section (2), the condition specified therein shall be deemed to have been complied with;

(f) any expenditure of capital nature shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.]

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Section – 35B: Export markets development allowance.

35B. ⁶⁵[Omitted by the Direct Tax Laws (Amendment) Act, 1987, as amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Original section 35B was inserted by the Finance Act, 1968, w.e.f. 1-4-1968.]

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Section – 35C: Agricultural development allowance.

35C. ⁶⁶[Omitted by the Direct Tax Laws (Amendment) Act, 1987, as amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Original section 35C was inserted by the Finance Act, 1968, w.e.f. 1-4-1968.]

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Section – 35CC: Rural development allowance.



35CC. ⁶⁷[Omitted by the Direct Tax Laws (Amendment) Act, 1987, as amended by the Direct Tax Laws (Amendment) Act, 1989, w.e.f. 1-4-1989. Original section 35CC was inserted by the Finance (No. 2) Act, 1977, w.e.f. 1-9-1977.]

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Section – 35CCA: ⁶⁸[Expenditure by way of payment to associations and institutions for carrying out rural development programmes.

⁶⁹**35CCA.** ⁷⁰[(1) Where an assessee incurs any expenditure by way of payment of any sum—

(a) to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority⁷¹; or

(b) to an association or institution, which has as its object the training of persons for implementing programmes of rural development; ⁷²[or]

⁷²[(c) to a rural development fund set up and notified⁷³ by the Central Government in this ⁷⁴[behalf; or]

⁷⁵[(d) to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,]

the assessee shall, subject to the provisions of sub-section (2), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

⁷⁶[(2) The deduction under clause (a) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution referred to in the said clause unless the assessee furnishes a certificate from such association or institution to the effect that—

(a) the programme of rural development had been approved by the prescribed authority before the 1st day of March, 1983; and

(b) where such payment is made after the 28th day of February, 1983, such programme involves work by way of construction of any building or other structure (whether for use as a dispensary, school, training or welfare centre, workshop or for any other purpose) or the laying of any road or the construction or boring of a well or tube-well or the installation of any plant or machinery, and such work has commenced before the 1st day of March, 1983.]

⁷⁷[(2A) The deduction under clause (b) of sub-section (1) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution unless the assessee furnishes a certificate from such association or institution to the effect that—

(a) the prescribed authority had approved the association or institution before the 1st day of March, 1983; and

(b) the training of persons for implementing any programme of rural development had been started by the association or institution before the 1st day of March, 1983.]

⁷⁸[Explanation.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development referred to in



sub-section (1), shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme of rural development, or as the case may be, to the association or institution has been withdrawn.]

⁷⁹[(2B) No certificate of the nature referred to in sub-section (2) or sub-section (2A) shall be issued by any association or institution unless such association or institution has obtained from the prescribed authority authorisation in writing to issue certificates of such nature.]

Explanation.—For the purposes of this section, “programme of rural development” shall have the meaning assigned to it in the *Explanation* to sub-section (1) of section 35CC⁸⁰.

(3) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under section 35C⁸⁰ or section 35CC⁸⁰ or section 80G or any other provision of this Act for the same or any other assessment year.]

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Section – 35CCB: ⁸¹[Expenditure by way of payment to associations and institutions for carrying out programmes of conservation of natural resources.

35CCB. ⁸²[(1) Where an assessee incurs any expenditure ⁸³[on or before the 31st day of March, 2002] by way of payment of any sum—

(a) to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or afforestation approved⁸⁴ by the prescribed authority⁸⁵; or

(b) to such fund for afforestation as may be notified by the Central Government,

the assessee shall, subject to the provisions of sub-section (2), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

(2) The deduction under ⁸⁶[clause (a) of] sub-section (1) shall not be allowed with respect to expenditure by way of payment of any sum to any association or institution, unless such association or institution is for the time being approved in this behalf by the prescribed authority⁸⁷ :

Provided that the prescribed authority shall not grant such approval for more than three years at a time.

(3) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.]

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Section – 35CCC: ⁸⁸[Expenditure on agricultural extension project.



35CCC. (1) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the guidelines as may be prescribed^{88a}, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]

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Section – 35CCD: ⁸⁹[Expenditure on skill development project.

35CCD. (1) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed^{89a}, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]

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Section – 35D: ⁹⁰[Amortisation of certain preliminary expenses.

⁹¹**35D.** (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2),—

(i) before the commencement of his business, or

(ii) after the commencement of his business, in connection with the extension of his ⁹²[***] undertaking or in connection with his setting up a new ⁹²[***] unit,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the ⁹²[***] undertaking is completed or the new ⁹²[***] unit commences production or operation :

⁹³**[Provided]** that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words “an amount equal to one-tenth of such expenditure for each of the ten successive previous years”, the words “an amount equal to one-fifth of such expenditure for each of the five successive previous years” had been substituted.]

(2) The expenditure referred to in sub-section (1) shall be the expenditure specified in any one or more of the following clauses, namely :—



(a) expenditure in connection with—

(i) preparation of feasibility report;

(ii) preparation of project report;

(iii) conducting market survey or any other survey necessary for the business of the assessee;

(iv) engineering services relating to the business of the assessee :

Provided that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved⁹⁴ in this behalf by the Board;

(b) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;

(c) where the assessee is a company, also expenditure—

(i) by way of legal charges for drafting the Memorandum and Articles of Association of the company;

(ii) on printing of the Memorandum and Articles of Association;

(iii) by way of fees for registering the company under the provisions of the Companies Act, 1956 (1 of 1956)^{94a};

(iv) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus;

(d) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed.

(3) Where the aggregate amount of the expenditure referred to in sub-section (2) exceeds an amount calculated at two and one-half per cent—

(a) of the cost of the project, or

(b) where the assessee is an Indian company, at the option of the company, of the capital employed in the business of the company,

the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (1) :

⁹⁵[**Provided** that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words “two and one-half per cent”, the words “five per cent” had been substituted.]

Explanation.—In this sub-section—

(a) “cost of the project” means—



(i) in a case referred to in clause (i) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the business of the assessee commences;

(ii) in a case referred to in clause (ii) of sub-section (1), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the extension of the ⁹⁶*** undertaking is completed or, as the case may be, the new ⁹⁶*** unit commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the ⁹⁶*** undertaking or the setting up of the new ⁹⁶*** unit of the assessee;

(b) "capital employed in the business of the company" means—

(i) in a case referred to in clause (i) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences;

(ii) in a case referred to in clause (ii) of sub-section (1), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the ⁹⁷*** undertaking is completed or, as the case may be, the new ⁹⁷*** unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the ⁹⁷*** undertaking or the setting up of the new ⁹⁷*** unit of the company;

(c) "long-term borrowings" means—

(i) any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution ⁹⁸[which is eligible for deduction under clause (viii) of sub-section (1) of section 36] or any banking institution (not being a financial institution referred to above), or

(ii) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the terms under which such moneys are borrowed or the debt is incurred provide for the repayment thereof during a period of not less than seven years.

(4) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form⁹⁹ duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(5) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation,—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and



(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalga-mating company if the amalgamation had not taken place.

¹[(5A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in sub-section (1), to another company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.]

(6) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.]

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Section – 35DD: ¹[Amortisation of expenditure in case of amalgamation or demerger.

35DD. (1) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.

(2) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.]

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Section – 35DDA: ²[Amortisation of expenditure incurred under voluntary retirement scheme.

35DDA. (1) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee ³[in connection with] his voluntary retirement, in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.

⁴[(2) Where the assessee, being an Indian company, is entitled to the deduction under sub-section (1) and the undertaking of such Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another Indian company in a scheme of amalgamation, the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.



(3) Where the undertaking of an Indian company entitled to the deduction under sub-section (1) is transferred, before the expiry of the period specified in that sub-section, to another company in a scheme of demerger, the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.

(4) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, the provisions of this section shall, as far as may be, apply to the successor company, as they would have applied to the firm or the proprietary concern, if reorganisation of business had not taken place.

⁵[(4A) Where there has been reorganisation of business, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as they would have applied to the said company, if reorganisation of business had not taken place.]

(5) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) in the case of the amalgamating company referred to in sub-section (2), in the case of demerged company referred to in ⁶[sub-section (3), in the case of a firm or proprietary concern referred to in sub-section (4) and in the case of a company referred to in sub-section (4A)] of this section, for the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

(6) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (1) under any other provision of this Act.]]



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Section – 35E: ⁷[Deduction for expenditure on prospecting, etc., for certain minerals.

35E. (1) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (2), the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each one of the relevant previous years a deduction of an amount equal to one-tenth of the amount of such expenditure.

(2) The expenditure referred to in sub-section (1) is that incurred by the assessee after the date specified in that sub-section at any time during the year of commercial production and any one or more of the four years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals :

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(3) Any expenditure—

(i) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (2) or of any rights in or over such site;

(ii) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(iii) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the assessee for any of the purposes specified in sub-section (2).

(4) The deduction to be allowed under sub-section (1) for any relevant previous year shall be—

(a) an amount equal to one-tenth of the expenditure specified in sub-section (2) (such one-tenth being hereafter in this sub-section referred to as the instalment); or

(b) such amount as is sufficient to reduce to *nil* the income (as computed before making the deduction under this section) of that previous year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-section (2)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid in respect of which the expenditure was incurred,

whichever amount is less :

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production.

(5) For the purposes of this section,—

(a) “operation relating to prospecting” means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive;

(b) “year of commercial production” means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences;

(c) “relevant previous years” means the ten previous years beginning with the year of commercial production.

(6) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (1) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (2) is incurred have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form⁸ duly signed and verified by such accountant and setting forth such particulars as may be prescribed.



(7) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

⁹[(7A) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of demerger,—

(i) no deduction shall be admissible under sub-section (1) in the case of the demerged company for the previous year in which the demerger takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the demerger had not taken place.]

(8) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (2), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.]

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Section – 36: Other deductions.

6. ¹⁰ (1) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

¹¹(i) the amount of any premium paid in respect of insurance against risk of damage¹² or destruction¹² of stocks or stores¹² used for the purposes of the business or profession;

¹³[(ia) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;]

¹⁴[(ib) the amount of any premium ¹⁵[paid by any mode of payment other than cash] by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

(A) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(B) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]

¹⁶(ii) any sum paid to an employee as bonus or commission¹⁷ for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

¹⁸[* * *]

¹⁹[* * *]

(iia) ²⁰[Omitted by the Finance Act, 1999, w.e.f. 1-4-2000.]

²¹(iii) the amount of the interest²² paid in respect of capital²² borrowed²² for the purposes of the business²² or profession :

²³[**Provided** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.]

Explanation.—Recurring subscriptions paid periodically by shareholders, or subscribers in Mutual Benefit Societies which fulfil such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

²⁴[(iia) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed²⁵.

Explanation.—For the purposes of this clause, the expressions—

(i) “discount” means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company ²⁶[or scheduled bank] issuing the bond and the amount payable by such company or fund or public sector company ²⁶[or scheduled bank] on maturity or redemption of such bond;

(ii) “period of life of the bond” means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

(iii) ²⁷[***]

²⁸(iv) ²⁹any sum paid³⁰ by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the super-annuation fund, as the case may be; and subject to such ³¹conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head “Salaries” or to the contributions or to the number of members of the fund;

³²[(iva) 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 the extent it does not exceed ten per cent of the salary of the employee in the previous year.

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;]

³³(v) ³⁴any sum paid³⁵ by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an



irrevocable trust;

³⁶[(va) any sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation.—For the purposes of this clause, “due date” means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise;]

³⁷(vi) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

³⁷(vii) subject to the provisions of sub-section (2), the amount of ³⁸[any ³⁹bad debt or part thereof³⁹ which is written off as irrecoverable in the accounts of the assessee for the previous year]:

⁴⁰[**Provided** that in the case of ⁴¹[an assessee] to which clause (viiia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause.]

⁴²[⁴³*Explanation 1.*—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee;]

⁴⁴[*Explanation 2.*—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (v) of sub-section (2), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (viiia) and such account shall relate to all types of advances, including advances made by rural branches;]

⁴⁵[(viiia) ⁴⁶[⁴⁷ in respect of any provision for bad and doubtful debts made by—

(a) a scheduled bank [not being ⁴⁸[* * *] a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank ⁴⁹[or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank], an amount ⁵⁰[not exceeding seven and one-half per cent] of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ⁵¹[ten] per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner :

⁵²[**Provided** that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:]

⁵³[**Provided further** that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first



proviso shall have effect as if for the words "five per cent", the words "ten per cent" had been substituted :]

⁵⁴[**Provided also** that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession."]

⁵⁵[Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;]

(b) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);]

⁵⁶[(c) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A) :]

⁵⁷[**Provided** that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year.]

Explanation.—For the purposes of this clause,—

⁵⁸[(i) "non-scheduled bank" means a ⁵⁹banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;]

⁶⁰[(ia)] "rural branch" means a branch of a scheduled bank ⁶¹[or a non-scheduled bank] situated in a place⁶² which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

⁶³[(ii) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) ⁶⁴[***];]

⁶⁵[(iii) "public financial institution" shall have the meaning assigned to it in section 4A⁶⁶ of the Companies Act, 1956 (1 of 1956);



(iv) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(v) "State industrial investment corporation" means a Government company⁶⁷ within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and ⁶⁸[eligible for deduction under clause (viii) of this sub-section];]

⁶⁹[(vi) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;]

⁷⁰[(viii) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(a) "specified entity" means,—

(i) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956)⁷¹;

(ii) a financial corporation which is a public sector company;

(iii) a banking company;

(iv) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(v) a housing finance company; and

(vi) any other financial corporation including a public company;

(b) "eligible business" means,—

⁷²[(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;]

(ii) in respect of the specified entity referred to in sub-clause (v) of clause (a), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and



(iii) in respect of the specified entity referred to in sub-clause (vi) of clause (a), the business of providing long-term finance for development of infrastructure facility in India;

(c) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(d) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P;

(e) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(f) ⁷³"public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(g) "infrastructure facility" means—

(i) an infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA, or any other public facility of a similar nature as may be notified⁷⁴ by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed⁷⁵;

(ii) an undertaking referred to in clause (ii) or clause (iii) or clause (iv) or clause (vi) of sub-section (4) of section 80-IA; and

(iii) an undertaking referred to in sub-section (10) of section 80-IB;

(h) "long-term finance" ^{75a} means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;]

(viiia) ⁷⁶[* * *]

⁷⁷[(ix) any expenditure *bona fide* incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years :

Provided further that the provisions of sub-section (2) of section 32 and of sub-section (2) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (ii), (iii), (iv) and (v) of sub-section (2) ⁷⁸[and sub-section (5)] of section 35, of sub-section (3) of section 41 and of *Explanation 1* to clause (1) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;]

(x) ⁷⁹[***]



⁸⁰[(xi) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system :

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act :

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form⁸¹, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

Explanation.—For the purposes of this clause,—

(a) “computer system” means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(b) “Y2K compliant computer system” means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;]

⁸²[(xii) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(a) it is constituted or established by a Central, State or Provincial Act;

(b) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (a), is notified⁸³ by the Central Government in the Official Gazette for the purposes of this clause; and

(c) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;]

⁸⁴[(xiii) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions “banking cash transaction tax” and “taxable banking transaction” shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;]

⁸⁵[(xiv) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette⁸⁶, specify in this behalf.

Explanation.—For the purposes of this clause, “public financial institution” shall have the meaning assigned to it in section 4A⁸⁷ of the Companies Act, 1956 (1 of 1956);]

⁸⁸[(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession” .



Explanation.—For the purposes of this clause, the expressions “securities transaction tax” and “taxable securities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

⁸⁹[(xvi) *an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”* .

Explanation.—For the purposes of this clause, the expressions “comm-odities transaction tax” and “taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.]]

⁹⁰(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply —

⁹¹[(i) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;]

(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable⁹² in the accounts of an earlier previous year ⁹³[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)], but the ⁹⁴[Assessing] Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year ⁹⁵[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)] and the ⁹⁴[Assessing] Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of section 155 shall apply;

⁹⁶[(v) where such debt or part of debt relates to advances made by an assessee to which clause (viii) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.]

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Section – 37: General.

7. ⁹⁷ ⁹⁸(1) ⁹⁹Any expenditure¹ (not being expenditure of the nature described in sections 30 to 36 ²[[***] and not being in the nature of capital expenditure³ or personal expenses of the assessee), laid out or expended wholly and exclusively³ for the purposes of the business³ or profession shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession” .

⁴[^{4a}[Explanation.]]—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law⁵ shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.]

The following *Explanation 2* shall be inserted after renumbered *Explanation 1* to sub-section (1) of section 37 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of sub-section (1), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013)^{5a} shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.

(2) ⁶[* * *]

⁷[⁸(2B) Notwithstanding anything contained in sub-section (1), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.]

(3) ⁹[* * *]

(3A) ¹⁰[* * *]

(3B) ¹¹[* * *]

(3C) ¹²[* * *]

(3D) ¹³[* * *]

(4) ¹⁴[* * *]

(5) ¹⁵[* * *]

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Section – 38: Building, etc., partly used for business, etc., or not exclusively so used.

8. ¹⁶ (1) Where a part of any premises is used as dwelling house by the assessee,—

(a) the deduction under sub-clause (i) of clause (a) of section 30, in the case of rent, shall be such amount as the ¹⁷[Assessing] Officer may determine having regard to the proportionate annual value of the part used for the purpose of the business or profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession;

(b) the deduction under clause (b) of section 30 shall be such sum as the ¹⁷[Assessing] Officer may determine having regard to the part so used.

(2) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (ii) of clause (a) and clause (c) of section 30, clauses (i) and (ii) of section 31 and ¹⁸[clause (ii) of sub-section (1)] of section 32

shall be restricted to a fair proportionate part thereof which the ¹⁷[Assessing] Officer may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business or profession.

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Section – 39: Managing agency commission.

9. *[Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989.]*

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Section – 40: Amounts not deductible.

1. Notwithstanding anything to the contrary in sections 30 to ¹⁹[38], the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—

²⁰(a) in the case of any assessee—

²¹[(i) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(A) outside India; or

(B) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid ²²*[during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section (1) of section 200]* :

Provided that where in respect of any such sum, tax has been deducted in any subsequent year or, has been deducted in the previous year but paid in any subsequent year after the expiry of the time prescribed under sub-section (1) of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

The following proviso shall be substituted for the existing proviso to sub-clause (i) of clause (a) of section 40 by the Finance (No. 2) Act, 2014, w.e.f 1-4-2015 :

Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.

Explanation.—For the purposes of this sub-clause,—

(A) "royalty" shall have the same meaning as in Explanation 2 to clause (vi) of sub-section (1) of section 9;



(B) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

^{22a}(ia) ^{22b}[any interest, commission or brokerage, ²³[rent, royalty,] fees for professional services or fees for technical services payable^{23a} to a resident, or amounts payable^{23a} to a contractor or sub-contractor, being resident, for carrying out any work (including supply of labour for carrying out any work)], on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, ²⁴[has not been paid^{23a} on or before the due date^{23a} specified in sub-section (1) of section 139 :]

²⁵[**Provided** that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (1) of section 139, ^{25a}[thirty per cent of] such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid :]

²⁶[**Provided further** that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then, for the purpose of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso.]

Explanation.—For the purposes of this sub-clause,—

(i) "commission or brokerage" shall have the same meaning as in clause (i) of the Explanation to section 194H;

(ii) "fees for technical services" shall have the same meaning as in Explanation 2 to clause (vii) of sub-section (1) of section 9;

(iii) "professional services" shall have the same meaning as in clause (a) of the Explanation to section 194J;

(iv) "work" shall have the same meaning as in Explanation III to section 194C;

²⁷[(v) "rent" shall have the same meaning as in clause (i) to the *Explanation* to section 194-I;

(vi) "royalty" shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;]

(ib) ²⁸[***]]

²⁹[(ic) any sum paid on account of fringe benefit tax under Chapter XIIH;]

³⁰(ii) any sum paid on account of any rate or tax levied³¹ on the profits or gains of any business or profession³¹ or assessed at a proportion of, or otherwise on the basis of, any such profits or gains.

³²[Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes and shall be deemed always to have included any sum eligible for relief of tax under section 90 or, as the case may be, deduction from the Indian income-tax payable under section 91.]

³³[Explanation 2.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes any sum eligible for relief



of tax under section 90A;]

³⁴[³⁵(*ia*) any sum paid on account of wealth-tax.

Explanation.—For the purposes of this sub-clause, “wealth-tax” means wealth-tax chargeable under the Wealth-tax Act, 1957 (27 of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession;]

³⁶[(*ib*) any amount—

(A) *paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or*

(B) *which is appropriated, directly or indirectly, from,*

a State Government undertaking by the State Government.

Explanation.—For the purposes of this sub-clause, a State Government undertaking includes—

(i) *a corporation established by or under any Act of the State Government;*

(ii) *a company in which more than fifty per cent of the paid-up equity share capital is held by the State Government;*

(iii) *a company in which more than fifty per cent of the paid-up equity share capital is held by the entity referred to in clause (i) or clause (ii) (whether singly or taken together);*

(iv) *a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;*

(v) *an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;]*

³⁷[(*ii*) any payment which is chargeable under the head “Salaries”, if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;]

(iv) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head “Salaries” ;

³⁸[(v) any tax actually paid by an employer referred to in clause (10CC) of section 10;]



³⁹[(b) in the case of any firm assessable as such,—

(i) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration") to any partner who is not a working partner; or

(ii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(iii) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(iv) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at the rate of ⁴⁰[twelve] per cent simple interest per annum; or

⁴¹(v) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder :—

⁴² [(a) on the first Rs. 3,00,000 of the book-profit or in case of a loss	Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;
(b) on the balance of the book-profit	at the rate of 60 per cent :]

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

Explanation 1.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(i) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

Explanation 3.—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.



Explanation 4.—For the purposes of this clause, “working partner” means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;]

⁴³[(*ba*) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as “member in a representative capacity” and “person so represented”, respectively),—

(i) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(ii) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.]

(c) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Earlier, it was amended by the Finance Act, 1963, w.e.f. 1-4-1963, Finance Act, 1964, w.e.f. 1-4-1964, Finance Act, 1965, w.e.f. 1-4-1965, Finance Act, 1968, w.e.f. 1-4-1969, Finance (No. 2) Act, 1971, w.e.f. 1-4-1972, Finance Act, 1984, w.e.f. 1-4-1985 and Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1988.]

(d) [Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.]

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Section – 40A: ⁴⁴[Expenses or payments not deductible in certain circumstances.

⁴⁵**40A.** (1) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head “Profits and gains of business or profession” .

⁴⁶(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person⁴⁷ referred to in clause (b) of this sub-section, and the ⁴⁸[Assessing] Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair

market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction :

⁴⁹[**Provided** that no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F.]

(b) The persons referred to in clause (a) are the following, namely :—

(i) where the assessee is an individual	any relative of the assessee;
(ii) where the assessee 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 assessee, 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 assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member ⁵⁰[or any other company carrying on business or profession in which the first mentioned company has substantial interest];

(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 assessee; 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 assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or

(B) where the assessee 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.

Explanation.—For the purposes of this sub-section, 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.

⁵¹[⁵²(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a

bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.⁵³

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, in such cases and under such circumstances as may be prescribed⁵⁴, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors :]

⁵⁵[**Provided further** that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words "twenty thousand rupees", the words "thirty-five thousand rupees" had been substituted.]

⁵⁶[(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by ⁵⁷[an account payee cheque drawn on a bank or account payee bank draft] in order that such expenditure may not be disallowed as a deduction under sub-section (3), then the payment may be made by such cheque or draft; and where the payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner.]

(5) ⁵⁸[*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-section (5) was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.*]

(6) ⁵⁹[*Omitted by the Direct Tax Laws (Amendment) Act, 1987, w.e.f. 1-4-1989. Original sub-section (6) was inserted by the Finance (No. 2) Act, 1971, w.e.f. 1-4-1972.*]

⁶⁰[⁶¹(7) (a) Subject to the provisions of clause (b), no deduction shall be allowed in respect of any provision⁶² (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.

(b) Nothing in clause (a) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year⁶³.

Explanation.—For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid.]

(8) ⁶⁴[* * *]

⁶⁵[(9) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860), or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (iv) ⁶⁶[or clause (iva)] or clause (v) of sub-section (1) of section 36, or as required by or under any other law for the time being in force.

(10) Notwithstanding anything contained in sub-section (9), where the ⁶⁷[Assessing] Officer is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has, before the 1st day of March, 1984, *bona fide* laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (9) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.]

⁶⁸[(11) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (9), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled—

(i) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount) be repaid to him, and where any claim is so made, the unutilised amount shall be repaid, as soon as may be, to him;

(ii) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him.]

(12) ⁶⁹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 41: Profits chargeable to tax.

1. ⁷⁰[⁷¹(1) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—

(a) the first-mentioned person has obtained⁷², whether in cash or in any other manner whatsoever, any amount in respect of such⁷² loss or expenditure⁷² or some benefit in respect of such trading liability⁷² by way of remission or cessation thereof⁷², the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or



(b) the successor in business has obtained⁷², whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (a) by way of remission or cessation thereof⁷², the amount obtained⁷² by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

⁷³[*Explanation 1.*—For the purposes of this sub-section, the expression “loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof” shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause (a) or the successor in business under clause (b) of that sub-section by way of writing off such liability in his accounts.]

⁷⁴[*Explanation 2.*—For the purposes of this sub-section, “successor in business” means,—

(i) where there has been an amalgamation of a company with another company, the amalgamated company;

(ii) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;

(iii) where a firm carrying on a business or profession is succeeded by another firm, the other firm;]

⁷⁵[(iv) where there has been a demerger, the resulting company.]

⁷⁶[(2) Where any building, machinery, plant or furniture,—

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and

(c) which was or has been used for the purposes of business,

is sold⁷⁷, discarded, demolished or destroyed⁷⁷ and the moneys payable⁷⁷ in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due⁷⁷.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.]

(2A) ⁷⁸[***]

(3) Where an asset representing expenditure of a capital nature on scientific research within the meaning of clause (iv) of sub-section (1), ⁷⁹[or clause (c) of sub-section (2B),] of section 35, read with clause (4) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (i)



⁸⁰[or, as the case may be, the amount of the deduction under clause (ia)] of sub-section (2),
⁸¹[or clause (c) of sub-section (2B),] of section 35 exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

Explanation.—Where the moneys payable in respect of any asset referred to in this sub-section become due in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

⁸²(4) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (vii) of sub-section (1) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

⁸³[*Explanation.*—For the purposes of sub-section (3),—

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) “sold” includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.]

⁸⁴[(4A) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (viii) of sub-section (1) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.]

(5) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (1), ⁸⁵[***] sub-section (3) ⁸⁶[, sub-section (4) or sub-section (4A)] in respect of that business or profession, any loss, not being a loss sustained in speculation business ⁸⁷[***], which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income



of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid.

⁸⁸[(6) References in sub-section (3) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.]

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Section – 42: Special provision for deductions in the case of business for prospecting, etc., for mineral oil.

2. ⁸⁹[(1)] For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the association or participation ⁹⁰[of the Central Government or any person authorised by it in such business] (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

(a) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee ;

(b) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32 :

⁹¹[***]

⁹²[**Provided** that in relation to any agreement entered into after the 31st day of March, 1981, this clause shall have effect subject to the modification that the words and figures “except assets on which allowance for depreciation is admissible under section 32” had been omitted; and]

(c) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement;

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement.

⁹³[(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in



respect of the previous year in which such business or interest, as the case may be, is transferred;

(b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred :

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

⁹⁴**Provided** that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section—

(i) shall not apply in the case of the amalgamating or the demerged company; and

(ii) shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the latter had not transferred the business or interest in the business.]]

⁹⁵*Explanation.*—For the purposes of this section, “mineral oil” includes petroleum and natural gas.]

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Section – 43: Definitions of certain terms relevant to income from profits and gains of business or profession.

3. In sections 28 to 41 and in this section, unless the context otherwise requires⁹⁶—

⁹⁷(1) “actual cost” means the actual cost⁹⁶ of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met⁹⁶ directly or indirectly by any other person or authority:

⁹⁸**Provided** that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967, ⁹⁹[but before the 1st day of March, 1975,] and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees.]

Explanation 1.—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under ¹[clause (ii) of sub-section (1)] of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (iv) of sub-section (1) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (11 of 1922).

²[*Explanation 2.*—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

(a) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets.]

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the ³[Assessing] Officer is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the ³[Assessing] Officer may, with the previous approval of the ⁴[Joint Commissioner], determine having regard to all the circumstances of the case.

⁵[*Explanation 4.*—Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

(i) the actual cost to him when he first acquired the asset as reduced by—

(a) the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or

(ii) the actual price for which the asset is re-acquired by him,

whichever is less.]

⁶[*Explanation 4A.*—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in *Explanation 3*, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as



the written down value of the said assets at the time of transfer thereof by the second mentioned person.]

Explanation 5.—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee.

⁷[*Explanation 6.*—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee-company shall be taken to be the same as it would have been if the transferor-company had continued to hold the capital asset for the purposes of its business.]

⁸[*Explanation 7.*—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalga-mated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalga-mated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.]

⁹[*Explanation 7A.*—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business :

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.]

¹⁰[*Explanation 8.*—For the removal of doubts, it is hereby declared that where any amount is paid or is payable as interest in connection with the acquisition of an asset, so much of such amount as is relatable to any period after such asset is first put to use shall not be included, and shall be deemed never to have been included, in the actual cost of such asset.]

¹¹[*Explanation 9.*—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.]

¹²[*Explanation 10.*—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee :

Provided that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.]



¹³[*Explanation 11.*—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.]

¹⁴[*Explanation 12.*—Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatisation;]

¹⁵[*Explanation 13.*—The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as “nil,—

(a) in the case of such assessee; and

(b) in any other case if the capital asset is acquired or received,—

(i) by way of gift or will or an irrevocable trust;

(ii) on any distribution on liquidation of the company; and

(iii) by such mode of transfer as is referred to in clauses (i), (iv), (v), (vi), (vib), ¹⁶[(xiii), (xiiib) and (xiv)] of section 47;]

(2) “paid” means actually paid¹⁷ or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head “Profits and gains of business or profession” ;

¹⁸(3) “plant” ¹⁹ includes ships, vehicles, books¹⁹, scientific apparatus and surgical equipment used for the purposes of the business or profession ²⁰[but does not include tea bushes or livestock] ²¹[or buildings or furniture and fittings];

(4) ²²[(i) “scientific research” ¹⁹ means any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries;]

(ii) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research;

(iii) references to scientific research related to a business or class of business include—

(a) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class;

(b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class;

²³(5) ²⁴“speculative transaction” ²⁵ means a transaction in which a contract²⁵ for the purchase or sale of any commodity²⁵, including stocks and shares²⁵, is periodically or ultimately²⁵ settled²⁵ otherwise than by the actual delivery²⁵ or transfer of the commodity or scrips:



Provided that for the purposes of this clause—

(a) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

(b) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

(c) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; ²⁶[or]

²⁶[(d) an eligible transaction in respect of trading in derivatives^{26a} referred to in clause ²⁷[(ac)] of section 2²⁸ of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; ²⁹[or]]

²⁹[(e) an eligible transaction in respect of trading in commodity derivatives^{26a} carried out in a recognised association ^{29a}], which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),]]

shall not be deemed to be a speculative transaction.

³⁰[³¹[Explanation 1].—For the purposes of ³²[clause (d)], the expressions—

(i) “eligible transaction” means any transaction,—

(A) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(B) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (A) and permanent account number allotted under this Act;

(ii) “recognised stock exchange” means a recognised stock exchange as referred to in clause (f) of section 2³³ of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified³⁴ by the Central Government for this purpose;]

³⁵[Explanation 2.—For the purposes of clause (e), the expressions—

(i) “commodity derivative” shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

(ii) “eligible transaction” means any transaction,—

(A) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws, rules and regulations of the recognised association for trading in



commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and the rules, regulations or bye-laws made or directions issued under that Act on a recognised association; and

(B) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (A), unique trade number and permanent account number allotted under this Act;

(iii) "recognised association" means a recognised association as referred to in clause (j) of section 2³⁶ of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and which fulfils such conditions as may be prescribed^{36a} and is notified^{36b} by the Central Government for this purpose;]

³⁷(6) "written down value" means—

(a) in the case of assets acquired in the previous year, the actual cost to the assessee;

(b) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed³⁸ to him under this Act, or under the Indian Income-tax Act, 1922 (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force:

³⁹[**Provided** that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (ii) of sub-section (1) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (a), (b) and (c) of clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (vi);]

⁴⁰[(c) in the case of any block of assets,—

(i) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,—

(A) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(B) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

⁴¹[(C) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—

(a) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(b) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets,



so, however, that the amount of such decrease does not exceed the written down value;]

(ii) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by the increase or the reduction referred to in item (i).]

Explanation 1.—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (2) of section 170 the written down value of ⁴²[any asset or any block of assets] shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

⁴³[*Explanation 2.*—Where in any previous year, any block of assets is transferred,—

(a) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied; or

(b) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the transferee-company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor-company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.]

⁴⁴[*Explanation 2A.*—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the ⁴⁵[written down value of the assets] trans-ferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (1), the written down value of the block of assets in the case of the resulting company shall be the ⁴⁶[written down value of the transferred assets ⁴⁷[&*&*&]] of the demerged company immediately before the demerger.

⁴⁸[*Explanation 2C.*—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (xiib) of section 47 are satisfied, then, notwithstanding anything contained in clause (1), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.]

⁴⁹[***]]

Explanation 3.—Any allowance in respect of any depreciation carried forward under sub-section (2) of section 32 shall be deemed to be depreciation “actually allowed” .

⁵⁰[*Explanation 4.*—For the purposes of this clause, the expressions “moneys payable” and “sold” shall have the same meanings as in the *Explanation* below sub-section (4) of section 41.]



⁵¹[*Explanation 5.*—Where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer.]

⁵²[*Explanation 6.*—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.]

⁵³[*Explanation 7.*—For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.]

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Section – 43A: ⁵⁴[Special provisions consequential to changes in rate of exchange of currency.

43A. Notwithstanding anything contained in any other provision of this Act, where an assessee has acquired any asset in any previous year from a country outside India for the purposes of his business or profession and, in consequence of a change in the rate of exchange during any previous year after the acquisition of such asset, there is an increase or reduction in the liability of the assessee as expressed in Indian currency (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment—

(a) towards the whole or a part of the cost of the asset; or

(b) towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest, if any,

the amount by which the liability as aforesaid is so increased or reduced during such previous year and which is taken into account at the time of making the payment, irrespective of the method of accounting adopted by the assessee, shall be added to, or, as the case may be, deducted from—



(i) the actual cost of the asset as defined in clause (1) of section 43; or

(ii) the amount of expenditure of a capital nature referred to in clause (iv) of sub-section (1) of section 35; or

(iii) the amount of expenditure of a capital nature referred to in section 35A; or

(iv) the amount of expenditure of a capital nature referred to in clause (ix) of sub-section (1) of section 36; or

(v) the cost of acquisition of a capital asset (not being a capital asset referred to in section 50) for the purposes of section 48,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset as aforesaid:

Provided that where an addition to or deduction from the actual cost or expenditure or cost of acquisition has been made under this section, as it stood immediately before its substitution by the Finance Act, 2002, on account of an increase or reduction in the liability as aforesaid, the amount to be added to, or, as the case may be, deducted under this section from, the actual cost or expenditure or cost of acquisition at the time of making the payment shall be so adjusted that the total amount added to, or, as the case may be, deducted from, the actual cost or expenditure or cost of acquisition, is equal to the increase or reduction in the aforesaid liability taken into account at the time of making payment.

Explanation 1.—In this section, unless the context otherwise requires,—

(a) “rate of exchange” means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(b) ⁵⁵“foreign currency” and “Indian currency” have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Explanation 2.—Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

Explanation 3.—Where the assessee has entered into a contract with an authorised dealer⁵⁶ as defined in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein.]

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Section – 43B: ⁵⁷[Certain deductions to be only on actual payment^{57a}.



⁵⁸**43B.** ⁵⁹Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

⁶⁰[(a) any sum payable by the assessee by way of tax⁶¹, duty, cess or fee, by whatever name called, under any law for the time being in force, or]

(b) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees,
⁶²[or]

⁶²[(c) any sum referred to in clause (ii) of sub-section (1) of section 36,] ⁶³[or]

⁶³[(d) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution ⁶⁴[or a State financial corporation or a State industrial investment corporation], in accordance with the terms and conditions of the agreement governing such loan or borrowing ⁶⁵[, or]

⁶⁵[(e) any sum payable by the assessee as interest on any ⁶⁶[loan or advances] from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan ⁶⁷[or advances],] ⁶⁸[or]

⁶⁸[(f) any sum payable by the assessee as an employer in lieu of any leave at the credit of his employee,]

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him :

⁶⁹**Provided** that nothing contained in this section shall apply in relation to any sum ⁷⁰[***] which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return⁷¹.

⁷²[***]]

Explanation ⁷³[1].—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (a) or clause (b) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

⁷⁴[*Explanation 2.*—For the purposes of clause (a), as in force at all material times, “any sum payable” means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.]

⁷⁵⁷⁶[*Explanation 3.*—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (c) ⁷⁷[or clause (d)] of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the



assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

⁷⁸[*Explanation 3A.*—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (e) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

⁷⁹[*Explanation 3B.*—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (f) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

⁸⁰[*Explanation 3C.*—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (d) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing shall not be deemed to have been actually paid.]

⁸¹[*Explanation 3D.*—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (e) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance shall not be deemed to have been actually paid.]

⁸²[*Explanation 4.*—For the purposes of this section,—

(a) “public financial institutions” shall have the meaning assigned to it in section 4A⁸³ of the Companies Act, 1956 (1 of 1956);

⁸⁴[(aa) “scheduled bank” shall have the meaning assigned to it in the *Explanation* to clause (iii) of sub-section (5) of section 11;]

(b) “State financial corporation” means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(c) “State industrial investment corporation” means a Government company⁸⁵ within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and ⁸⁶[eligible for deduction under clause (viii) of sub-section (1) of section 36].]

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Section – 43C: ⁸⁷[Special provision for computation of cost of acquisition of certain assets.

43C. (1) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold

after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer by the amalgamating company.

(2) Where an asset [not being an asset referred to in sub-section (2) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be.]

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Section – 43CA: ⁸⁸[Special provision for full value of consideration for transfer of assets other than capital assets in certain cases.

43CA. (1) *Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer.*

(2) *The provisions of sub-section (2) and sub-section (3) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (1).*

(3) *Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (1) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.*

(4) *The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received by any mode other than cash on or before the date of agreement for transfer of the asset.]*

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Section – 43D: ⁸⁹[Special provision in case of income of public financial institutions, public companies, etc.

43D. Notwithstanding anything to the contrary contained in any other provision of this Act,—

(a) in the case of a public financial institution or a scheduled bank or a State financial corporation or a State industrial investment corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed⁹⁰ having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(b) in the case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed⁹¹ having regard to the guidelines issued by the National Housing Bank in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or the State financial corporation or the State industrial investment corporation or the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Explanation.—For the purposes of this section,—

(a) “National Housing Bank” means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987);

(b) “public company” means a company,—

(i) which is a public company within the meaning of section 3⁹² of the Companies Act, 1956 (1 of 1956);

(ii) whose main object is carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; and

(iii) which is registered in accordance with the Housing Finance Companies (NHB) Directions, 1989 given under section 30 and section 31 of the National Housing Bank Act, 1987 (53 of 1987);

(c) “public financial institution” shall have the meaning assigned to it in section 4A⁹³ of the Companies Act, 1956 (1 of 1956);

(d) “scheduled bank” shall have the meaning assigned to it in clause (ii) of the *Explanation* to clause (viii) of sub-section (1) of section 36;

(e) “State financial corporation” means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(f) “State industrial investment corporation” means a Government company within the meaning of section 617⁹⁴ of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects.]

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Section – 44: Insurance business.



4. ⁹⁵ Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in sections 28 to ⁹⁶[43B], the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.

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Section – 44A: ⁹⁷[Special provision for deduction in the case of trade, professional or similar association.

⁹⁸**44A.** (1) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or ⁹⁹similar association ¹[(other than an association or institution referred to in clause (23A) of section 10)] from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head "Profits and gains of business or profession" and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.

(2) In computing the income of the association for the relevant assessment year under sub-section (1), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year.

(3) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section.

(4) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it.]

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Section – 44AA: ²[Maintenance of accounts by certain persons carrying on profession or business.

³**44AA.** (1) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified⁴ by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the ⁵[Assessing] Officer to compute his total income in accordance with the provisions of this Act.



(2) Every person carrying on business or profession [not being a profession referred to in sub-section (1)] shall,—

(i) if his income from business or profession exceeds ⁶[one lakh twenty] thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds ⁷[ten lakh] rupees in any one of the three years immediately preceding the previous year; or

(ii) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed ⁸[one lakh twenty] thousand rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed ⁹[ten lakh] rupees, ¹⁰[during such previous year; or

(iii) where the profits and gains from the business are deemed to be the profits and gains of the assessee under ¹¹[section 44AE] ¹²[or section 44BB or section 44BBB], as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such ¹³[previous year; or]]

¹⁴[(iv) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax during such previous year,]

keep and maintain such books of account and other documents as may enable the ¹⁵[Assessing] Officer to compute his total income in accordance with the provisions of this Act.

(3) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe¹⁶, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (1) or sub-section (2), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.

(4) Without prejudice to the provisions of sub-section (3), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (1) or sub-section (2) shall be retained.]

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Section – 44AB: ¹⁷[Audit of accounts of certain persons carrying on business or profession.

¹⁸**44AB.** ¹⁹Every person,—

(a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds ²⁰[one crore rupees] in any previous year ²¹[***]; or

(b) carrying on profession shall, if his gross receipts in profession exceed ²²[twenty-five lakh rupees] in any ²³[previous year; or

(c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under ²⁴[section 44AE] ²⁵[or section 44BB or section 44BBB], as the case may be, and he has claimed his income to be lower than the profits or



gains so deemed to be the profits and gains of his business, as the case may be, in any ²⁶[previous year; or]] ²⁷[***]

²⁸[(d) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,]

get his accounts of such previous year ²⁹[***] audited by an accountant before the specified date and ³⁰[furnish by] that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed :

³¹[**Provided** that this section shall not apply to the person, who derives income of the nature referred to in ³²[***] section 44B or ³³[section 44BBA], on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later :

Provided further that] in a case where such person is required by or under any other law to get his accounts audited ³⁴[***], it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and ³⁵[furnishes by] that date the report of the audit as required under such other law and a further report ³⁶[by an accountant] in the form prescribed under this section.

Explanation.—For the purposes of this section,—

(i) “accountant” shall have the same meaning as in the *Explanation* below sub-section (2) of section 288;

³⁷[(ii) “specified date”, in relation to the accounts of the assessee of the previous year relevant to an assessment year, means ³⁸[the due date for furnishing the return of income under sub-section (1) of section 139].]

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Section – 44AC: Special provision for computing profits and gains from the business of trading in certain goods.

44AC. ³⁹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 44AD: ⁴⁰⁴¹Special provision for computing profits and gains of business on presumptive basis.

44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the



eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" .

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

Provided that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

⁴²[(6) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;

(ii) a person earning income in the nature of commission or brokerage; or

(iii) a person carrying on any agency business.]

Explanation.—For the purposes of this section,—

(a) "eligible assessee" means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a ⁴³limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and

(ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C. – Deductions in respect of certain incomes" in the relevant assessment year;

(b) "eligible business" means,—

(i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(ii) whose total turnover or gross receipts in the previous year does not exceed an amount of ⁴⁴[one crore rupees].]

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Section – 44AE: ⁴⁵[Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

44AE. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee, who owns not more than ten goods carriages ⁴⁶[at any time during the previous year] and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed⁴⁷ to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (2).

⁴⁸[(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

(i) being a heavy goods vehicle, shall be an amount equal to five thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

(ii) other than a heavy goods vehicle, shall be an amount equal to four thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher.]

The following sub-section (2) shall be substituted for the existing sub-section (2) of section 44AE by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(2) For the purpose of sub-section (1), the profits and gains from each goods carriage shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from the vehicle, whichever is higher.

(3) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

⁴⁹[**Provided** that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.]

(4) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(5) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

⁵⁰[(6) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in



sub-sections (1) and (2), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (3) of section 143.]

⁵¹[(7) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-sections (1) and (2), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]

Explanation.—For the purposes of this section,—

(a) the expressions “goods carriage” ⁵² and “heavy goods vehicle” ⁵² shall have the meanings respectively assigned to them in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

The following clause (a) shall be substituted for the existing clause (a) in Explanation to section 44AE by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(a) the expression “goods carriage” shall have the meaning assigned to it in section 2 of the Motor Vehicles Act, 1988 (59 of 1988);

(b) an assessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.]

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Section – 44AF: ⁵³[Special provisions for computing profits and gains of retail business.

44AF. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession” :

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of forty lakh rupees in the previous year.

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed :

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset used for the purpose of the business referred to in sub-section (1) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (1) and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.]

⁵⁴[(5) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]

⁵⁵[(6) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011.]

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Section – 44B: ⁵⁶[Special provision for computing profits and gains of shipping business in the case of non-residents.

⁵⁷**44B.** (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of ships, a sum equal to seven and a half per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession” .

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(i) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and

(ii) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.]

⁵⁸[*Explanation.*—For the purposes of this sub-section, the amount referred to in clause (i) or clause (ii) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature.]

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Section – 44BB: ⁵⁹[Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils.

44BB. (1) Notwithstanding anything to the contrary contained in sections 28 to 41 and sections 43 and 43A, in the case of an assessee ⁶⁰[, being a non-resident,] engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils, a sum equal to ten per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be



the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" :

Provided that this sub-section shall not apply in a case where the provisions of section 42 or section 44D or ⁶¹[section 44DA or] section 115A or section 293A apply for the purposes of computing profits or gains or any other income referred to in those sections.

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.

⁶²[(3) Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.]

Explanation.—For the purposes of this section,—

(i) "plant" includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purposes of the said business;

(ii) "mineral oil" includes petroleum and natural gas.]

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Section – 44BBA: ⁶³[Special provision for computing profits and gains of the business of operation of aircraft in the case of non-residents.

44BBA. (1) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to five per cent of the aggregate of the amounts specified in sub-section (2) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession" .

(2) The amounts referred to in sub-section (1) shall be the following, namely :—

(a) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and

(b) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.]



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Section – 44BBB: ⁶⁴[Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects.

⁶⁵**44BBB.** ⁶⁶[(1)] Notwithstanding anything to the contrary contained in sections 28 to 44AA, in the case of an assessee, being a foreign company, engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf ⁶⁷[***], a sum equal to ten per cent of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of such civil construction, erection, testing or commissioning shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession” .]

⁶⁸[(2)] Notwithstanding anything contained in sub-section (1), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.]

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Section – 44C: ⁶⁹[Deduction of head office expenditure in the case of non-residents.⁷⁰

⁷¹**44C.** Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, no allowance shall be made, in computing the income chargeable under the head “Profits and gains of business or profession”, in respect of so much of the expenditure in the nature of head office expenditure as is in excess of the amount computed as hereunder, namely:—

(a) an amount equal to five per cent of the adjusted total income; or

(b) ⁷²[***]

(c) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India⁷³,

whichever is the least :

Provided that in a case where the adjusted total income of the assessee is a loss, the amount under clause (a) shall be computed at the rate of five per cent of the average adjusted total income of the assessee.

Explanation.—For the purposes of this section,—

(i) “adjusted total income” means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (2)



of section 32 or the deduction referred to in section 32A or section 33 or section 33A or the first proviso to clause (ix) of sub-section (1) of section 36 or any loss carried forward under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) ⁷⁴[or sub-section (3)] of section 74 or sub-section (3) of section 74A or the deductions under Chapter VI-A;

(ii) "average adjusted total income" means,—

(a) in a case where the total income of the assessee is assessable for each of the three assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid three assessment years;

(b) in a case where the total income of the assessee is assessable only for two of the aforesaid three assessment years, one-half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;

(c) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;

(iii) ⁷⁵[***]

(iv) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(a) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;

(b) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(c) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(d) such other matters connected with executive and general administration as may be prescribed.]

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Section – 44D: ⁷⁶[Special provisions for computing income by way of royalties, etc., in the case of foreign companies.

44D. Notwithstanding anything to the contrary contained in sections 28 to 44C, in the case of an assessee, being a foreign company,—

(a) the deductions admissible under the said sections in computing the income by way of royalty or fees for technical services received ⁷⁷[from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern] before the 1st day of April, 1976, shall not exceed in the aggregate twenty per cent of the gross amount of such royalty or fees as reduced by so much of the gross amount of such royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification



relating to any patent, invention, model, design, secret formula or process or trade mark or similar property;

(b) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing the income by way of royalty or fees for technical services received ⁷⁷[from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern] after the 31st day of March, 1976 ⁷⁸[but before the 1st day of April, 2003];

(c) ⁷⁹[***]

(d) ⁸⁰[***]

Explanation.—For the purposes of this section,—

(a) “fees for technical services” shall have the same meaning as in ⁸¹[*Explanation 2*] to clause (vii) of sub-section (1) of section 9;

(b) “foreign company” shall have the same meaning as in section 80B;

(c) “royalty” shall have the same meaning as in ⁸²[*Explanation 2*] to clause (vi) of sub-section (1) of section 9;

(d) royalty received ⁸³[from Government or an Indian concern in pursuance of an agreement made by a foreign company with Government or with the Indian concern] after the 31st day of March, 1976, shall be deemed to have been received in pursuance of an agreement made before the 1st day of April, 1976, if such agreement is deemed, for the purposes of the proviso to clause (vi) of sub-section (1) of section 9, to have been made before the 1st day of April, 1976.]

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Section – 44DA: ⁸⁴[Special provision for computing income by way of royalties, etc., in case of non-residents.

44DA. (1) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head “Profits and gains of business or profession” in accordance with the provisions of this Act :

Provided that no deduction shall be allowed,—

(i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices :



⁸⁵[**Provided further** that the provisions of section 44BB shall not apply in respect of the income referred to in this section.]

(2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit in the prescribed form⁸⁶ duly signed and verified by such accountant.

Explanation.—For the purposes of this section,—

(a) “fees for technical services” shall have the same meaning as in *Explanation 2* to clause (vii) of sub-section (1) of section 9;

(b) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;

(c) “permanent establishment” shall have the same meaning as in clause (iiia) of section 92F.]

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Section – 44DB: ⁸⁷[Special provision for computing deductions in the case of business reorganization of co-operative banks.

44DB. (1) The deduction under section 32, section 35D, section 35DD or section 35DDA shall, in a case where business reorganisation of a co-operative bank has taken place during the financial year, be allowed in accordance with the provisions of this section.

(2) The amount of deduction allowable to the predecessor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula —

	A □	B	
		C	

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(3) The amount of deduction allowable to the successor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula —

	A □	B	
		C	

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank on account of business reorganisation, apply to the successor co-operative bank in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(5) For the purposes of this section,—

(a) “amalgamated co-operative bank” means—

(i) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(ii) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(b) “amalgamating co-operative bank” means—

(i) a co-operative bank which merges with another co-operative bank; or

(ii) every co-operative bank merging to form a new co-operative bank;

(c) “amalgamation” means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that—

(i) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(ii) the members holding seventy-five per cent or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(iii) the shareholders holding seventy-five per cent or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(d) “business reorganisation” means the reorganisation of business involving the amalgamation or demerger of a co-operative bank;

(e) “co-operative bank” shall have the meaning assigned to it in clause (cci) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)⁸⁸;

(f) “demerger” means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—



(i) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(ii) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(iii) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(iv) the shareholders holding seventy-five per cent or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;

(v) the transfer of the undertaking is on a going concern basis; and

(vi) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(g) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(h) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, as the case may be;

(i) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;

(j) "resulting co-operative bank" means—

(i) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(ii) any co-operative bank formed as a result of demerger.]

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Section – 45: Capital gains

Capital gains.

5. ⁸⁹ ⁹⁰[(1)] Any profits or gains arising from the transfer⁹¹ of a capital asset⁹¹ effected⁹¹ in the previous year shall, save as otherwise provided in sections ⁹²[***] ⁹³[54, 54B, ⁹⁴[***] ⁹⁵[⁹⁶[54D, ⁹⁷[54E, ⁹⁸[54EA, 54EB,] 54F ⁹⁹[, 54G and 54H]]]]], be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

¹[(1A) Notwithstanding anything contained in sub-section (1), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—



(i) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(ii) riot or civil disturbance; or

(iii) accidental fire or explosion; or

(iv) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.—For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (9) of section 2² of the Insurance Act, 1938 (4 of 1938).]

³[(2) Notwithstanding anything contained in sub-section (1), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.]

⁴[(2A) ⁵Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (1) of section 10 of the Depositories Act, 1996, and for the purposes of—

(i) section 48; and

(ii) proviso to clause (42A) of section 2,

the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

Explanation.—For the purposes of this sub-section, the expressions "beneficial owner" ⁶, "depository" ⁶ and "security" ⁶ shall have the meanings respectively assigned to them in clauses (a), (e) and (f) of sub-section (1) of section 2 of the Depositories Act, 1996.]

⁷[(3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.



(4) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise⁸, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.]

⁹[(5) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain shall be dealt with in the following manner, namely :—

(a) the capital gain computed with reference to the compensation awarded in the first instance¹⁰ or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as ¹¹[income under the head "Capital gains" of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received]; and

(b) the amount by which the compensation or consideration is enhanced or further enhanced by the court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee;

The following proviso shall be inserted after clause (b) of sub-section (5) of section 45 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided that any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which the final order of such court, Tribunal or other authority is made;

¹²[(c) where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause (a) or, as the case may be, enhanced compensation or consideration referred to in clause (b), and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.]

Explanation.—For the purposes of this sub-section,—

(i) in relation to the amount referred to in clause (b), the cost of acquisition and the cost of improvement shall be taken to be *nil*;

(ii) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;

(iii) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (b) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.]



¹³[(6) Notwithstanding anything contained in sub-section (1), the difference between the repurchase price of the units referred to in sub-section (2) of section 80CCB and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the previous year in which such repurchase takes place or the plan referred to in that section is terminated and shall be taxed accordingly.]

Explanation.—For the purposes of this sub-section, “capital value of such units” means any amount invested by the assessee in the units referred to in sub-section (2) of section 80CCB.]

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Section – 46: Capital gains on distribution of assets by companies in liquidation.

6. ¹⁴ (1) Notwithstanding anything contained in section 45, where the assets of a company are distributed to its shareholders on its liquidation¹⁵, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

(2) Where a shareholder on the liquidation of a company receives any money or other assets¹⁵ from the company, he shall be chargeable to income-tax under the head “Capital gains”, in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.

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Section – 46A: ¹⁶[Capital gains on purchase by company of its own shares or other specified securities.

46A. Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

Explanation.—For the purposes of this section, “specified securities” shall have the meaning assigned to it in *Explanation* to section 77A¹⁷ of the Companies Act, 1956 (1 of 1956).]

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Section – 47: Transactions not regarded as transfer¹⁸.

7. ¹⁹ Nothing contained in section 45 shall apply to the following transfers :—



(i) any distribution of capital assets²⁰ on the total or partial partition of a Hindu undivided family;

(ii) ²¹[***]

(iii) any transfer of a capital asset under a gift²² or will or an irrevocable trust :

²³[**Provided** that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under ²⁴[any Employees— Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf];]

(iv) any transfer of a capital asset by a company to its subsidiary company, if—

(a) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

(b) the subsidiary company is an Indian company;

²⁵[(v) any transfer of a capital asset by a subsidiary company to the holding company, if—

(a) the whole of the share capital of the subsidiary company is held by the holding company, and

(b) the holding company is an Indian company :]

²⁶[**Provided** that nothing contained in clause (iv) or clause (v) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;]

²⁷[(vi) any transfer, in a scheme of amalgamation²⁸, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;]

²⁹[(via) any transfer, in a scheme of amalgamation²⁸, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(a) at least twenty-five per cent of the shareholders of the amalga-mating foreign company continue to remain shareholders of the amalgamated foreign company, and

(b) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;]

³⁰[(viaa) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution.

Explanation.—For the purposes of this clause,—

(i) “banking company” shall have the same meaning assigned to it in clause (c) of section 5³¹ of the Banking Regulation Act, 1949 (10 of 1949);

(ii) “banking institution” shall have the same meaning assigned to it in sub-section (15) of section 45³¹ of the Banking Regulation Act, 1949 (10 of 1949);]



³²[(vib) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(vic) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(a) ³³[the shareholders holding not less than three-fourths in value of the shares] of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated :

Provided that the provisions of sections 391 to 394³⁴ of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

³⁵[(vica) any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank;

(vicb) any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank.

Explanation.—For the purposes of clauses (vica) and (vicb), the expressions “business reorganisation”, “predecessor co-operative bank” and “successor co-operative bank” shall have the meanings respectively assigned to them in section 44DB;]

(vid) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;]

(vii) any transfer by a shareholder, in a scheme of amalgamation³⁶, of a capital asset being a share or shares held by him in the amalgamating company, if—

(a) the transfer is made in consideration of the allotment to him of any share or shares in the ³⁷[amalgamated company except where the shareholder itself is the amalgamated company, and]

(b) the amalgamated company is an Indian company;

³⁸[(viiia) any transfer of a capital asset, being bonds or ³⁹[Global Depository Receipts] referred to in sub-section (1) of section 115AC, made outside India by a non-resident to another non-resident;]

The following clause (viib) and Explanation thereto shall be inserted after clause (viiia) of section 47 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(viib) any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident.

Explanation.—For the purposes of this clause, “Government Security” shall have the meaning assigned to it in clause (b) of section 2^{39a} of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);



⁴⁰[(viii) any transfer of agricultural land in India effected before the 1st day of March, 1970;]

⁴¹[(ix) any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified⁴² by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Explanation.—For the purposes of this clause, “University” means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act;]

⁴³[(x) any transfer by way of conversion of ⁴⁴[bonds or] debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;]

⁴⁵[(xa) any transfer by way of conversion of bonds referred to in clause (a) of sub-section (1) of section 115AC into shares or debentures of any company;]

⁴⁶[(xi) any transfer made on or before the 31st day of December, ⁴⁷[1998] by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.—For the purposes of this clause, the expression “membership of a recognised stock exchange” means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(xii) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18⁴⁸ of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) where such sick industrial company is being managed by its workers— co-operative :

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (1) of section 17⁴⁹ of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, “net worth” shall have the meaning assigned to it in clause (ga) of sub-section (1) of section 3⁴⁹ of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);]

⁵⁰[(xiii) ⁵¹[any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, or any transfer of a capital asset to a company in the course of ⁵²[demutualisation or] corporatisation of a recognised stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company :]

Provided that—

(a) all the assets and liabilities of the firm ⁵³[or of the association of persons or body of individuals] relating to the business immediately before the succession become the assets and liabilities of the company;

(b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the



firm on the date of the succession;

(c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

⁵⁴[(e) the ⁵⁵[demutualisation or] corporatisation of a recognised stock exchange in India is carried out in accordance with a scheme for ⁵⁵[demutualisation or] corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

⁵⁵[(xiiia) any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

⁵⁶[(xiiib) any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008 (6 of 2009)⁵⁷:

Provided that—

(a) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(b) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(c) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;

(d) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;

(e) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; and

(f) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.



Explanation.—For the purposes of this clause, the expressions “private company” and “unlisted public company” shall have the meanings⁵⁸ respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009);]

(xiv) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company :

Provided that—

(a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(xv) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) ⁵⁹[or the Reserve Bank of India constituted under sub-section (1) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934)], in this regard;]

⁶⁰[(xvi) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.]

The following clause (xvii) and Explanation thereto shall be inserted after clause (xvi) of section 47 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

(xvii) *any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.*

Explanation.—For the purposes of this clause, the expression “special purpose vehicle” shall have the meaning assigned to it in the Explanation to clause (23FC) of section 10.

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Section – 47A: ⁶¹[Withdrawal of exemption in certain cases.

47A. ⁶²[(1)] Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47,—

(i) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(ii) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (iv) or, as the case may be, clause (v) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the previous year in which such transfer took place.]

⁶²[(2) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (xi) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (xi) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.]

⁶³[(3) Where any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (xiii) or the proviso to clause (xiv), as the case may be, are not complied with.]

⁶⁴[(4) Where any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.]

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Section – 48: ⁶⁵[Mode of computation.

8. ⁶⁶ The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing⁶⁷ as a result of the transfer of the capital asset the following amounts, namely :—

(i) expenditure incurred wholly and exclusively in connection with such transfer⁶⁸;

(ii) the cost of acquisition of the asset and the cost of any improvement⁶ thereto:

⁶⁹**Provided** that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company :

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (ii) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted:

⁷⁰**[Provided also]** that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset being bond or debenture other than capital indexed bonds issued by the Government :]

⁷¹**[Provided also]** that where shares, debentures or warrants referred to in the proviso to clause (iii) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section :]

⁷²**[Provided also]** that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.]

Explanation.—For the purposes of this section,—

(i) "foreign currency" ⁷³ and "Indian currency" ⁷³ shall have the meanings respectively assigned to them in section 2 of ⁷⁴[the Foreign Exchange Management Act, 1999 (42 of 1999)];

(ii) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(iii) "indexed cost of acquisition" ⁷⁵ means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee⁷⁵ or for the year beginning on the 1st day of April, 1981, whichever is later;

(iv) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

⁷⁶[(v) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the ^{76a}[Consumer Price Index for urban non-manual employees] for the immediately preceding previous year to such previous year, by notification⁷⁷ in the Official Gazette, specify, in this behalf.]]

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Section – 49: Cost with reference to certain modes of acquisition.

9. ⁷⁸ ⁷⁹[(1)] Where the capital asset became the property of the assessee—

(i) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(ii) under a gift or will;



(iii) (a) by succession, inheritance or devolution⁸⁰, or

⁸¹[(b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or]

(c) on any distribution of assets on the liquidation of a company, or

(d) under a transfer to a revocable or an irrevocable trust, or

(e) under any such transfer as is referred to in clause (iv) ⁸²[or clause (v)] ⁸³[or clause (vi)] ⁸⁴[or clause (via)] ⁸⁵[or clause (viaa)] ⁸⁶[or clause (vica) or ⁸⁷[clause (vicb)] or ⁸⁸[clause (xiii) or clause (xiiib) or clause (xiv) of section 47]];

⁸⁹[(iv) such assessee being a Hindu undivided family, by the mode referred to in sub-section (2) of section 64 at any time after the 31st day of December, 1969,]

the cost of acquisition of the asset^{89a} shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

⁹⁰[*Explanation.*—In this ⁹¹[sub-section] the expression “previous owner of the property” in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (i) or clause (ii) or clause (iii) ⁹²[or clause (iv)] of this ⁹³[sub-section].]

⁹⁴[(2) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (vii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.]

⁹⁵[(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.]

⁹⁶[(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.]

⁹⁷[(2AAA) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), became the property of the assessee on conversion as referred to in clause (xiiib) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.]

⁹⁸[(2AB) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (ba) of sub-section (1) of section 115WC.]

The following sub-section (2AC) shall be inserted after sub-section (2AB) of section 49 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :



(2AC) Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (xvii) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.

⁹⁹[(2B) ¹[***]]

(2C) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(2D) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (2C).]

²[(2E) The provisions of sub-section (2), sub-section (2C) and sub-section (2D) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.]

Explanation.—For the purposes of this section, “net worth” shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.]

³[(3) Notwithstanding anything contained in sub-section (1), where the capital gain arising from the transfer of a capital asset referred to in clause (iv) or, as the case may be, clause (v) of section 47 is deemed to be income chargeable under the head “Capital gains” by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.]

⁴[(4) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) ⁵[or clause (viiA)] of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii) ⁵[or clause (viiA)].]

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Section – 50: ⁶[Special provision for computation of capital gains in case of depreciable assets.

1. ⁷ Notwithstanding anything contained in clause (42A) of section 2, where the capital asset is an asset forming part of a block of assets⁸ in respect of which depreciation has been allowed under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), the provisions of sections 48 and 49 shall be subject to the following modifications :—

(1) where the full value of the consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received or accruing as a result of the transfer of any other capital asset falling within the block of the assets during the previous year, exceeds the aggregate of the following amounts, namely :—

(i) expenditure incurred wholly and exclusively in connection with such transfer or transfers;

(ii) the written down value of the block of assets at the beginning of the previous year; and

(iii) the actual cost of any asset falling within the block of assets acquired during the previous year,

such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets;

(2) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets.]

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Section – 50A: ⁹[Special provision for cost of acquisition in case of depreciable asset.

50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (6) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.]

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Section – 50B: ¹⁰[Special provision for computation of capital gains in case of slump sale.

50B. (1) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place :

Provided that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

(2) In relation to capital assets being an undertaking or division transferred by way of such sale, the “net worth” of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sections 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

(3) Every assessee, in the case of slump sale, shall furnish in the prescribed form¹¹ along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (2) of section 288, indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.



¹²[*Explanation 1.*—For the purposes of this section, “net worth” shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account :

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

Explanation 2.—For computing the net worth, the aggregate value of total assets shall be,—

(a) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (c) of item (i) of sub-clause (c) of clause (6) of section 43; ¹³[***]

¹⁴[(b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, nil; and

(c) in the case of other assets, the book value of such assets.]]]

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Section – 50C: ¹⁵[Special provision for full value of consideration in certain cases.

50C. (1) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted or assessed ¹⁶[or assessable] by any authority of a State Government (hereafter in this section referred to as the “stamp valuation authority”) for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed ¹⁶[or assessable] shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(2) Without prejudice to the provisions of sub-section (1), where—

(a) the assessee claims before any Assessing Officer that the value adopted or assessed ¹⁶[or assessable] by the stamp valuation authority under sub-section (1) exceeds the fair market value of the property as on the date of transfer;

(b) the value so adopted or assessed ¹⁶[or assessable] by the stamp valuation authority under sub-section (1) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clause (i) of sub-section (1) and sub-sections (6) and (7) of section 23A, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (1) of section 16A of that Act.

¹⁷[*Explanation 1.*—For the purposes of this section, “Valuation Officer” shall have the same meaning as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).



¹⁸[*Explanation 2.*—For the purposes of this section, the expression “assessable” means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.]

(3) Subject to the provisions contained in sub-section (2), where the value ascertained under sub-section (2) exceeds the value adopted or assessed ¹⁸[or assessable] by the stamp valuation authority referred to in sub-section (1), the value so adopted or assessed ¹⁸[or assessable] by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.]

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Section – 50D: ¹⁹[Fair market value deemed to be full value of consideration in certain cases.

50D. Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.]

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Section – 51: Advance money received.

1. Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money²⁰ received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

The following proviso shall be inserted in section 51 by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided that where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year in accordance with the provisions of clause (ix) of sub-section (2) of section 56, then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.

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Section – 52: Consideration for transfer in cases of understatement.

2. ²¹[Omitted by the Finance Act, 1987, w.e.f. 1-4-1988.]

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Section – 53: Exemption of capital gains from a residential house.

3. ²²[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 54: Profit on sale of property used for residence.

4. ²³ ²⁴[(1)] ²⁵ [²⁶Subject to the provisions of sub-section (2), where, in the case of an assessee²⁷ being an individual or a Hindu undivided family], the capital gain arises from the transfer of a long-term capital asset ²⁸ [***], being buildings or ²⁹ lands appurtenant thereto, and being a residential house²⁹, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of ³⁰ [one year before or two years after the date on which the transfer took place purchased³¹], or has within a period of three years after that date ^{31a} [constructed, a residential house], then], instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain ³² [is greater than the cost of ³³ [the residential house] so purchased or constructed (hereafter in this section referred to as the new asset)], the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

³⁴ [***]

³⁵ [(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme³⁶ which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset



expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

*Explanation.—*³⁷[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 54B: ³⁸[Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.

³⁹**54B.** ⁴⁰[(1)] ⁴¹[Subject to the provisions of sub-section (2), where the capital gain arises] from the transfer of a capital asset being land which, in the two years immediately preceding the date on which the transfer took place, was being used by ⁴²[the assessee being an individual or his parent, or a Hindu undivided family] for agricultural purposes ⁴³[(hereinafter referred to as the original asset)], and the assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be *nil*; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced, by the amount of the capital gain.]

⁴⁴[(2) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme⁴⁵ which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase of the new asset within the period specified in sub-section (1), then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.



Explanation.—⁴⁶[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]]

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Section – 54C: Capital gain on transfer of jewellery held for personal use not to be charged in certain cases.

54C. *[Omitted by the Finance Act, 1976, w.e.f. 1-4-1976. Original section was inserted by the Finance Act, 1972, w.e.f. 1-4-1973.]*

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Section – 54D: ⁴⁷[Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.

⁴⁸**54D.** ⁴⁹[(1)] ⁵⁰[Subject to the provisions of sub-section (2), where the capital gain arises] from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking⁵¹ belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking ⁵²[(hereafter in this section referred to as the original asset)], and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be *nil*; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.]

⁵³[(2) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme⁵⁴ which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the



amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—⁵⁵[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 54E: ⁵⁶[Capital gain on transfer of capital assets not to be charged in certain cases.

⁵⁷**54E.** (1) Where the capital gain arises from the transfer of a ⁵⁸[long-term capital asset] ⁵⁹[before the 1st day of April, 1992], (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, within a period of six months after the date of such transfer, invested or deposited the ⁶⁰[whole or any part of the net consideration] in any specified asset (such specified asset being hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the new asset is not less than the ⁶¹[net consideration] in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the new asset is less than the ⁶¹[net consideration] in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the ⁶²[net consideration] shall not be charged under section 45:

⁶³**Provided** that in a case where the original asset is transferred after the 28th day of February, 1983, the provisions of this sub-section shall not apply unless the assessee has invested or deposited the whole or, as the case may be, any part of the net consideration in the new asset by initially subscribing to such new asset:]

⁶⁴**Provided further** that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee ⁶⁵[or the 31st day of March, 1992, whichever is earlier].]

Explanation 1.—⁶⁶[For the purposes of this sub-section, "specified asset" means,—



(a) in a case where the original asset is transferred before the 1st day of March, 1979, any of the following assets, namely:—]

(i) securities of the Central Government or a State Government;

(ii) ⁶⁷savings certificates as defined in clause (c) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959);

(iii) units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

(iv) debentures specified by the Central Government for the purposes of clause (ii) of sub-section (1) of section 80L;

(v) shares in any Indian company which are issued to the public or are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder, ⁶⁸[where the investment in such shares is made before the 1st day of March, 1978];

⁶⁸[(va) equity shares forming part of any eligible issue of capital, where the investment in such shares is made after the 28th day of February, 1978;]

(vi) deposits for a period of not less than three years with the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any nationalised bank, that is to say, any corresponding new bank, constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

⁶⁹[(b) in a case where the original asset is transferred after the 28th day of February, 1979 ⁷⁰[but before the 1st day of March, 1983], such National Rural Development Bonds as the Central Government may notify⁷¹ in this behalf in the Official Gazette;]

⁷²[(c) in a case where the original asset is transferred after the 28th day of February, 1983 ⁷³[but before the 1st day of April, 1986], any of the following assets, namely :—

(i) securities of the Central Government which that Government may, by notification in the Official Gazette, specify in this behalf;

(ii) special series of units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), which the Central Government may, by notification⁷⁴ in the Official Gazette, specify in this behalf;

(iii) such National Rural Development Bonds as have been notified⁷⁴ under clause (b) of *Explanation 1* or as may be notified in this behalf under this clause by the Central Government;

(iv) such debentures issued by the Housing and Urban Development Corporation Limited [a ⁷⁵Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)], as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

⁷⁶[(d) in a case where the original asset is transferred after the 31st day of March, 1986, any of the assets specified in clause (c) and such bonds issued by any public sector company, as the Central Government may, by notification⁷⁷ in the Official Gazette, specify in this behalf;



⁷⁸[***]]

⁷⁹[(e) in a case where the original asset is transferred after the 31st day of March, 1989, any of the assets specified in clauses (c) and (d) and such debentures or bonds issued by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), as the Central Government may, by notification⁸⁰ in the Official Gazette, specify in this behalf.]

⁸¹[*Explanation 2.*—“Eligible issue of capital” shall have the meaning assigned to it in sub-section (3) of section 80CC⁸².]

⁸¹[*Explanation 3.*—An assessee shall not be deemed to have invested the ⁸³[whole or any part of the net consideration in any equity shares referred to in subclause (va) of clause (a)] of *Explanation 1*, unless the assessee has subscribed to or purchased the shares in the manner specified in sub-section (4) of section 80CC.]

Explanation ⁸⁴[4].—“Cost”, in relation to any new asset, being a deposit referred to in ⁸⁵[sub-clause (vi) of clause (a)] of *Explanation 1*, means the amount of such deposit.

⁸⁶[*Explanation 5.*—“Net consideration”, in relation to 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 as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

⁸⁷[(1A) Where the assessee deposits after the 27th day of April, 1978, the ⁸⁸[whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit referred to in ⁸⁹[sub-clause (vi) of clause (a)] of *Explanation 1* below sub-section (1), the cost of such new asset shall not be taken into account for the purposes of that sub-section unless the following conditions are fulfilled, namely :—

(a) the assessee furnishes, along with the deposit, a declaration in writing, to the bank or the co-operative society referred to in the said ⁸⁹[sub-clause (vi)] with which such deposit is made, to the effect that the assessee will not take any loan or advance on the security of such deposit during a period of three years from the date on which the deposit is made;

(b) the assessee furnishes, along with the return of income for the assessment year relevant to the previous year in which the transfer of the original asset was effected or within such further time as may be allowed by the ⁹⁰[Assessing] Officer, a copy of the declaration referred to in clause (a) duly attested by an officer not below the rank of sub-agent, agent or manager of such bank or an officer of corresponding rank of such co-operative society.]

⁹¹[(1B) Where on the fulfilment of the conditions specified in sub-section (1A), the cost of the new asset referred to in that sub-section is taken into account for the purposes of sub-section (1), the assessee shall, within a period of ninety days from the expiry of the period of three years reckoned from the date of such deposit, furnish to the ⁹²[Assessing] Officer a certificate from the officer referred to in clause (b) of sub-section (1A) to the effect that the assessee has not taken any loan or advance on the security of such deposit during the said period of three years.]

⁹³[(1C) Notwithstanding anything contained in sub-section (1), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assessee had received any amount by way of advance on or before the 29th day of February, 1992 and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then, the provisions of clauses (a) and (b) of sub-section (1) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section.]



(2) Where the new asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to ⁹⁴[long-term capital assets] of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.]

⁹⁵⁹⁶[*Explanation 1*].—Where the assessee deposits after the 27th day of April, 1978, the ⁹⁷[whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit referred to in ⁹⁸[sub-clause (vi) of clause (a)] of *Explanation 1* below sub-section (1), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.]

⁹⁹[*Explanation 2*.—In a case where the original asset is transferred after the 28th day of February, 1983 and the assessee invests the whole or any part of the net consideration in respect of the original asset in any new asset and such assessee takes any loan or advance on the security of such new asset, he shall be deemed to have converted (otherwise than by transfer) such new asset on the date on which such loan or advance is taken.]

¹[***]

²[***]

³[***]

⁴[(3) Where the cost of the equity shares referred to in ⁵[sub-clause (va) of clause (a)] of *Explanation 1* below sub-section (1) is taken into account for the purposes of clause (a) or clause (b) of sub-section (1) ⁶[***], a deduction with reference to such cost shall not be allowed under section 80CC⁷.]

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Section – 54EA: ⁸[Capital gain on transfer of long-term capital assets not to be charged in the case of investment in ⁹[specified securities].

¹⁰**54EA.** (1) Where the capital gain arises from the transfer of a long-term capital asset ¹¹[before the 1st day of April, 2000] (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any of the ¹²[bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (23D) of section 10,] specified¹³ by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the ¹⁴[specified securities]), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the ¹⁴[specified securities] is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the ¹⁴[specified securities] is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same



proportion as the cost of acquisition of the ¹⁴[specified securities] bears to the net consideration shall not be charged under section 45.

(2) Where the ¹⁴[specified securities] are transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such ¹⁴[specified securities] as provided in clause (a) or clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the ¹⁵[specified securities] are transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the net consideration in respect of the original asset in any ¹⁵[specified securities] and such assessee takes any loan or advance on the security of such ¹⁵[specified securities], he shall be deemed to have converted (otherwise than by transfer) such ¹⁵[specified securities] into money on the date on which such loan or advance is taken.

(3) Where the cost of the ¹⁵[specified securities] has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a rebate with reference to such cost shall not be allowed under section 88.

Explanation.—For the purposes of this section,—

(a) "cost", in relation to any ¹⁵[specified securities], means the amount invested in such ¹⁵[specified securities] out of the net consideration received or accruing as a result of the transfer of the original asset ;

(b) "net consideration", in relation to 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 as reduced by the expenditure incurred wholly and exclusively in connection with such transfer.

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Section – 54EB: Capital gain on transfer of long-term capital assets not to be charged in certain cases.

¹⁶**54EB.** (1) Where the capital gain arises from the transfer of a long-term capital asset ¹⁷[before the 1st day of April, 2000] (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, at any time within a period of six months after the date of such transfer invested the whole or any part of capital gains, in any of the assets specified¹⁸ by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the long-term specified assets), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45 ;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

Explanation.—"Cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of seven years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a), or as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.]

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Section – 54EC: ¹⁹[Capital gain not to be charged on investment in certain bonds.



54EC. (1) Where the capital gain arises from the transfer of a long-term capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45 :

²⁰[**Provided** that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees.]

The following second proviso shall be inserted after the existing proviso to sub-section (1) of section 54EC by the Finance (No. 2) Act, 2014, w.e.f. 1-4-2015 :

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

(2) Where the long-term specified asset is transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

²¹[(3) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]

Explanation.—For the purposes of this section,—

(a) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

²²[(b) "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March, 2007,—

(i) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988); or

(ii) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956),^{22a}

and notified²³ by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond) as it thinks fit:]

²⁴[**Provided** that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (b) as they stood immediately before their amendment by the Finance Act, 2007, such bond shall be deemed to be a bond notified under this clause;]

²⁵[(ba) "long-term specified asset" for making any investment under this section on or after the 1st day of April, 2007 means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988) or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956).^{25a}]



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Section – 54ED: ²⁶[Capital gain on transfer of certain listed securities or unit not to be charged in certain cases.

54ED. (1) Where the capital gain arises from the transfer ²⁷[before the 1st day of April, 2006,] of a long-term capital asset, being listed securities or unit (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares being hereafter in this section referred to as the specified equity shares), the said capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the specified equity shares is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the specified equity shares is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the specified equity shares acquired bears to the whole of the capital gain shall not be charged under section 45.

Explanation.—For the purposes of this sub-section,—

(i) “eligible issue of capital” means an issue of equity shares which satisfies the following conditions, namely:—

(a) the issue is made by a public company formed and registered in India;

(b) the shares forming part of the issue are offered for subscription to the public;

(ii) “listed securities” shall have the same meaning as in clause (a) of the *Explanation* to sub-section (1) of section 112;

(iii) “unit” shall have the meaning assigned to it in clause (b) of the *Explanation* to section 115AB.

(2) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be the income chargeable under the head “Capital gains” relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.

²⁸[(3) Where the cost of the specified equity shares has been taken into account for the purposes of clause (a) or clause (b) of sub-section (1),—

(a) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(b) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]]



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Section – 54F: ²⁹[Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.³⁰

54F. (1) ³¹[Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family], the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or ³²[two years] after the date on which the transfer took place purchased, or has within a period of three years after that date ^{32a}[constructed, a residential house] (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45 ;

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

³³[**Provided** that nothing contained in this sub-section shall apply where—

(a) the assessee,—

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property" .]

Explanation.—For the purposes of this section,—

³⁴[***]

³⁵[***] "net consideration", in relation to 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 as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the assessee purchases, within the period of ³⁶[two years] after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a), or, as the case may be, clause (b), of sub-section (1), shall be deemed to



be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

(3) Where the new asset is transferred within a period of three years from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.]

³⁷[(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme³⁸ which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,—

(i) the amount by which—

(a) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1),

exceeds

(b) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires ; and

(ii) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid.

Explanation.—³⁹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]]

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Section – 54G: ⁴⁰[Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.



54G. (1) Subject to the provisions of sub-section (2), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(a) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted ;

(b) acquired building or land or constructed building for the purposes of his business in the said area ;

(c) shifted the original asset and transferred the establishment of such undertaking to such area; and

(d) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year ; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be *nil* ; or

(ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45 ; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section, “urban area” means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area⁴¹ for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme⁴² which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of



the purposes aforesaid together with the amount, so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within the period specified in that sub-section, then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires ; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.—⁴³[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

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Section – 54GA: ⁴⁴[Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

54GA. (1) Notwithstanding anything contained in section 54G, where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of the shifting of such industrial undertaking to any Special Economic Zone, whether developed in any urban area or any other area and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(a) purchased machinery or plant for the purposes of business of the industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;

(b) acquired building or land or constructed building for the purposes of his business in the Special Economic Zone;

(c) shifted the original asset and transferred the establishment of such undertaking to the Special Economic Zone; and

(d) incurred expenses on such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall, subject to the provisions of sub-section (2), be dealt with in accordance with the following provisions of this section, that is to say,—

(i) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be Nil; or



(ii) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section,—

(a) “Special Economic Zone” shall have the meaning assigned to it in clause (za) of *[section 2 of] the Special Economic Zones Act, 2005⁴⁵;

(b) “urban area” means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(2) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme⁴⁶ which the Central Government may, by notification, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the aforesaid purposes together with the amount so deposited shall be deemed to be the cost of the new asset :

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within the period specified in that sub-section, then,—

(i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.]

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Section – 54GB: ⁴⁷[Capital gain on transfer of residential property not to be charged in certain cases

54GB. (1) Where,—

(i) the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee); and

(ii) the assessee, before the due date of furnishing of return of income under sub-section (1) of section 139, utilises the net consideration for subscription in the equity shares of an eligible



company (herein-referred to as the company); and

(iii) the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset,

then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer takes place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year; or

(b) if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.

(2) The amount of the net consideration, which has been received by the company for issue of shares to the assessee, to the extent it is not utilised by the company for the purchase of the new asset before the due date of furnishing of the return of income by the assessee under section 139, shall be deposited by the company, before the said due date in an account in any such bank or institution as may be specified and shall be utilised in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

(3) For the purposes of sub-section (1), the amount, if any, already utilised by the company for the purchase of the new asset together with the amount deposited under sub-section (2) shall be deemed to be the cost of the new asset:

Provided that if the amount so deposited is not utilised, wholly or partly, for the purchase of the new asset within the period specified in sub-section (1), then,—

(i) the amount by which—

(a) the amount of capital gain arising from the transfer of the residential property not charged under section 45 on the basis of the cost of the new asset as provided in sub-section (1),

exceeds—

(b) the amount that would not have been so charged had the amount actually utilised for the purchase of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the assessee for the previous year in which the period of one year from the date of the subscription in equity shares by the assessee expires; and

(ii) the company shall be entitled to withdraw such amount in accordance with the scheme.

(4) If the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (1) shall be deemed to be the income of the assessee chargeable under the head "Capital gains" of the previous year in which such equity shares or such new



asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.

(5) The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.

(6) For the purposes of this section,—

(a) “eligible assessee” means an individual or a Hindu undivided family;

(b) “eligible company” means a company which fulfils the following conditions, namely:—

(i) it is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (1) of section 139 by the assessee;

(ii) it is engaged in the business of manufacture of an article or a thing;

(iii) it is a company in which the assessee has more than fifty per cent share capital or more than fifty per cent voting rights after the subscription in shares by the assessee; and

(iv) it is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006);

(c) “net consideration” shall have the meaning assigned to it in the Explanation to section 54F;

(d) “new asset” means new plant and machinery but does not include—

(i) any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;

(ii) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle; or

(v) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.]

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Section – 54H: ⁴⁸[Extension of time for acquiring new asset or depositing or investing amount of capital gain.

54H. Notwithstanding anything contained in sections 54, 54B, 54D ⁴⁹[***] ⁵⁰[, 54EC] and 54F, where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period for acquiring the new asset by the assessee referred to in those sections or, as the case may be, the period available to the assessee under those sections for



depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation :

Provided that where the compensation in respect of transfer of the original asset by way of compulsory acquisition under any law is received before the 1st day of April, 1991, the aforesaid period or periods, if expired, shall extend up to the 31st day of December, 1991.]

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Section – 55: Meaning of “adjusted”, “cost of improvement” and “cost of acquisition” .

5. ⁵¹ (1) For the purposes of ⁵²[sections 48 and 49],—

(a) ⁵³[***]

⁵⁴[(b) “cost of any improvement”,—

(1) in relation to a capital asset being goodwill of a business ⁵⁵[or a right to manufacture, produce or process any article or thing] ⁵⁶[or right to carry on any business] shall be taken to be *nil* ; and

(2) in relation to any other capital asset,—]

(i) where the capital asset became the property of the previous owner or the assessee before the ⁵⁷[1st day of April, ⁵⁸[1981]], ⁵⁹[***] means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(ii) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in ⁶⁰[sub-section (1) of] section 49, by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head “Interest on securities”, “Income from house property”, “Profits and gains of business or profession”, or “Income from other sources”, and the expression “improvement” shall be construed accordingly.

⁶¹(2) ⁶²[For the purposes of sections 48 and 49, “cost of acquisition” ⁶³,—

⁶⁴[(a) in relation to a capital asset, being goodwill of a business ⁶⁵[or a trade mark or brand name associated with a business] ⁶⁶[or a right to manufacture, produce or process any article or thing] ⁶⁷[or right to carry on any business], tenancy rights, stage carriage permits or loom hours,—

(i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price ; and

(ii) in any other case [not being a case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49], shall be taken to be *nil* ;



(aa) ⁶⁸[in a case where, by virtue of holding a capital asset, being a share or any other security⁶⁹, within the meaning of clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee —

(A) becomes entitled to subscribe to any additional financial asset ; or

(B) is allotted any additional financial asset without any payment,

then, subject to the provisions of sub-clauses (i) and (ii) of clause (b)],—

(i) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset ;

(ii) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be *nil* in the case of such assessee ;

(iii) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset ;

⁷⁰[(iia) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil* in the case of such assessee ;] and

(iv) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset ;]

⁷¹[(ab) in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for ⁷²[demutualisation or] corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall be the cost of acquisition of his original membership of the exchange:]

⁷³[**Provided** that the cost of a capital asset, being trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil* ;]

(b) in relation to any other capital asset,—]

(i) where the capital asset became the property of the assessee⁷⁴ before the ⁷⁵[1st day of April, ⁷⁶[1981]], means the cost of acquisition of the asset to the assessee or the fair⁷⁷ market value of the asset on the ⁷⁸[1st day of April, ⁷⁹[1981]], at the option of the assessee ;

(ii) where the capital asset became the property of the assessee⁸⁰ by any of the modes specified in ⁸¹[sub-section (1) of] section 49, and the capital asset became the property of the previous owner before the ⁸²[1st day of April, ⁸³[1981]], means the cost of the capital asset to the previous owner or the fair⁸⁴ market value of the asset on the ⁸²[1st day of April, ⁸³[1981]], at the option of the assessee ;

(iii) where the capital asset became the property of the assessee⁸⁰ on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax



under the head "Capital gains" in respect of that asset under section 46, means the fair⁸⁴ market value of the asset on the date of distribution ;

(iv) ⁸⁵[***]

⁸⁶[(v) where the capital asset, being a share or a stock of a company, became the property of the assessee on—

(a) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares,

(b) the conversion of any shares of the company into stock,

(c) the re-conversion of any stock of the company into shares,

(d) the sub-division of any of the shares of the company into shares of smaller amount, or

(e) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.]

(3) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

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Section – 55A: ⁸⁷[Reference to Valuation Officer.

⁸⁸**55A.** With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter⁸⁹, the ⁹⁰[Assessing] Officer may refer the valuation of capital asset to a Valuation Officer—

(a) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the ⁹⁰[Assessing] Officer is of opinion that the value so claimed ⁹¹[is at variance with its fair market value];

(b) in any other case, if the ⁹⁰[Assessing] Officer is of opinion—

(i) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage⁹² of the value of the asset as so claimed or by more than such amount⁹² as may be prescribed in this behalf ; or

(ii) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

⁹³and where any such reference is made, the provisions of sub-sections (2), (3), (4), (5) and (6) of section 16A, clauses (ha) and (i) of sub-section (1) and sub-sections (3A) and (4) of section 23, sub-section (5) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the ⁹⁴[Assessing] Officer under sub-section (1) of section 16A of that Act.

Explanation.—In this section, “Valuation Officer” has the same meaning, as in clause (r) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

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Section – 56: Income from other sources

Income from other sources.

6. ⁹⁵ (1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head “Income from other sources”, if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head “Income from other sources”, namely :—

(i) dividends ;

⁹⁶[(ia) income referred to in sub-clause (viii) of clause (24) of section 2 ;]

⁹⁷[(ib) income referred to in sub-clause (ix) of clause (24) of section 2 ;]

⁹⁸[(ic) income referred to in sub-clause (x) of clause (24) of section 2, if such income is not chargeable to income-tax under the head “Profits and gains of business or profession” ;]

⁹⁹[(id) income by way of interest on securities, if the income is not chargeable to income-tax under the head “Profits and gains of business or profession” ;]

(ii) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head “Profits and gains of business or profession” ;

(iii) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head “Profits and gains of business or profession” ;

¹[(iv) income referred to in sub-clause (xi) of clause (24) of section 2, if such income is not chargeable to income-tax under the head “Profits and gains of business or profession” or under the head “Salaries” ;]

²[(v) where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004 ³[but before the 1st day of April, 2006], the whole of such sum :

Provided that this clause shall not apply to any sum of money received—

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or



(d) in contemplation of death of the payer; or

⁴[(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(g) from any trust or institution registered under section 12AA.]

Explanation.—For the purposes of this clause, “relative” means—

(i) spouse of the individual;

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) brother or sister of either of the parents of the individual;

(v) any lineal ascendant or descendant of the individual;

(vi) any lineal ascendant or descendant of the spouse of the individual;

(vii) spouse of the person referred to in clauses (ii) to (vi);]

⁵[(vi) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006 ⁶[but before the 1st day of October, 2009], the whole of the aggregate value of such sum:



Provided that this clause shall not apply to any sum of money received—

(a) from any relative; or

(b) on the occasion of the marriage of the individual^{6a}; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer; or

(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause, “relative” means—

(ii) brother or sister of the individual;

(iii) brother or sister of the spouse of the individual;

(iv) brother or sister of either of the parents of the individual;

(v) any lineal ascendant or descendant of the individual;

(vi) any lineal ascendant or descendant of the spouse of the individual;

(vii) spouse of the person referred to in clauses (ii) to (vi);]

⁷[(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

⁸[(b) any immovable property,—

(i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of this sub-clause:

Provided further that the said proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property;]



(c) any property, other than immovable property,—

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under those sections :

Provided further that this clause shall not apply to any sum of money or any property received —

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or

(d) in contemplation of death of the payer or donor, as the case may be; or

(e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or

(f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or

(g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause,—

(a) “assessable” shall have the meaning assigned to it in the *Explanation 2* to sub-section (2) of section 50C;

(b) “fair market value” of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed⁹;

(c) “jewellery” shall have the meaning assigned to it in the *Explanation* to sub-clause (ii) of clause (14) of section 2;

(d) “property” ¹⁰[means the following capital asset of the assessee, namely:—]

(i) immovable property being land or building or both;

(ii) shares and securities;

(iii) jewellery;

(iv) archaeological collections;

(v) drawings;

(vi) paintings;

(vii) sculptures; ¹¹[***]

(viii) any work of art; ¹²[or]

¹²[(ix) bullion;]

¹³[(e) “relative” means,—

(i) in case of an individual—

(A) spouse of the individual;

(B) brother or sister of the individual;

(C) brother or sister of the spouse of the individual;

(D) brother or sister of either of the parents of the individual;

(E) any lineal ascendant or descendant of the individual;

(F) any lineal ascendant or descendant of the spouse of the individual;

(G) spouse of the person referred to in items (B) to (F); and



(ii) in case of a Hindu undivided family, any member thereof;]

(f) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;]

¹⁴[(viiia) where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010, any property, being shares of a company not being a company in which the public are substantially interested,—

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (via) or clause (vic) or clause (vicb) or clause (vid) or clause (vii) of section 47.

Explanation.—For the purposes of this clause, "fair market value" of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the *Explanation* to clause (vii);]

¹⁵[(viiib) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Provided that this clause shall not apply where the consideration for issue of shares is received —

(i) by a venture capital undertaking from a venture capital company or a venture capital fund; or

(ii) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Explanation.—For the purposes of this clause,—

(a) the fair market value of the shares shall be the value—

(i) as may be determined in accordance with such method as may be prescribed¹⁶; or

(ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,

whichever is higher;

(b) "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (a), clause (b) and clause (c) of



¹⁷[Explanation] to clause (23FB) of section 10;]

¹⁸[(viii) income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A.]

The following clause (ix) shall be inserted after clause (viii) of sub-section (2) of section 56 by the Finance (No. 2) Act, 2014 w.e.f. 1-4-2015 :

(ix) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if,—

(a) such sum is forfeited; and

(b) the negotiations do not result in transfer of such capital asset.

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Section – 57: Deductions.

7. ¹⁹ The income chargeable under the head “Income from other sources” shall be computed after making the following deductions, namely :—

(i) in the case of dividends, ²⁰[other than dividends referred to in section 115-O,] ²¹[or interest on securities], any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend ²²[or interest] on behalf of the assessee ;

²³[(ia) in the case of income of the nature referred to in sub-clause (x) of clause (24) of section 2 which is chargeable to income-tax under the head “Income from other sources”, deductions, so far as may be, in accordance with the provisions of clause (va) of sub-section (1) of section 36 ;]

(ii) in the case of income of the nature referred to in clauses (ii) and (iii) of sub-section (2) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (ii) of clause (a) and clause (c) of section 30, section 31 and ²⁴[sub-sections (1) ²⁵[***] and (2)] of section 32 and subject to the provisions of ²⁶[section 38] ;

²⁷[(iia) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or ²⁸[fifteen] thousand rupees, whichever is less.

Explanation.—For the purposes of this clause, “family pension” means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death ;]

(iii) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purpose²⁹ of making or earning such income;

³⁰[(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section.]

³¹[***]



Explanation.—[Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.]

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Section – 58: Amounts not deductible.

8. ³² ³³[(1)] Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely :—

(a) in the case of any assessee,—

(i) any personal expenses of the assessee ;

³⁴[(ia) any expenditure of the nature referred to in sub-section (12)³⁵ of section 40A ;]

(ii) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B ³⁶[***] ;

(iii) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B ;

(iv) ³⁷[***]

(b) ³⁸[***]

³⁹[(1A) The provisions of sub-clause (iia) of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession" .]

⁴⁰[(2) The provisions of section 40A shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession" .]

⁴¹[(3) In the case of an assessee, being a foreign company, the provisions of section 44D shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession" .]

⁴²[(4) In the case of an assessee having income chargeable under the head "Income from other sources", no deduction in respect of any expenditure or allowance in connection with such income shall be allowed under any provision of this Act in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature, whatsoever :

Provided that nothing contained in this sub-section shall apply in computing the income of an assessee, being the owner of horses maintained by him for running in horse races, from the activity of owning and maintaining such horses.

Explanation.—For the purposes of this sub-section, "horse race" means a horse race upon which wagering or betting may be lawfully made.]



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Section – 59: Profits chargeable to tax.

9. (1) The provisions of sub-section (1) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession" .

(2) ⁴³[***]

(3) ⁴⁴[***]

⁴⁵[***]

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CHAPTER V – INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

Section – 60: Transfer of income where there is no transfer of assets.

1. ⁴⁶ All income arising to any person by virtue of a transfer⁴⁷ whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income.



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Section – 61: Revocable transfer of assets.

1. All income arising to any person by virtue of a revocable transfer⁴⁸ of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

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Section – 62: Transfer irrevocable for a specified period.

2. ⁴⁹ (1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee ; or

(ii) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years :

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

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Section – 62: Transfer irrevocable for a specified period.

2. ⁴⁹ (1) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(i) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee ; or

(ii) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years :

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(2) Notwithstanding anything contained in sub-section (1), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.



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Section – 64: Income of individual to include income of spouse, minor child, etc.

4. ⁵² ⁵³ ⁵⁴ [(1)] In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

(i) ⁵⁵ [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(ii) to the spouse⁵⁶ of such individual⁵⁶ by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest :

⁵⁷ [Provided that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse⁵⁶ possesses technical or professional qualifications⁵⁶ and the income is solely attributable to the application of his or her technical or professional knowledge and experience ;]

(iii) ⁵⁸ [Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(iv) subject to the provisions of clause (i) of section 27, ⁵⁹ [* * *] to the spouse⁶⁰ of such individual from assets transferred⁶⁰ directly or indirectly to the spouse by such individual otherwise than for adequate consideration⁶⁰ or in connection with an agreement to live apart ;

(v) ⁶¹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

(vi) to the son's wife, ⁶²[* * *] of such individual, from assets transferred⁶⁰ directly or indirectly on or after the 1st day of June, 1973, to the son's wife ⁶²[* * *] by such individual otherwise than for adequate consideration⁶⁰; ⁶³[* * *]

(vii) to any person⁶⁴ or association of persons from assets transferred⁶⁴ directly or indirectly otherwise than for adequate consideration⁶⁴ to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit⁶⁴ of his or her spouse ⁶⁵[* * *]; and]

⁶⁶[(viii) to any person⁶⁷ or association of persons from assets transferred⁶⁷ directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration⁶⁷, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit⁶⁷ of his son's wife ⁶⁸[* * *].]

⁶⁹[*Explanation 1.*—For the purposes of clause (ii), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater ; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary⁷⁰ so to do.]

Explanation 2.—For the purposes of clause (ii), an individual shall be deemed to have a substantial interest in a concern—

(i) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives ;

(ii) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

Explanation 2A.—⁷¹[Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.]

⁷²[*Explanation 3.*—For the purposes of clauses (iv) and (vi), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this *Explanation* referred to as "the transferee") are invested by the transferee,—

(i) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day ;

(ii) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,



shall be included in the total income of the individual in that previous year.]

⁷³[(1A) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child ⁷⁴[, not being a minor child suffering from any disability of the nature specified in section 80U] :

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

(a) manual work done by him; or

(b) activity involving application of his skill, talent or specialised know-ledge and experience.

Explanation.—For the purposes of this sub-section, the income of the minor child shall be included,—

(a) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater ; or

(b) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.]

⁷⁵[(2) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it ⁷⁶[into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property)], then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

(a) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;

(b) the income derived from the converted property or any part thereof⁷⁷ ⁷⁸[* * *] shall be deemed to arise to the individual and not to the family ;

⁷⁹[(c) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse ⁸⁰[* * *] on partition shall be deemed to arise to the spouse ⁸⁰[* * *] from assets transferred indirectly by the individual to the spouse ⁸⁰[* * *] and the provisions of sub-section (1) shall, so far as may be, apply accordingly :]

Provided that the income referred to in clause (b) or clause (c) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse ⁸¹[* * *] of the individual.

Explanation ⁸²[1].—For the purposes of sub-section (2),—



⁸³[* * *] "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

⁸⁴[* * *]]

⁸⁵[*Explanation 2.*—For the purposes of this section, "income" includes loss.]

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Section – 65: Liability of person in respect of income included in the income of another person.

5. Where, by reason of the provisions contained in this Chapter or in clause (i) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the ⁸⁶[Assessing] Officer in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly :

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

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CHAPTER VI – AGGREGATION OF INCOME AND SET OFF OR CARRY FORWARD OF LOSS

Section – 66: Total income.

6. In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII ⁸⁷[* * *].

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Section – 67: Method of computing a partner's share in the income of the firm.

7. ⁸⁸[*Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.*]

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Section – 67A: ⁸⁹[Method of computing a member's share in income of association of persons or body of individuals.

67A. (1) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely :—

(a) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body ;

(b) where the amount apportioned to a member under clause (a) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body ;

(c) where the amount apportioned to a member under clause (a) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(2) The share of a member in the income or loss of the association or body, as computed under sub-section (1), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(3) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (2) of section 43.]

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Section – 68: Cash credits.

8. ⁹⁰ ⁹¹Where any sum is found credited in the books⁹² of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the ⁹³[Assessing] Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year :

⁹⁴[**Provided** that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—



(a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.]

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Section – 69: Unexplained investments.

9. ⁹⁵ Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the ⁹⁶[Assessing] Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

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Section – 69A: ⁹⁷[Unexplained money, etc.

⁹⁸**69A.** Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income⁹⁹, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the ¹[Assessing] Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income⁹⁹ of the assessee for such financial year.]

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Section – 69B: ²[Amount of investments, etc., not fully disclosed in books of account.

⁹⁸**69B.** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the ³[Assessing] Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the ³[Assessing] Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.]

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Section – 69C: ⁴[Unexplained expenditure, etc.

⁵**69C.** Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the ⁶[Assessing] Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :]

⁷[**Provided** that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.]

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Section – 69D: ⁸[Amount borrowed or repaid on hundi.

⁹**69D.** Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be :

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.]

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Section – 70: ¹⁰[Set off of loss from one source against income from another source under the same head of income.

1. (1) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income, other than "Capital gains", is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

(2) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(3) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at



under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.]

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Section – 71: ¹¹[Set off of loss from one head against income from another.

1. ¹² (1) Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to¹³ have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(2) Where in respect of any assessment year, the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head "Capital gains" (whether relating to short-term capital assets or any other capital assets).

¹⁴[(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.]

(3) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.]

¹⁵[(4) Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections (1) and (2) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.]

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Section – 71A: ¹⁶[Transitional provisions for set off of loss under the head "Income from house property" .

71A. Where in respect of the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994, the net result of the computation under the head "Income from house property" is a loss, such loss in so far as it relates to interest on borrowed capital referred to in clause (vi) of sub-section (1) of section 24 and to the extent it has not been set off shall be carried forward and set off in the assessment year commencing on the 1st day of April, 1995, and the balance, if any, in the assessment year commencing on the 1st day of April, 1996, against the income under any head.]



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Section – 71B: ¹⁷[Carry forward and set off of loss from house property.

71B. Where for any assessment year the net result of computation under the head “Income from house property” is a loss to the assessee and such loss cannot be or is not wholly set off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(i) be set off against the income from house property assessable for that assessment year; and

(ii) the loss, if any, which has not been set off wholly, the amount of loss not so set off,

shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.]

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Section – 72: Carry forward and set off of business losses.

2. ¹⁸ ¹⁹[(1) Where for any assessment year, the net result of the computation under the head “Profits and gains of business or profession” is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, ²⁰[* * *] where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year ;

²¹[* * *]

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on :]

²²[**Provided** that where the whole or any part of such loss is sustained in any such business as is referred to in section 33B which is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—

(a) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee,



be carried forward to the following assessment year and so on for seven assessment years immediately succeeding.]

(2) Where any allowance or part thereof is, under sub-section (2) of section 32 or sub-section (4) of section 35, to be carried forward, effect shall first be given to the provisions of this section.

(3) No loss ²³[(other than the loss referred to in the proviso to sub-section (1) of this section)] shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

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Section – 72A: ²⁴[Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.²⁵

72A. ²⁶[(1) Where there has been an amalgamation of—

(a) a company owning an industrial undertaking or a ship or a hotel with another company; or

(b) a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)²⁷ with a specified bank; or

(c) one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business,

then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.]

²⁸[(2) Notwithstanding anything contained in sub-section (1), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless—

(a) the amalgamating company—

(i) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(ii) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;



(ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed²⁹ to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.]

(3) In a case where any of the conditions laid down in sub-section (2) are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the amalgamated company shall be deemed to be the income of the amalgamated company chargeable to tax for the year in which such conditions are not complied with.

(4) Notwithstanding anything contained in any other provisions of this Act, in the case of a demerger, the accumulated loss and the allowance for unabsorbed depreciation of the demerged company shall—

(a) where such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting company, be allowed to be carried forward and set off in the hands of the resulting company;

(b) where such loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting company, be apportioned between the demerged company and the resulting company in the same proportion in which the assets of the undertakings have been retained by the demerged company and transferred to the resulting company, and be allowed to be carried forward and set off in the hands of the demerged company or the resulting company, as the case may be.

(5) The Central Government may, for the purposes of this Act, by notification in the Official Gazette, specify such conditions as it considers necessary to ensure that the demerger is for genuine business purposes.

(6) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the purpose of previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

³⁰[(6A) Where there has been reorganisation of business whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (xiiib) of section 47, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor company, shall be deemed to be the loss or allowance for depreciation of the successor limited liability partnership for the purpose of the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly :

Provided that if any of the conditions laid down in the proviso to clause (xiiib) of section 47 are not complied with, the set off of loss or allowance of depreciation made in any previous year in the hands of the successor limited liability partnership, shall be deemed to be the income of the limited liability partnership chargeable to tax in the year in which such conditions are not complied with.]

(7) For the purposes of this section,—

³¹[(a) “accumulated loss” means so much of the loss of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business or conversion or amalgamation or demerger had not taken place;]

³²[(aa) “industrial undertaking” means any undertaking which is engaged in—

(i) the manufacture or processing of goods; or

(ii) the manufacture of computer software; or

(iii) the business of generation or distribution of electricity or any other form of power; or

³³[(iia) the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services; or]

(iv) mining; or

(v) the construction of ships, aircrafts or rail systems;]

³⁴[(b) “unabsorbed depreciation” means so much of the allowance for depreciation of the predecessor firm or the proprietary concern or the private company or unlisted public company before conversion into limited liability partnership or the amalgamating company or the demerged company, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern or the company or amalgamating company or demerged company, as the case may be, under the provisions of this Act, if the reorganisation of business or conversion or amalgamation or demerger had not taken place;]]

³⁵[(c) “specified bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955) or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]

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Section – 72AA: ³⁶[Provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation allowance in scheme of



amalgamation of banking company in certain cases.

72AA. Notwithstanding anything contained in sub-clauses (i) to (iii) of clause (1B) of section 2 or section 72A, where there has been an amalgamation of a banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949 (10 of 1949)³⁷, the accumulated loss and the unabsorbed depreciation of such banking company shall be deemed to be the loss or, as the case may be, allowance for depreciation of such banking institution for the previous year in which the scheme of amalgamation was brought into force and other provisions of this Act relating to set-off and carry forward of loss and allowance for depreciation shall apply accordingly.

Explanation.—For the purposes of this section,—

(i) “accumulated loss” means so much of the loss of the amalgamating banking company under the head “Profits and gains of business or profession” (not being a loss sustained in a speculation business) which such amalgamating banking company, would have been entitled to carry forward and set-off under the provisions of section 72 if the amalgamation had not taken place;

(ii) “banking company” shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949)³⁷;

(iii) “banking institution” shall have the same meaning assigned to it in sub-section (15) of section 45 of the Banking Regulation Act, 1949 (10 of 1949)³⁷;

(iv) “unabsorbed depreciation” means so much of the allowance for depreciation of the amalgamating banking company which remains to be allowed and which would have been allowed to such banking company if amalgamation had not taken place.]



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Section – 72AB: ³⁸[Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in business reorganisation of co-operative banks.

72AB. (1) The assessee, being a successor co-operative bank, shall, in a case where the amalgamation has taken place during the previous year, be allowed to set off the accumulated loss and the unabsorbed depreciation, if any, of the predecessor co-operative bank as if the amalgamation had not taken place, and all the other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

(2) The provisions of this section shall apply if—

(a) the predecessor co-operative bank—

(i) has been engaged in the business of banking for three or more years; and

(ii) has held at least three-fourths of the book value of fixed assets as on the date of the business reorganisation, continuously for two years prior to the date of business reorganisation;

(b) the successor co-operative bank—

(i) holds at least three-fourths of the book value of fixed assets of the predecessor co-operative bank acquired through business reorganisation, continuously for a minimum period of five years immediately succeeding the date of business reorganisation;

(ii) continues the business of the predecessor co-operative bank for a minimum period of five years from the date of business reorganisation; and

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the predecessor co-operative bank or to ensure that the business reorganisation is for genuine business purpose.

(3) The amount of set-off of the accumulated loss and unabsorbed depreciation, if any, allowable to the assessee being a resulting co-operative bank shall be,—

(i) the accumulated loss or unabsorbed depreciation of the demerged co-operative bank if the whole of the amount of such loss or unabsorbed depreciation is directly relatable to the undertakings transferred to the resulting co-operative bank; or

(ii) the amount which bears the same proportion to the accumulated loss or unabsorbed depreciation of the demerged co-operative bank as the assets of the undertaking transferred to the resulting co-operative bank bears to the assets of the demerged co-operative bank if such accumulated loss or unabsorbed depreciation is not directly relatable to the undertakings transferred to the resulting co-operative bank.

(4) The Central Government may, for the purposes of this section, by notification in the Official Gazette, specify such other conditions as it considers necessary, other than those prescribed under sub-clause (iii) of clause (b) of sub-section (2), to ensure that the business reorganisation is for genuine business purposes.

(5) The period commencing from the beginning of the previous year and ending on the date immediately preceding the date of business reorganisation, and the period commencing from the date of such business reorganisation and ending with the previous year shall be deemed to be two different previous years for the purposes of set off and carry forward of loss and allowance for depreciation.

(6) In a case where the conditions specified in sub-section (2) or notified under sub-section (4) are not complied with, the set off of accumulated loss or unabsorbed depreciation allowed in any previous year to the successor co-operative bank shall be deemed to be the income of the successor co-operative bank chargeable to tax for the year in which the conditions are not complied with.

(7) For the purposes of this section,—

(a) "accumulated loss" means so much of loss of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating co-operative bank or the demerged co-operative bank, would have been entitled to carry forward and set-off under the provisions of section 72 as if the business reorganisation had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the amalgamating co-operative bank or the demerged co-operative bank, as the case may be, which remains to be allowed and which would have been allowed to such bank as if the business reorganisation had not taken place;



(c) the expressions "amalgamated co-operative bank", "amalgamating co-operative bank", "amalgamation", "business reorganisation", "co-operative bank", "demerged co-operative bank", "demerger", "predecessor co-operative bank", "successor co-operative bank" and "resulting co-operative bank" shall have the meanings respectively assigned to them in section 44DB.]

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Section – 73: Losses in speculation business.

3. ³⁹ (1) Any loss, computed in respect of a speculation business carried on⁴⁰ by the assessee, shall not be set off except against profits and gains, if any, of another speculation business.

(2) Where for any⁴⁰ assessment year any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee had no income from any other speculation business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(i) it shall be set off against the profits and gains, if any, of any speculation business carried on by him assessable for that assessment year; and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.

(3) In respect of allowance on account of depreciation or capital expenditure on scientific research, the provisions of sub-section (2) of section 72 shall apply in relation to speculation business as they apply in relation to any other business.

(4) No loss shall be carried forward under this section for more than ⁴¹[four] assessment years immediately succeeding the assessment year for which the loss was first computed.

⁴²[*Explanation.*—Where any part of the business of a company (⁴³[other than a company whose gross total income consists mainly of income which is chargeable under the heads "Interest on securities", "Income from house property", "Capital gains" and "Income from other sources"], or a company ^{43a}[*the principal business of which is the business of banking*] or the granting of loans and advances) consists in the purchase and sale of shares of other companies, such company shall, for the purposes of this section, be deemed to be carrying on a speculation business⁴⁴ to the extent to which the business consists of the purchase and sale of such shares.]

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Section – 73A: ⁴⁵[Carry forward and set off of losses by specified business.

73A. (1) Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

(2) Where for any assessment year any loss computed in respect of the specified business referred to in sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—



(i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

(ii) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.]

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Section – 74: ⁴⁶[Losses under the head “Capital gains” .

4. ⁴⁷[(1) Where in respect of any assessment year, the net result of the computation under the head “Capital gains” is a loss to the assessee, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(a) in so far as such loss relates to a short-term capital asset, it shall be set off against income, if any, under the head “Capital gains” assessable for that assessment year in respect of any other capital asset;

(b) in so far as such loss relates to a long-term capital asset, it shall be set off against income, if any, under the head “Capital gains” assessable for that assessment year in respect of any other capital asset not being a short-term capital asset;

(c) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on.]

(2) No loss shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

(3) ⁴⁸[Omitted by the Finance Act, 2002, w.e.f. 1-4-2003.]]

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Section – 74A: ⁴⁹[Losses from certain specified sources falling under the head “Income from other sources”.

74A. (1) ⁵⁰[* * *]

(2) ⁵¹[* * *]

⁵²[(3) ⁵³[* * *] In the case of an assessee, being the owner of horses maintained by him for running in horse races (such horses being hereafter in this sub-section referred to as race horses), ⁵⁴[the amount of loss incurred by the assessee in the activity of owning and maintaining race horses in any assessment year shall not be set off against income, if any, from any source other than the activity of owning and maintaining race horses in that year and] shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(a) it shall be set off against the income, if any, ⁵⁵[from the activity of own-ing and maintaining race horses] assessable for that assessment year :



Provided that the activity of owning and maintaining race horses is carried on by him in the previous year relevant for that assessment year ; and

(b) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on; so, however, that no portion of the loss shall be carried forward for more than four assessment years immediately succeeding the assessment year for which the loss was first computed.

Explanation.—For the purposes of this sub-section—

(a) “amount of loss incurred by the assessee in the activity of owning and maintaining race horses” means—

(i) in a case where the assessee has no income by way of stake money, the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by him wholly and exclusively for the purposes of maintaining race horses;

(ii) in a case where the assessee has income by way of stake money, the amount by which such income falls short of the amount of expenditure (not being in the nature of capital expenditure) laid out or expended by the assessee wholly and exclusively for the purposes of maintaining race horses;

(b) “horse race” means a horse race upon which wagering or betting may be lawfully made;

(c) “income by way of stake money” means the gross amount of prize money received on a race horse or race horses by the owner thereof on account of the horse or horses or any one or more of the horses winning or being placed second or in any lower position in horse races.]

[1] <http://www.incometaxindia.gov.in/Pages/acts/income-tax-act.aspx>

Section – 75: ⁵⁶[Losses of firms.

5. Where the assessee is a firm, any loss in relation to the assessment year commencing on or before the 1st day of April, 1992, which could not be set off against any other income of the firm and which had been apportioned to a partner of the firm but could not be set off by such partner prior to the assessment year commencing on the 1st day of April, 1993, then, such loss shall be allowed to be set off against the income of the firm subject to the condition that the partner continues in the said firm and to be carried forward for set off under sections 70, 71, 72, 73, 74 and 74A.]

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Section – 76: 76. Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

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Section – 77: 77. Omitted by the Finance Act, 1992, w.e.f. 1-4-1993.

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Section – 78: Carry forward and set off of losses in case of change in constitution of firm or on succession.

8. ⁵⁷ ⁵⁸[(1) Where a change has occurred in the constitution of a firm, nothing in this Chapter shall entitle the firm to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner as exceeds his share of profits, if any, in the firm in respect of the previous year.]

(2) Where any person carrying on any business or profession has been succeeded in such capacity by another person otherwise than by inheritance, nothing in this Chapter shall entitle any person other than the person incurring the loss to have it carried forward and set off against his income.

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Section – 79: Carry forward and set off of losses in the case of certain companies.

9. Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss⁵⁹ incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless—

(a) on the last day of the previous year the shares of the company carry-ing not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred ⁶⁰[* * *] :

⁶¹[**Provided** that nothing contained in this section shall apply to a case where a change in the said voting power takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift :]

⁶²[**Provided further** that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.]

(b) ⁶³[*Omitted by the Finance Act, 1988, w.e.f. 1-4-1989.*]

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Section – 80: Submission of return for losses.

1. Notwithstanding anything contained in this Chapter, no loss which has not been determined in pursuance of a return filed ⁶⁴[in accordance with the provisions of sub-section (3) of section 139], shall be carried forward and set off under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) ⁶⁵[or sub-section (3)] of section 74 ⁶⁶[or sub-section (3) of section 74A].



⁶⁷[CHAPTER VIA: DEDUCTIONS TO BE MADE IN COMPUTING TOTAL INCOME

Section – 80A: Deductions to be made in computing total income.

A.—General

80A. (1) In computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of this Chapter, the deductions specified in sections 80C to ⁶⁸[80U].

(2) The aggregate amount of the deductions⁶⁹ under this Chapter shall not, in any case, exceed the gross total income of the assessee.

⁷⁰[(3) Where, in computing the total income of an association of persons or a body of individuals, any deduction is admissible under section 80G or section 80GGA ⁷¹[or section 80GGC] or section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA ⁷²[or section 80-IB] ⁷³[or section 80-IC] ⁷⁴[or section 80-ID or section 80-IE] or section 80J⁷⁵ or section 80JJ⁷⁶, no deduction under the same section shall be made in computing the total income of a member of the association of persons or body of individuals in relation to the share of such member in the income of the association of persons or body of individuals.]

⁷⁷[(4) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "C—Deductions in respect of certain incomes", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder.]

⁷⁸[(6) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "C—Deductions in respect of certain incomes", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

Explanation.—For the purposes of this sub-section, the expression "market value",—

(i) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;



(ii) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any;]

⁷⁹[(iii) in relation to any goods or services sold, supplied or acquired means the arm's length price as defined in clause (ii) of section 92F of such goods or services, if it is a specified domestic transaction referred to in section 92BA.]

⁸⁰[(7) Where a deduction under any provision of this Chapter under the heading "C.—Deductions in respect of certain incomes" is claimed and allowed in respect of profits of any of the specified business referred to in clause (c) of sub-section (8) of section 35AD for any assessment year, no deduction shall be allowed under the provisions of section 35AD in relation to such specified business for the same or any other assessment year.]

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Section – 80AA: Computation of deduction under section 80M.

80AA. ⁸¹[*Omitted by the Finance Act, 1997, w.e.f. 1-4-1998.*]

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Section – 80AB: ⁸²[Deductions to be made with reference to the income included in the gross total income.

⁸³**80AB.** Where any deduction is required to be made or allowed under any section ⁸⁴[* * *] included in this Chapter under the heading "C.—*Deductions in respect of certain incomes*" in respect of any income of the nature specified in that section which is included in the gross total income of the assessee, then, notwithstanding anything contained in that section, for the purpose of computing the deduction under that section, the amount of income of that nature as computed in accordance with the provisions of this Act (before making any deduction under this Chapter) shall alone be deemed to be the amount of income of that nature which is derived or received by the assessee and which is included in his gross total income.]

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Section – 80AC: ⁸⁵[Deduction not to be allowed unless return furnished.

80AC. Where in computing the total income of an assessee of the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or any subsequent assessment



year, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC ⁸⁶[or section 80-ID or section 80-IE], no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.]

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Section – 80B: ⁸⁷[Definitions.

80B. In this Chapter—

(1) ⁸⁸[* * *]

(2) ⁸⁹[* * *]

(3) ⁹⁰[* * *]

(4) ⁹¹[* * *]

(5) “gross total income” means the total income computed in accordance with the provisions of this Act, before making any deduction under this Chapter ⁹²[* * *] ⁹³[* * *];

(6) ⁹⁴[* * *]

(7) ⁹⁵[* * *]

(8) ⁹⁶[* * *]

(9) ⁹⁷[* * *].]

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Section – 80C: ⁹⁸[Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.

B.—Deductions in respect of certain payments

⁹⁹**80C.** ¹(1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the whole of the amount paid or deposited in the previous year, being the aggregate of the sums referred to in sub-section (2), as does not exceed ^{1a}[one lakh rupees].

(2) The sums referred to in sub-section (1) shall be any sums paid or deposited in the previous year by the assessee—



(i) to effect or to keep in force an insurance on the life of persons specified in sub-section (4);

(ii) to effect or to keep in force a contract for a deferred annuity, not being an annuity plan referred to in clause (xii), on the life of persons specified in sub-section (4):

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;

(iii) by way of deduction from the salary payable by or on behalf of the Government to any individual being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his spouse or children, in so far as the sum so deducted does not exceed one-fifth of the salary;

(iv) as a contribution by an individual to any provident fund to which the Provident Funds Act, 1925 (19 of 1925) applies;

(v) as a contribution to any provident fund set up by the Central Government and notified² by it in this behalf in the Official Gazette, where such contribution is to an account standing in the name of any person specified in sub-section (4);

(vi) as a contribution by an employee to a recognised provident fund;

(vii) as a contribution by an employee to an approved superannuation fund;

(viii) as subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf;

(ix) as subscription to any such savings certificate as defined in clause (c) of section 2³ of the Government Savings Certificates Act, 1959 (46 of 1959), as the Central Government may, by notification⁴ in the Official Gazette, specify in this behalf;

(x) as a contribution, in the name of any person specified in sub-section (4), for participation in the Unit-linked Insurance Plan, 1971 (hereafter in this section referred to as the Unit-linked Insurance Plan) specified in Schedule II of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(xi) as a contribution in the name of any person specified in sub-section (4) for participation in any such unit-linked insurance plan of the LIC Mutual Fund ⁵[referred to in] clause (23D) of section 10, as the Central Government may, by notification⁶ in the Official Gazette, specify in this behalf;

(xii) to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation or any other insurer as the Central Government may, by notification⁷ in the Official Gazette, specify;

(xiii) as subscription to any units of any Mutual Fund ⁸[referred to in] clause (23D) of section 10 or from the Administrator or the specified company under any plan formulated in accordance with such scheme as the Central Government may, by notification⁹ in the Official Gazette, specify in this behalf;

(xiv) as a contribution by an individual to any pension fund set up by any Mutual Fund ¹⁰[referred to in] clause (23D) of section 10 or by the Administrator or the specified company, as the Central Government may, by notification¹¹ in the Official Gazette, specify in this behalf;



(xv) as subscription to any such deposit scheme of, or as a contribution to any such pension fund set up by, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987) (hereafter in this section referred to as the National Housing Bank), as the Central Government may, by notification in the Official Gazette, specify¹² in this behalf;

(xvi) as subscription to any such deposit scheme of—

(a) a public sector company which is engaged in providing long-term finance for construction or purchase of houses in India for residential purposes; or

(b) any authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both,

as the Central Government may, by notification¹³ in the Official Gazette, specify in this behalf;

(xvii) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(a) to any university, college, school or other educational institution situated within India;

(b) for the purpose of full-time education of any of the persons specified in sub-section (4);

(xviii) for the purposes of purchase or construction of a residential house property the income from which is chargeable to tax under the head "Income from house property" (or which would, if it had not been used for the assessee's own residence, have been chargeable to tax under that head), where such payments are made towards or by way of—

(a) any instalment or part payment of the amount due under any self-financing or other scheme of any development authority, housing board or other authority engaged in the construction and sale of house property on ownership basis; or

(b) any instalment or part payment of the amount due to any company or co-operative society of which the assessee is a shareholder or member towards the cost of the house property allotted to him; or

(c) repayment of the amount borrowed by the assessee from—

(1) the Central Government or any State Government, or

(2) any bank, including a co-operative bank, or

(3) the Life Insurance Corporation, or

(4) the National Housing Bank, or

(5) any public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes which is eligible for deduction under clause (viii) of sub-section (1) of section 36, or

(6) any company in which the public are substantially interested or any co-operative society, where such company or co-operative society is engaged in the business of financing the construction of houses, or



(7) the assessee's employer where such employer is an authority or a board or a corporation or any other body established or constituted under a Central or State Act, or

(8) the assessee's employer where such employer is a public company or a public sector company or a university established by law or a college affiliated to such university or a local authority or a co-operative society; or

(d) stamp duty, registration fee and other expenses for the purpose of transfer of such house property to the assessee,

but shall not include any payment towards or by way of—

(A) the admission fee, cost of share and initial deposit which a shareholder of a company or a member of a co-operative society has to pay for becoming such shareholder or member; or

(B) the cost of any addition or alteration to, or renovation or repair of, the house property which is carried out after the issue of the completion certificate in respect of the house property by the authority competent to issue such certificate or after the house property or any part thereof has either been occupied by the assessee or any other person on his behalf or been let out; or

(C) any expenditure in respect of which deduction is allowable under the provisions of section 24;

(xix) as subscription to equity shares or debentures forming part of any eligible issue of capital approved by the Board on an application made by a public company or as subscription to any eligible issue of capital by any public financial institution in the prescribed form¹⁴.

Explanation.—For the purposes of this clause,—

(i) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA;

(ii) "public company" shall have the meaning assigned to it in section 3¹⁵ of the Companies Act, 1956 (1 of 1956);

(iii) "public financial institution" shall have the meaning assigned to it in section 4A¹⁶ of the Companies Act, 1956 (1 of 1956);

(xx) as subscription to any units of any mutual fund referred to in clause (23D) of section 10 and approved by the Board on an application made by such mutual fund in the prescribed form¹⁷:

Provided that this clause shall apply if the amount of subscription to such units is subscribed only in the eligible issue of capital of any company.

Explanation.—For the purposes of this clause "eligible issue of capital" means an issue referred to in clause (i) of the *Explanation* to clause (xix) of sub-section (2);

¹⁸[(xxi) as term deposit—

(a) for a fixed period of not less than five years with a scheduled bank; and

(b) which is in accordance with a scheme¹⁹ framed and notified, by the Central Government, in the Official Gazette for the purposes of this clause.



Explanation.—For the purposes of this clause, “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank, being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);]

²⁰[(xxii) as subscription to such bonds issued by the National Bank for Agriculture and Rural Development, as the Central Government may, by notification in the Official Gazette²¹, specify in this behalf;]

²²[(xxiii) in an account under the Senior Citizens Savings Scheme Rules, 2004²³;

(xxiv) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.]

(3) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an ²⁴[insurance policy, other than a contract for a deferred annuity, issued on or before the 31st day of March, 2012,] as is not in excess of twenty per cent of the actual capital sum assured.

Explanation.—In calculating any such actual capital sum assured, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

²⁵[(3A) The provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy, other than a contract for a deferred annuity, issued on or after the 1st day of April, 2012 as is not in excess of ten per cent of the actual capital sum assured :

²⁶[**Provided** that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—

(a) a person with disability or a person with severe disability as referred to in section 80U, or

(b) suffering from disease or ailment as specified in the rules made under section 80DDB,

the provisions of this sub-section shall have effect as if for the words “ten per cent”, the words “fifteen per cent” had been substituted.]

Explanation.—For the purposes of this sub-section, “actual capital sum assured” in relation to a life insurance policy shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account—

(i) the value of any premium agreed to be returned; or

(ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.]

(4) The persons referred to in sub-section (2) shall be the following, namely:—

(a) for the purposes of clauses (i), (v), (x) and (xi) of that sub-section,—

(i) in the case of an individual, the individual, the wife or husband and any child of such individual, and

(ii) in the case of a Hindu undivided family, any member thereof;

(b) for the purposes of clause (ii) of that sub-section, in the case of an individual, the individual, the wife or husband and any child of such individual;

(c) for the purposes of clause (xvii) of that sub-section, in the case of an individual, any two children of such individual.

(5) Where, in any previous year, an assessee—

(i) terminates his contract of insurance referred to in clause (i) of sub-section (2), by notice to that effect or where the contract ceases to be in force by reason of failure to pay any premium, by not reviving contract of insurance,—

(a) in case of any single premium policy, within two years after the date of commencement of insurance; or

(b) in any other case, before premiums have been paid for two years; or

(ii) terminates his participation in any unit-linked insurance plan referred to in clause (x) or clause (xi) of sub-section (2), by notice to that effect or where he ceases to participate by reason of failure to pay any contribution, by not reviving his participation, before contributions in respect of such participation have been paid for five years; or

(iii) transfers the house property referred to in clause (xviii) of sub-section (2) before the expiry of five years from the end of the financial year in which possession of such property is obtained by him, or receives back, whether by way of refund or otherwise, any sum specified in that clause,

then,—

(a) no deduction shall be allowed to the assessee under sub-section (1) with reference to any of the sums, referred to in clauses (i), (x), (xi) and (xviii) of sub-section (2), paid in such previous year; and

(b) the aggregate amount of the deductions of income so allowed in respect of the previous year or years preceding such previous year, shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

(6) If any equity shares or debentures, with reference to the cost of which a deduction is allowed under sub-section (1), are sold or otherwise transferred by the assessee to any person at any time within a period of three years from the date of their acquisition, the aggregate amount of the deductions of income so allowed in respect of such equity shares or debentures in the previous year or years preceding the previous year in which such sale or transfer has taken place shall be deemed to be the income of the assessee of such previous year and shall be liable to tax in the assessment year relevant to such previous year.

Explanation.—A person shall be treated as having acquired any shares or debentures on the date on which his name is entered in relation to those shares or debentures in the register of members or of debenture-holders, as the case may be, of the public company.



²⁷[(6A) If any amount, including interest accrued thereon, is withdrawn by the assessee from his account referred to in clause (xxiii) or clause (xxiv) of sub-section (2), before the expiry of the period of five years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year:

Provided that the amount liable to tax shall not include the following amounts, namely:—

(i) any amount of interest, relating to deposits referred to in clause (xxiii) or clause (xxiv) of sub-section (2), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and

(ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year.]

(7) For the purposes of this section,—

(a) the insurance, deferred annuity, provident fund and superannuation fund referred to in clauses (i) to (vii);

(b) unit-linked insurance plan and annuity plan referred to in clauses (xii) to (xiii);

(c) pension fund and subscription to deposit scheme referred to in clauses (xiiic) to (xiv);

(d) amount borrowed for purchase or construction of a residential house referred to in clause (xv),

of sub-section (2) of section 88 shall be eligible for deduction under the corresponding provisions of this section and the deduction shall be allowed in accordance with the provisions of this section.

(8) In this section,—

(i) "Administrator" ²⁸ means the Administrator as referred to in clause (a) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(ii) "contribution" to any fund shall not include any sums in repayment of loan;

(iii) "insurance" shall include—

(a) a policy of insurance on the life of an individual or the spouse or the child of such individual or a member of a Hindu undivided family securing the payment of specified sum on the stipulated date of maturity, if such person is alive on such date notwithstanding that the policy of insurance provides only for the return of premiums paid (with or without any interest thereon) in the event of such person dying before the said stipulated date;

(b) a policy of insurance effected by an individual or a member of a Hindu undivided family for the benefit of a minor with the object of enabling the minor, after he has attained majority to secure insurance on his own life by adopting the policy and on his being alive on a date (after such adoption) specified in the policy in this behalf;

(iv) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956);



(v) "public company" shall have the same meaning as in section 3²⁹ of the Companies Act, 1956 (1 of 1956);

(vi) "security" means a Government security as defined in clause (2) of section 2³⁰ of the Public Debt Act, 1944 (18 of 1944);

(vii) "specified company" means a company as referred to in clause (h) of section 2³¹ of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 (58 of 2002);

(viii) "transfer" shall be deemed to include also the transactions referred to in clause (f) of section 269UA.]

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Section – 80CC: Deduction in respect of investment in certain new shares.

80CC. ³²[Omitted by the Finance (No. 2) Act, 1996, w.r.e.f. 1-4-1993.]

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Section – 80CCA: ³³[Deduction in respect of deposits under National Savings Scheme or payment to a deferred annuity plan.

³⁴**80CCA.** (1) Where an assessee, being—

(a) an individual, or

(b) a Hindu undivided family, ³⁵[* * *]

(c) ³⁶[* * *]

has in the previous year—

(i) deposited any amount in accordance with such scheme as the Central Government may, by notification³⁷ in the Official Gazette, specify in this behalf ³⁸[* * *]; or

(ii) paid any amount to effect or to keep in force a contract for such annuity plan of the Life Insurance Corporation as the Central Government may, by notification³⁹ in the Official Gazette, specify,

out of his income chargeable to tax, he shall, in accordance with, and subject to, the provisions of this section, be allowed a deduction in the computation of his total income of the whole of the amount deposited or paid (excluding interest or bonus accrued or credited to the assessee's account, if any) as does not exceed the amount of twenty thousand rupees in the previous year :



⁴⁰[**Provided** that in relation to—

(a) the assessment years commencing on the 1st day of April, 1989 and the 1st day of April, 1990, this sub-section shall have effect as if for the words "twenty thousand rupees", the words "thirty thousand rupees" had been substituted;

(b) the assessment year commencing on the 1st day of April, 1991 and subsequent assessment years, this sub-section shall have effect as if for the words "twenty thousand rupees", the words "forty thousand rupees" had been substituted:]

⁴¹[**Provided further** that no deduction under this sub-section shall be allowed in relation to any amount deposited or paid under clauses (i) and (ii) on or after the 1st day of April, 1992.]

(2) Where any amount—

(a) standing to the credit of the assessee ⁴²[under the scheme referred to in clause (i) of sub-section (1)] in respect of which a deduction has been allowed under sub-section (1) together with the interest accrued on such amount is withdrawn in whole or in part in any previous year, or

(b) is received on account of the surrender of the policy or as annuity or bonus in accordance with the annuity plan of the Life Insurance Corporation in any previous year,

an amount equal to the whole of the amount referred to in clause (a) or clause (b) shall be deemed to be the income of the assessee of that previous year in which such withdrawal is made or, as the case may be, amount is received, and shall, accordingly, be chargeable to tax as the income of that previous year :

⁴³[**Provided** that nothing contained in this sub-section shall apply to any amount received by the assessee on account of the surrender of the policy in accordance with the terms of the annuity plan of the Life Insurance Corporation where the assessee elects to surrender before the 1st day of October, 1992, the said annuity plan in respect of which he had paid any amount under clause (ii) of sub-section (1) before the 1st day of April, 1992.]

⁴⁴[(3) Notwithstanding anything contained in any other provision of this Act, where a partition has taken place among the members of a Hindu undivided family or where an association of persons has been dissolved after a deduction has been allowed under sub-section (1), the provisions of sub-section (2) shall apply as if the person in receipt of income referred to therein is the assessee.]

Explanation I.—For the removal of doubts, it is hereby declared that interest on the deposits made ⁴⁵[under the scheme referred to in clause (i) of sub-section (1)] shall not be chargeable to tax except in the manner and to the extent specified in sub-section (2).

Explanation II.—For the purposes of this section, "Life Insurance Corporation" shall have the same meaning as in clause (a) of sub-section (8) of section 80C.]



