

INCOME TAX ACT, 1961

Preamble 1 - INCOME-TAX ACT, 1961

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[43 of 1961]

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

THE INCOME-TAX ACT, 1961

[43 of 1961]

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 :

Section 1 - Short title, extent and commencement

(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

In this Act, unless the context otherwise requires, –

(1) "advance tax" means the advance tax payable in accordance with the provisions of

Chapter XVIIC ;

(1A) 1 "agricultural income" means –

(a) any rent or revenue derived from land which is situated in India and

is used for agricultural purposes ;

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(b) any income derived from such land by –

(i) agriculture ; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of

rent-in-kind to render the produce raised or received by him fit to be taken to market ; or

(iii) the sale by 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 :

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 according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

(B) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (A), as the Central Government may, having regard to the extent of, and scope for, urbanisation of that area and other relevant considerations,

specify in this behalf by notification in the Official Gazette.

2[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 ;

3[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 ;]

The following Explanation 3 to Clause (1A) shall be inserted by the Finance Act, 2008, with effect from 1st April, 2009:

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 ;

(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 4[three-fourths] in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the

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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 ;

5[(1C) "Additional Commissioner" means a person appointed to be an Additional

Commissioner of Income-tax under sub-section (1) of section 117;]

5[(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) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1st

April, 1988] ;

(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 Chief 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

superannuation fund which has been and continues to be approved by the Chief

Commissioner or Commissioner in accordance with the rules contained in Part B of the

Fourth Schedule ;

(7) "assessee" means a person by whom 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 6[assessment of his income 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 ;

(7A) "Assessing Officer" means the 7[Assistant Commissioner or Deputy

Commissioner] 8[or Assistant Director or Deputy Director] or the Income-tax Officer

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who is vested with the relevant jurisdiction by virtue of directions or orders issued

under sub-section (1) or subsection (2) of section 120 or any other provision of this

Act, and the 9[Additional Commissioner or] 10[Additional Director or] 11[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" includes reassessment ;

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

of April every year ;

(9A) "Assistant Commissioner" means a person appointed to be an Assistant

Commissioner of Income-tax 12[or a Deputy Commissioner of Income-tax] under

sub-section (1) of section 117;

13[(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 ;

14[(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 Central Board of Direct Taxes constituted under the Central

Boards of Revenue Act, 1963 (54 of 1963) ;

15[(12A) "books or books of account" include 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 ;]

(13) "business" includes any trade, commerce or manufacture or any adventure or

concern in the nature of trade, commerce or manufacture ;

(14) "capital asset" means property 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 ;

16[(ii) personal effects, that is to say, movable property (including wearing

apparel and furniture) held for personal use 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.

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 semiprecious 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;]

(iii) agricultural land in India, not being land situate -

(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 according to the last preceding census of which the relevant figures have been published before the first day of the previous year ; or

(b) in any area within such distance, not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a), as the Central Government may, having

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regard to the extent of, and scope for, urbanisation of that area and other relevant considerations, specify in this behalf by notification in the Official Gazette ;

(iv) 6½ per cent Gold Bonds, 1977, or 7 per cent Gold Bonds, 1980 or National

Defence Gold Bonds, 1980, issued by the Central Government ;

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

17[(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999

notified by the Central Government ;]

(15) "charitable purpose" includes relief of the poor, education, medical relief,

60[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 object 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 business, or any activity of rendering any service in relation to any trade, commerce or

business, 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 ;

64[Provided further that the first proviso shall not apply if the aggregate value of the receipts from the activities referred to therein is

65[twenty-five lakh rupees] or less in the previous year.]

(15A) "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax under sub-section (1) of section 117;

(15B) "child", in relation to an individual, includes a step-child and an adopted

child of that individual ;

(16) "Commissioner" means a person appointed to be a Commissioner of

Income-tax under sub-section (1) of section 117 ;

(16A) "Commissioner (Appeals)" means a person appointed to be a Commissioner of Income-tax (Appeals) under sub-section (1) of section 117 ;

(17) "company" means –

(i) any Indian company, or

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

outside India, or

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(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 public are substantially interested –

(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

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

(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 620A of the Companies Act, 1956 (1 of 1956), to be a Nidhi or Mutual Benefit Society ; or

(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

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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 ;

(b) if it is a company which is not a private 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 ;

(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 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 cooperative societies ;

(19A) "Deputy Commissioner" means a person appointed to be a Deputy

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Commissioner of Income-tax 18[* * *] under sub-section (1) of section 117 ;

19[(19AA) "demerger", in relation to companies, means the transfer, pursuant to a

scheme of arrangement under sections 391 to 394 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 ;

(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 shareholders of the resulting company or companies by virtue of the demerger, 20[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)

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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 21[such conditions as may be notified in the Official Gazette, by the Central Government] ;]

22[(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) or an Additional Commissioner of Income-tax

(Appeals) under sub-section (1) of section 117 ;

(19C) "Deputy Director" means a person appointed to be a Deputy Director of

Income-tax 23[* * *] under sub-section (1) of section 117 ;

(20) "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) ;

(21) "Director General or Director" means a person appointed to be a Director

General of Income-tax or, as the case may be, a 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 24[Joint Director] of

Income-tax or an 25[Assistant Director or Deputy Director] of Income-tax ;

(22) "dividend" includes -

(a) any distribution by a company of accumulated profits, 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 ;

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(b) any distribution 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 profits,

whether capitalised or not ;

(c) any distribution 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 distribution to its shareholders by a company on the reduction of its
capital, to the extent to which the company possesses accumulated profits
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) made after the 31st day of May, 1987, by
way of advance or loan to a shareholder, 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 profits;
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;

(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, and before the 1st day of April, 1965 ;

(ii) any advance or loan made to a shareholder 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

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dividend within the meaning of sub-clause (e), to the extent to which it is so

set-off ;

26[(iv) any payment made by a company on purchase of its own shares from a

shareholder in accordance with the provisions of section 77A of the Companies

Act, 1956 (1 of 1956) ;]

26[(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, 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.

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 ;

(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 ;

27[(22AA) "document" includes an electronic record as defined in clause (t) of

sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000) ;]

61[(222AAA) "electoral trust" means a trust so approved by the Board in accordance

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with the scheme made in this regard by the Central Government;]

(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 ;

62[(23) (i) "firm" shall have the meaning assigned to it in the Indian Partnership Act,

1932 (9 of 1932) , and shall include a limited liability partnership 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 partnership 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 partnership as defined in the Limited Liability Partnership Act, 2008 (6 of 2009);]

(23A) "foreign company" means a company which is not a domestic company;

29[(23B) "fringe benefits" means any fringe benefits referred to in section 115WB;]

(24) "income" includes -

(i) profits and gains ;

(ii) dividend ;

(ia) 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 or by an association or institution referred to in clause (21)

or clause (23), 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 (via)] of clause (23C),

of section 10 61[or by an electoral trust.]

Explanation : For the purposes of this sub-clause, "trust" includes any other legal obligation ;

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(iii) the value of any perquisite or profit in lieu of salary taxable under clauses

(2) and (3) of section 17 ;

(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 perquisite, 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 ;

(iva) the value of any benefit or perquisite, 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 ;

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

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

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

(vd) the value of any benefit or perquisite taxable under clause (iv) of section

28 ;

(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

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provisions contained in the First Schedule ;

31[(viia) 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, with effect from 1st April, 1988] ;

(ix) 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 ;

32[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 ;]

(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 ;

(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 ;

33[(xii) any sum referred to in 34[clause (va)] of section 28 ;]

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

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

63[(XV) any sum of money or value of property referred to in clause (vii) 65[or

clause (viiia)] of sub-section 2 of section 56;]

(25) "Income-tax Officer" means a person appointed to be an Income-tax Officer

under section 117 ;

37[(25A) "India" means the territory of India as referred to in article 1 of the

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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 (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 and the Union territories specified in sub-clause (iii) of this clause) ;

(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;

(iii) in the case of any of the Union territories of Dadra and Nagar Haveli,

Goa³⁸, 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 registered or, as the case may be, principal office of

the company, corporation, institution, association or body in all cases is

in India ;

39[(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;]

39[(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

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hospital with at least one-hundred beds for patients;]

(27) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1st

April, 1988] ;

(28) "Inspector of Income-tax" means a person appointed to be an Inspector of

Income-tax under sub-section (1) of section 117 ;

(28A) "interest" 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 ;

(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 ;

40[(28BB) "insurer" means an insurer being an Indian insurance company, as defined

under clause (7A) of section 2 of the Insurance Act, 1938 (4 of 1938), which has been

granted a certificate of registration under section 3 of that Act ;]

41[(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 ;]

41[(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) ;

42(29A) "long-term capital asset" means a capital asset which is not a short-term

capital asset ;

42(29B) "long-term capital gain" means capital gain arising from the transfer of a

long-term capital asset ;

60[(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

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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;]

(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, association of persons or, as the case may be, body of individuals as

specified in the Finance Act of the relevant year ;

43[(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" 44[, and for the purposes

of sections 92, 93 and 168, includes a person who is not ordinarily resident within the

meaning of clause (6) of section 6] ;

(31) "person" includes -

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or

not,

(vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding

sub-clauses ;

45[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 ;

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

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

(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 Assessing Officer has

served a notice of his intention of treating him as the principal officer thereof ;

(36) "profession" includes vocation ;

(36A) "public sector company" means any corporation established by or under any

Central, State or Provincial Act or a Government company as defined in section 617 of

the Companies Act, 1956 (1 of 1956) ;

(37) "public servant" has the same meaning as in section 21 of the Indian Penal Code

(45 of 1860) ;

(37A) "rate or rates in force" or "rates in force", in relation to an assessment year or

financial year, mean -

(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" or computation of the

"advance tax" payable under Chapter XVIIC in a case not falling under section

115A or section 115B or section 115BB or 46[section 115BBB or] section 115E

or section 164 or section 164A 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 XVIIC in

a case falling under section 115A or section 115B or section 115BB or

46[section 115BBB or] section 115E or section 164 or section 164A or section

167B, the rate or rates specified in section 115A or section 115B or section

115BB or 46[section 115BBB or] section 115E or section 164 or section 164A

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, 194B, 194BB, and 194D, the rate or rates of income-tax specified in this behalf in the

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Finance Act of the relevant year ;

(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 47[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;]

(38) "recognised provident fund" means a provident fund which has been and

continues to be recognised by the Chief 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) [Omitted by the Finance Act, 1992, with effect from 1st April, 1993] ;

(40) "regular assessment" means the assessment made under 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 ;

48[(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 ;

(42A) "short-term capital asset" means a capital asset held by an assessee for not

more than thirty-six months immediately preceding the date of its transfer :

Provided that in the case of a share held in a company 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 a unit

of a Mutual Fund specified under clause (23D) of section 10 49[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.

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

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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 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 ;

(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 ;

(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 ;

(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 ;

50[(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;]

51[(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)

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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;]

51[(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;]

52[(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.]

(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.

Explanation 2 : For the purposes of this clause, the expression "security" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) ;

52[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 subsection (1) of section 115WB;]

(42B) "short-term capital gain" means capital gain arising from the transfer of a

short-term capital asset ;

53[(42C) "slump sale" 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

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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 ;]

(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

54[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] ;

(43A) "tax credit certificate" means a tax credit certificate granted to any person in

accordance with the provisions of Chapter XXIIB* and any scheme made thereunder ;

(43B) [Omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1st

April, 1989] ;

(44) "Tax Recovery Officer" means any Income-tax Officer who may be authorised by

the Chief Commissioner or Commissioner, by general or special order in writing, to

exercise the powers of a Tax Recovery Officer 55[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) [Omitted by the Finance Act, 1965, with effect from 1st April, 1965];

(47) "transfer", in relation to a capital asset, includes, -

(i) the sale, exchange or relinquishment of the asset ; or

(ii) the extinguishment of any rights therein ; 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 ; or

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

(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 53A of the Transfer of Property Act, 1882 (4 of

1882) ; or

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(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 immovable property.

Explanation : For the purposes of sub-clauses (v) and (vi)

"immovable

property" shall have the same meaning as in clause (d) of section 269UA;

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

(a) issued by any infrastructure capital company or infrastructure capital fund

or public sector company 60[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 60[or scheduled bank]; and (c) which the Central Government may, by notification in the Official Gazette, specify in this behalf.⁵⁸

60Explanation.— 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.]

Explanation : 59[Omitted by the Finance Act, 2006, with effect from 1st April, 2006.]

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1. For manner of computation of income which is partially agricultural and partially from business, see rules 7, 7A, 7B and 8. For analysis, see Mashbra’s Income-tax Rules.
 2. Explanation renumbered as Explanation 1 by the Finance Act, 2000, with effect from 1st April, 2001.
 3. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.
 4. Substituted for ‘nine-tenths’ by the Finance Act, 1999, with effect from 1st April, 2000.
 5. Inserted by the Finance Act, 2007, with retrospective effect from 1st June, 1994.
 6. Substituted for “assessment of his income” by the Finance Act, 2005, with effect from 1st April, 2006.

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7. Substituted for ‘Assistant Commissioner’ by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.
8. Substituted for ‘or Assistant Director’ by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998. Earlier ‘or Assistant Director’ was inserted by the Finance (No. 2) Act, 1996, with effect from 1st October, 1996.
9. Inserted by the Finance Act, 2007, with retrospective effect from 1st June, 1994.

10. Inserted by the Finance Act, 2007 with retrospective effect from 1st October, 1996.

11. Substituted for 'Deputy Commissioner or Deputy Director' by the Finance (No. 2) Act, 1998, with effect from 1st October 1998.

12. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.

13. Inserted by the Finance Act, 2007, with retrospective effect from 1st April, 1988.

14. Substituted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999. Prior to substitution, clause (11) stood as

under :

'(11) "block of assets" means a group of assets falling within a class of assets, being buildings, machinery, plant or

furniture, in respect of which the same percentage of depreciation is prescribed ;'

15. Inserted by the Finance Act, 2001, with effect from 1st June, 2001.

16. Substituted by the Finance Act, 2007, with effect from 1st April, 2008. Prior to substitution, sub-clause (ii) stood as under:

"(ii) personal effects, that is to say, movable property (including wearing apparel and furniture, but excluding

jewellery) held for personal use by the assessee or any member of his family dependent on him.

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

stones, 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 ;"

17. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

18. The words 'or an Additional Commissioner of Income-tax' omitted by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.

19. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

20. Should appear before Explanation 1.
21. Substituted for the expression 'the conditions specified in sub-clauses (i) to (vii) of this clause, to the extent applicable' by the Finance Act, 2000, with effect from 1st April, 2000.
22. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.
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23. The words 'or an Additional Director of Income-tax' omitted by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.
24. Substituted for 'Deputy Director' by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.
25. Substituted for 'Assistant Director' by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.
26. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.
27. Inserted by the Finance Act, 2001, with effect from 1st June, 2001.
28. Definitions of "firm", "partner" and "partnership" defined in section 4 of the Partnership Act, 1932, which stood as under :
"partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.
Persons who have entered into partnership with one another are called individually "partners" and collectively "a firm", and the name under which their business is carried on is called in "firm name".
29. Inserted by the Finance Act, 2005, with effect from 1st April, 2006.
30. Substituted for "or by any university or other educational institution referred to in sub-clause (vi) or by any hospital or other institution referred to in sub-clause (via)" by the Finance Act, 2006, with effect from 1st April, 2007. Earlier, the quoted portion was inserted by the Finance Act, 2006, with retrospective effect from 1st April, 1999.
31. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.
32. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.
33. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

34. Substituted for 'clause (vii)' by the Finance Act, 2003, with retrospective effect from 1st April, 2003.

35. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2005.

36. Inserted by the Finance Act, 2007, with effect from 1st April, 2007.

37. Substituted by the Finance Act, 2007, with retrospective effect from 25th August, 1976. Prior to substitution, clause (25A)

stood as under :

'(25A) "India" shall be deemed to include the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and

Pondicherry, –

(a) as respects any period, for the purposes of section 6 ; and

(b) as respects any period included in the previous year, for the purposes of making any assessment for the

assessment year commencing on the 1st day of April, 1963, or for any subsequent year;'

38. Now State of Goa.

39. Inserted by the Finance Act, 2006, with effect from 1st April, 2006.

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40. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

41. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st October, 1998.

42. See Legal Summary on clause (42A).

43. Inserted by the National Tax Tribunal Act, 2005, with effect from 28th December, 2005.

44. Omitted presumably under misconception by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999 and now

reinstated by the Finance Act, 1999, insertion taking place from the same date.

45. Inserted by the Finance Act, 2002, with effect from 1st April, 2002.

46. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

47. Substituted for "an agreement entered into by the Central Government under section 90, whichever is applicable by virtue of the provisions of section 90" by the Finance Act, 2006, with effect from 1st June, 2006.

48. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

49. Inserted by the Finance Act, 2005, with effect from 1st April, 2006.

50. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

51. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

52. Inserted by the Finance Act, 2007, with effect from 1st April, 2008.

* Chapter XXII B has been omitted by the Finance Act, 1990, with effect from 1st April, 1990.

53. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

54. Inserted by the Finance Act, 2005, with effect from 1st April, 2006.

55. Inserted by the Taxation Laws (Amendment) Act, 2006, with effect from 13th July, 2006.

56. Inserted by the Finance Act, 2005, with effect from 1st April, 2006.

57. Clause (48) inserted by the Finance Act, 2005, with effect from 1st April, 2006.

58. For guidelines for notification of zero coupon bond, see rule 8B. Application is to be made in Form No. 5B.

59. Prior to omission, the Explanation as inserted by the Finance Act, 2005, with effect from 1st April, 2006, stood as under :

"Explanation : For the purposes of this clause, the expressions "infrastructure capital company" and "infrastructure capital fund" shall have the same meanings respectively assigned to them in clauses (a) and (b) of Explanation 1 to clause (23G) of section 10.

60. Inserted by the Finance (No. 2) Act, 2009.

61. Inserted by the Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2010.

62. Substituted by the Finance (No. 2) Act, 2009 w.e.f. 1st day of April, 2010 for the following : -

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"(23) "firm", "partner" and "partnership" have the meanings respectively assigned to them in the Indian Partnership

Act, 1932 (9 of 1932) ; but the expression "partner" shall also include any person who, being a minor, has been

admitted to the benefits of partnership;"

63. Inserted by the Finance (No. 2) Act, 2009 w.e.f. 1st day of October, 2010.

64. Inserted vide Finance Act, 2010 w.e.f. 01.04.2009.

65. Substituted by the Finance Act, 2011 w.e.f 01.04.2012 for the following:-"ten lakh rupees"

Section 3 - "Previous year" defined

1[3. "Previous year" defined.

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.]

1. Substituted by the Finance Act, 1999, with effect from 1st April, 2000. Prior to substitution, section 3 stood as under :

'3. "Previous year" defined. – (1) Save as otherwise provided in this section, "previous year" for the purposes of this

Act, 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.

(2) "Previous year", in relation to the assessment year, commencing on the 1st day of April, 1989, means

the period which begins with the date immediately following the last day of the previous year relevant to the

assessment year commencing on the 1st day of April, 1988 and ends on the 31st day of March, 1989 :

Provided that where the assessee has adopted more than one period as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988 for different sources of his income, the previous year in relation to the assessment year commencing on the 1st day of April, 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year for the said assessment year :

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Provided further that in the case of a business or profession newly set-up, or a source of income newly coming into existence on or after the 1st day of April, 1987 but before the 1st day of April, 1988 and where the accounts in relation to such business or profession or source of income have not been made up to the 31st day of March, 1988, the "previous year" in relation to the assessment year commencing on the 1st day of April, 1989, 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 on the 31st day of March, 1989 :

Provided also that where the assessee has adopted one or more periods as the "previous year" in relation to the assessment year commencing on the 1st day of April, 1988, for any source or sources of his income, in addition to the business or profession or source of income referred to in the second proviso, the previous year in relation to the assessment year commencing on the 1st day of April, 1989, shall be reckoned separately in the manner aforesaid in respect of each such source of income, and the longer or the longest of the periods so reckoned shall be the previous year in relation to the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989,

referred to in sub-section (2) exceeds a period of twelve months, the provisions of this Act shall apply

subject to the modifications specified in the rules in the Tenth Schedule.'

Chapter II - BASIS OF CHARGE

1[3. "Previous year" defined.

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.]

1. Substituted by the Finance Act, 1999, with effect from 1st April, 2000. Prior to substitution, section 3 stood as under :

'3. "Previous year" defined. – (1) Save as otherwise provided in this section, "previous year" for the purposes of this

Act, 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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(2) "Previous year", in relation to the assessment year, commencing on the 1st day of April, 1989, means

the period which begins with the date immediately following the last day of the previous year relevant to the

assessment year commencing on the 1st day of April, 1988 and ends on the 31st day of March, 1989 :

Provided that where the assessee has adopted more than one period as the "previous year" in

relation to the assessment year commencing on the 1st day of April, 1988 for different sources of

his income, the previous year in relation to the assessment year commencing on the 1st day of

April, 1989 shall be reckoned separately in the manner aforesaid in respect of each such source of

income, and the longer or the longest of the periods so reckoned shall be the previous year for

the said assessment year :

Provided further that in the case of a business or profession newly set-up, or a source of

income newly coming into existence on or after the 1st day of April, 1987 but before the 1st day

of April, 1988 and where the accounts in relation to such business or profession or source of

income have not been made up to the 31st day of March, 1988, the "previous year" in relation to

the assessment year commencing on the 1st day of April, 1989, 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 on the 31st day of March, 1989 :

Provided also that where the assessee has adopted one or more periods as the "previous year"

in relation to the assessment year commencing on the 1st day of April, 1988, for any source or

sources of his income, in addition to the business or profession or source of income referred to in

the second proviso, the previous year in relation to the assessment year commencing on the 1st

day of April, 1989, shall be reckoned separately in the manner aforesaid in respect of each such

source of income, and the longer or the longest of the periods so reckoned shall be the previous

year in relation to the said assessment year.

(3) Where the previous year in relation to the assessment year commencing on the 1st day of April, 1989,

referred to in sub-section (2) exceeds a period of twelve months, the provisions of this Act shall apply

subject to the modifications specified in the rules in the Tenth Schedule.'

Section 4 - Charge of income-tax

(1) Where any Central Act enacts that income-tax 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 in

accordance with, and subject to the provisions (including provisions for the levy of additional

income-tax) of, this Act in respect of the total income of the previous year 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

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this Act.

Section 5 - Scope of total income

(1) Subject to the provisions of this Act, the total income of any previous year of a person

who is a resident includes all income from whatever source derived which -

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

such person ; or

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

or

(c) accrues or arises 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 to the provisions of this Act, the total income of any previous year of a person

who is a non-resident includes all income from whatever source derived which -

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

such person ; or

(b) accrues or arises or is 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 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

accrued or arisen or is deemed to have accrued or arisen to him shall not again

be so included on the basis that it is received or deemed to be received by him

in India.

* Sub-section (6) should be read as clause (6).

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Section 5A - Apportionment of income between spouses governed by Portuguese Civil

Code

(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.

Section 6 - Residence in India

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

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(b) [Omitted by the Finance Act, 1982, with effect from 1st April, 1983] ;

(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.

Explanation : In the case of an individual, -

(a) being a citizen of India, who leaves India in any previous

year as a member of the crew of an Indian 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 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 of its affairs is situated wholly 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 management of its affairs is situated

wholly 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.

1[(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

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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.]

1. Substituted by the Finance Act, 2003, with effect from 1st April, 2004. Prior to substitution, clause (6) stood as under :

‘(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 not been resident in India in nine out of the ten previous years preceding that year,

or has not during the seven previous years preceding that year been in India for a period of, or periods

amounting in all to, seven hundred and thirty days or more ; or

(b) a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous

years preceding that year, or has not during the seven previous years preceding that year been in India for

a period of, or periods amounting in all to, seven hundred and thirty days or more.’

Section 7 - Income deemed to be received

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

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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. 1[(iii) the contribution made, by the 2[Central Government or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD ;]

1. Inserted by the Finance (No. 2) Act, 2004, with retrospective effect from 1st April, 2004.

2. Substituted for “Central Government” by the Finance Act, 2007, with retrospective effect from 1st April, 2004.

Section 8 - Dividend income

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 ;

(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

(1) The following incomes shall be deemed to accrue or arise in India :

1(i) all income accruing or arising, whether directly or indirectly, through or from any

business connection in India, or through or from any property in India, or through or

from any asset or source of income in India, or through the transfer of a capital asset

situate in India.

2[Explanation] : For the purposes of this clause –

(a) in the case of a business of which all the operations 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 operations 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;

(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.

(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 operations which are confined to the shooting of any cinematograph film in India;

3[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

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to the purchase of goods or merchandise for the nonresident ; 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

nonresident 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.]

3[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.]

(ii) income which falls under the head “Salaries”, if it is earned 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 ;

(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 royalty 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 :

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

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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 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 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 ;

5[(iva) the use or right to use, any industrial, commercial or

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scientific equipment 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 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 6[sub-clauses (i) to (iv), (iva) and (v)].

7[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 customised electronic data ;]

(vii) income by way of fees for technical services 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 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 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 :

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.

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 2 : For the purposes of this clause, “fees for technical services” means any consideration (including any lump

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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 construction, assembly, mining or like project undertaken by the recipient 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.

8[9]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 nonresident, 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]

1. See rule 10. For analysis, see Mashbra's Income-tax Rules.

2. Renumbered as Explanation 1 by the Finance Act, 2003, with effect from 1st April, 2004.

3. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

4. Substituted by the Finance Act, 1999, with effect from 1st April, 2000. Prior to substitution, the Explanation stood as under :

'Explanation : For the removal of doubts, it is hereby declared that income of the nature referred to in this clause

payable for service rendered in India shall be regarded as income earned in India ;'

5. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

6. Substituted for 'sub-clauses (i) to (v)' by the Finance Act, 2001, with effect from 1st April, 2002.

7. Substituted by the Finance Act, 2000, with effect from 1st April, 2001. Prior to substitution, the Explanation 3 stood as

under :

'Explanation 3 : For the purposes of this clause, the expression "computer software" shall have the meaning assigned

to it in clause (b) of the Explanation to section 80HHE ;'

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8. Inserted by the Finance Act, 2007, with retrospective effect from 1st June, 1976.

9. Substituted by the Finance Act, 2010 w.e.f. 01.06.1976. Prior text was : "Explanation : For the removal of doubts, it is

hereby declared that for the purposes of this section, where income is deemed to accrue or arise in India under clauses (v), (vi)

and (vii) of sub-section (1), such income shall be included in the total income of the non-resident, whether or not the

non-resident has a residence or place of business or business connection in India."

Chapter III - INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

(1) The following incomes shall be deemed to accrue or arise in India :

1(i) all income accruing or arising, whether directly or indirectly, through or from any

business connection in India, or through or from any property in India, or through or

from any asset or source of income in India, or through the transfer of a capital asset

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situate in India.

2[Explanation] : For the purposes of this clause –

(a) in the case of a business of which all the operations 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 operations 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;

(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.

(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 operations which are confined to the shooting of any cinematograph film in India;

3[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 nonresident ; 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 nonresident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as

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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.]

3[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.]

(ii) income which falls under the head “Salaries”, if it is earned 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 ;

(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 royalty 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 :

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 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

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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 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 ;

5[(iva) the use or right to use, any industrial, commercial or scientific equipment 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 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

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(vi) the rendering of any services in connection with the activities referred to in 6[sub-clauses (i) to (iv), (iva) and (v)].

7[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 customised electronic data ;]

(vii) income by way of fees for technical services 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 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 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 :

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.

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 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 construction, assembly, mining or like project undertaken by the recipient 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

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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.

8[9[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 nonresident, 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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1. See rule 10. For analysis, see Mashbra's Income-tax Rules.
 2. Renumbered as Explanation 1 by the Finance Act, 2003, with effect from 1st April, 2004.
 3. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.
 4. Substituted by the Finance Act, 1999, with effect from 1st April, 2000. Prior to substitution, the Explanation stood as under :
'Explanation : For the removal of doubts, it is hereby declared that income of the nature referred to in this clause payable for service rendered in India shall be regarded as income earned in India ;'
 5. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.
 6. Substituted for 'sub-clauses (i) to (v)' by the Finance Act, 2001, with effect from 1st April, 2002.
 7. Substituted by the Finance Act, 2000, with effect from 1st April, 2001. Prior to substitution, the Explanation 3 stood as under :
'Explanation 3 : For the purposes of this clause, the expression "computer software" shall have the meaning assigned to it in clause (b) of the Explanation to section 80HHE ;'
 8. Inserted by the Finance Act, 2007, with retrospective effect from 1st June, 1976.
 9. Substituted by the Finance Act, 2010 w.e.f. 01.06.1976. Prior text was : "Explanation : For the removal of doubts, it is hereby declared that for the purposes of this section, where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of sub-section (1), such income shall be included in the total income of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India."

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Section 10 - Incomes not included in total income

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;

(2) 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;

(2A) 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

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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;

1[(3) Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

(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 Gazette,

specify in this behalf, including income by way of premium on the redemption of such

bonds :

2[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;]

(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 the Foreign Exchange Regulation Act, 1973 (46 of 1973), and the rules made

thereunder :

Provided that such individual is a person resident outside India as defined in

clause (q) of section 2 of the said Act or is a person who has been permitted by

the Reserve Bank of India to maintain the aforesaid Account :

3[Second proviso omitted by the Finance Act, 2005, with effect from 1st

April, 2006.]

(4A) [Stands omitted as a result of substitution of clauses (4) and (4A) by new clause

(4) by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1st April, 1989];

(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 4[savings certificates issued

before the 1st day of June, 2002] by the Central Government as that Government

may, by notification in the Official Gazette, specify in this behalf :

Provided that the individual has subscribed to such certificates in convertible

foreign exchange remitted from a country outside India in accordance with the

provisions of the Foreign Exchange Regulation Act, 1973 (46 of 1973), 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 grand-parents, was born in

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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 the Foreign Exchange Regulation Act, 1973 (46 of 1973), and any rules made thereunder;

(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 prescribed⁵ (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) 6[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999];

(5B) 7[Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

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

(i) 8[Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

(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

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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) [Stand omitted as a result of substitution for clauses (ii) to (v) by

new clause (ii) by the Finance Act, 1988, with effect from 1st April 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) 9[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999];

(vii) [Omitted by the Finance Act, 1993, with effect from 1st April, 1993];

(viia) 10[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 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) 11[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999];

(x) 12[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999];

(xi) the remuneration received by him as an employee of the Government of a

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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;

(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 13[but before the 1st day of June, 2002] 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 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;

(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 14[agreement entered into

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 15[related agreement approved before that date] by the

Central Government, the tax so paid;

(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 16[an agreement entered into after the 31st day of

March, 1997 but before the 1st day of April, 1999, 17[18[or entered into after the 31st

day of March, 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;

(6C) any income arising to such foreign company, as the Central Government may, by

notification¹⁹ in the Official Gazette, specify in this behalf, 20[by way of 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;

(8A) in the case of a consultant -

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(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 authority²¹ 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 authority¹ before the commencement of his service;

(9) the income of any member of the family of any such individual as is referred to in

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clause (8) 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 or, as the case may be, country

of origin of such member;

(10) (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 4 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 dependents on

his death, to the extent it does not, in either case, exceed one-half month's

salary for each year of completed service, 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 limit 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 clause 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 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 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.

Explanation : In this clause, and in clause (10AA), "salary" shall have

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the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth

Schedule;

(10A) (i) any payment in commutation of pension received under the Civil Pensions

(Commutation) Rules of the Central Government 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 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;

(iii) any payment in commutation of pension received from a fund under clause

(23AAB);

(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 retirement 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 whether on superannuation or otherwise as does

not exceed 22[ten months], calculated on the basis of the average salary drawn

by the employee during the period of ten months immediately preceding his

retirement whether on superannuation or otherwise, subject to such limit 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:

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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 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 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.

Explanation : For the purposes of sub-clause (ii), 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;

(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, 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 clause (b)

of section 25F of the Industrial Disputes Act, 1947 (14 of 1947); or

(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification 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

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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;

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

(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;

23[(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 2 of the Disaster

Management Act, 2005 (53 of 2005);]

(10C) 24[any amount received or receivable by an employee of] – (i) a public sector

company; or

(ii) any other company; or

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

(iv) a local authority; or

(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 3 of the Institutes of Technology Act, 1961 (59 of 1961); or

25[(viia) any State Government; or]

26[(viib) the Central Government; or]

27[(viic) an institution, having importance throughout India or in any State or

States, as the Central Government may, by notification in the Official Gazette,

specify in this behalf; or]

(viii) such institute of management as the Central Government may, by

notification in the Official Gazette, specify in this behalf,

28[on his 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 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 prescribed²⁹ 30[***]:

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;

30a[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.

31[(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

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employer, at the option of the employer, on behalf of such employee, notwithstanding

anything contained in section 200 of the Companies Act, 1956 (1 of 1956);]

32[(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 subsection (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 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 :

Provided that the provisions of this sub-clause 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 this sub-clause, effect shall be given to the

33[Explanation to sub-section (3) of section 80C or the Explanation to

sub-section (2A) of section 88, as the case may be].

Explanation : 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;]

(11) any payment from a provident fund to which the Provident Fund Act, 1925 (19 of

1925), applies or from any other provident fund set-up by the Central Government

and notified 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;

(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

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(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;

(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 as may

be prescribed³⁴ having regard to the area or place in which such accommodation is

situate and other relevant considerations.

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 ;

(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 incurred in the performance of the duties of an

office or employment of profit, as may be prescribed³⁵, 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 profit

are ordinarily performed by him or at the place where he ordinarily resides, or

to compensate him for the increased cost of living, as may be prescribed³⁵ and

to the extent as may be prescribed³⁵ :

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) 36[Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

(15) (i) income by way of interest, premium on redemption or other payment on such

securities, bonds, annuity certificates, savings certificates, other certificates issued by

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the Central Government and deposits as the Central Government may, by notification

in the Official Gazette, specify in this behalf, subject to such conditions and limits as

may be specified in the said notification;

(ia), (ib), (ii) and (iia) [Stand omitted as a result of substitution of sub-clause

(i) for sub-clauses (ia), (ib), (ii) and (iia) by the Direct Tax Laws (Amendment)

Act, 1987, with effect from 1st April, 1989];

(iib) in the case of an individual or a Hindu undivided family, interest on such

Capital Investment Bonds as the Central Government may, by notification in

the Official Gazette, specify in this behalf :

37[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;]

(iic) in the case of an individual or a Hindu undivided family, interest on such

Relief Bonds as the Central Government may, by notification in the Official

Gazette, specify in this behalf;

(iid) interest on such bonds, as the Central Government may, by notification 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 nonresident 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.

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38[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 “nonresident 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;

(iiia) 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 clause (ii) of the Explanation to clause (viiia) of

sub-section (1) of section 36;

39[(iiib) 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];

40[(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 –

41[(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 42[a loan agreement entered into before the 1st day of June, 2001 with any such financial institution] in a foreign country as may be approved in this behalf by the Central Government by general or special order;

(c) by an industrial undertaking in India on any 43[moneys borrowed or debt incurred by it before the 1st day of June, 2001] in a foreign country in respect of the purchase outside India of raw materials or components or capital plant and machinery, 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 or debt and its repayment.]

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44[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;

45[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;]

(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), or the Export-Import Bank of India established under the

Export-Import Bank of India Act, 1981 (28 of 1981), or the National Housing

Bank established under section 3 of the National Housing Bank Act, 1987 (53

of 1987), 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 46[any moneys borrowed by it from sources outside India 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;

(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 46[any

moneys borrowed by it from sources outside India 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;

(f) by an industrial undertaking in India on any moneys borrowed by it in

foreign currency from sources outside India under 47[a loan agreement

approved by the Central Government before the 1st day of June, 2001] having

regard to the need for industrial development in India, to the extent to which

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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;

(fa) by a scheduled bank 48[***] to a non-resident or to a person who is not

ordinarily resident within the meaning of *subsection (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.

49[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;]

(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, 50[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 51[a loan agreement approved by the Central Government 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 items (f), (fa) and (g), the expression

“foreign currency” shall have the meaning assigned to it in the Foreign

Exchange Regulation Act, 1973 (46 of 1973); (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 notification in the Official Gazette, specify in this behalf;

(i) by Government on deposits made by an employee of the Central Government or a State Government or a public sector company, in accordance with such scheme as the Central

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Government may, by notification 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.

52[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

53[(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

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

(c) mining; or

(d) the construction of ships; or

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

(e) the operation of ships or aircrafts or construction or operation of rail systems;

56[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.]

57[Explanation 2 : For the purposes of this clause, the expression

“interest” includes hedging transaction charges on account of currency

fluctuation;]

(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 notification 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

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sector bank” shall have the meaning assigned to it in the Explanation to

clause (23D);

58[(vi) interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 199959

notified by the Central Government;]

60[(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 notification 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;]

61[(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 Unit referred to in clause (u) of section 2 of the Special

Economic Zones Act, 2005.]

(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 lease from the Government of a foreign State or a foreign enterprise

under an agreement 62[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.

63[Provided that nothing contained in this clause shall apply to any such

agreement entered into on or after the 64[65[1st day of April, 2007]].

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

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

(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;

(ii) any allowance received by any person by reason of his membership of

Parliament under the Members of Parliament (Constituency Allowance) Rules,

1986;

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66[(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;]

(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 approved 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 approved by the Central Government in this behalf in the public interest;

67[(18) any income by way of -

(i) pension received by an individual who has been in the service of the Central 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 notification 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) 68[Omitted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999];

69[(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 paramilitary 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 prescribed;]

(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 occupation of such Ruler

during the relevant previous year shall be exempt from income-tax;

(20) the income of a local authority which is chargeable under the head "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

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service (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 :

70[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 Constitution; or

(ii) Municipality as referred to in clause (e) of article 243P of the Constitution; 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 3 of the Cantonments Act,

1924 (2 of 1924);]

(20A) 71[Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

72(21) any income of a 171[research association] for the time being approved for the

purpose of clause (ii) 172[or clause (iii)] of sub-section (1) of section 35:

Provided that the 171[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 173[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”⁷³ referred to in clause (ii) 172[or clause (iii)] of sub-section (1) of section 35;

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(ii) in sub-section (3), in clause (a), for the words “charitable or religious purposes”, the words “the purposes of 173[scientific research or research in social science or statistical research]” shall be substituted; and

(b) does not invest or deposit its funds, other than –

(i) any assets held by the 171[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 171[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 171[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 :

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 171[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 171[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;

74[Provided also that where the 171[research association] is approved by the Central Government and subsequently that Government is satisfied that -

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(i) the 171[research association] has not applied its income in accordance with the provisions contained in clause (a) of the first proviso; or

(ii) the 171[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 171[research association] are not genuine; or

(iv) the activities of the 171[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) 75[Omitted by the Finance (No. 2) Act, 1998, with effect from
1st April, 1999];

(22A) 76[Omitted by the Finance (No. 2) Act, 1998, with effect from
1st April, 1999];

(22B) any income of such news agency set-up in India solely for
collection and

distribution of news as the Central Government may, by notification
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;

77[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) 78[Omitted by the Finance Act, 2002, with effect from 1st April, 2003];

(23A) any income (other than income chargeable under the head "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 profession 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 approved for the purposes of this clause by the Central Government by general or special order;

79[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;]

(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 dependents;

(23AAA) any income received by any person on behalf of a fund established, for such

purposes as may be notified by the Board in the Official Gazette, for the welfare of

employees or their dependents and of which fund such employees are members if

such fund fulfils the following conditions, namely :

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(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 Commissioner in accordance with the rules⁸⁰

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;

(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 ⁸¹[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 82[or the Insurance

Regulatory and Development Authority established under subsection (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);

(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 the 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,

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grant such approval for more than three assessment years

beginning with the assessment year next following the financial year in which it is granted :

83[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) “khadi” and “village industries” have the meanings respectively
assigned to them in that Act;

(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, “khadi” and “village
industries”

have the meanings respectively assigned to them in the Khadi and
Village

Industries Commission Act, 1956 (61 of 1956);

(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 :

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Provided that nothing in this clause shall be construed to exempt from tax the

income of any trust, endowment or society referred to therein;

(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

scheme 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;

(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;

84[(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 85[86[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;]]

84[(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);]

87[(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):

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

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beginning on the 1st day of April, 2010 and any subsequent assessment

year or years,

shall be included in such total income;]

88[(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);]

(23C) any income 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; or

(iiia) the National Foundation for Communal Harmony; or

89[(iiiab) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or]

89[(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]

89[(iiiad) any university or other educational institution existing solely 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 prescribed⁹⁰; or]

89[(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 prescribed³; or]

(iv) any other fund or institution established for charitable purposes⁹¹[which may be approved by the prescribed authority], having regard to the objects of the fund or institution and its importance throughout India or throughout any

State or States; or

(v) any trust (including any other legal obligation) or institution wholly for

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public religious purposes or wholly for public religious and charitable purposes,

92[which may be approved by the prescribed authority], 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; or

93[(vi) any university or educational institution existing solely 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 approved by the

prescribed authority⁹⁴; or]

93[(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 approved by the prescribed authority⁹⁴ :]

Provided that the fund or trust or institution 93[or any university or other educational institution or any hospital or other medical institution] referred to in sub-clause (iv) or sub-clause (v) 93[or sub-clause (vi) or sub-clause (via)] shall make an application in the prescribed form⁹⁵ and manner to the prescribed authority⁹⁶ for the purpose of grant of the exemption, or continuance thereof, under sub-clause (iv) or sub-clause (v) 93[or sub-clause (vi) or sub-clause

(via)] :

97[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 98[or any university or other educational institution or any hospital or other medical institution] referred to in sub-clause (iv) or sub-clause (v) 98[or sub-clause (vi) or sub-clause (via)] –

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99[(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]

(b) does not invest or deposit its funds, other than –

(i) any assets held by the fund, trust or institution 98[or any university or other educational institution or any hospital or other medical institution] where such assets form part of the corpus of the fund, trust or institution 98[or any university or other educational institution or any hospital or other medical institution] as on the 1st day of June, 1973;

100[(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 98[or any university or other educational institution 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) 101[and sub-clause (ia)], by way of bonus shares allotted to the fund, trust or institution 102[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

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remain so invested or deposited after the 30th day of March, 1993 :

102[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]
:

Provided also that the exemption under sub-clause (iv) or sub-clause (v) 2[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 2[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) 102[or

sub-clause (vi) or sub-clause (via)] shall apply in relation to any income of the

fund or trust or institution 102[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 103[notification issued by the Central Government

under sub-clause (iv) or sub-clause (v), before the date¹⁰⁴ on which the

Taxation Laws (Amendment) Bill, 2005 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;

105[Provided also that where an application under the first proviso
is made on or after

the date¹⁰⁴ on which the Taxation Laws (Amendment) Bill, 2005
receives the assent

of the President, ¹⁰⁶[every notification under sub-clause (iv) or sub-
clause (v) shall be

issued or approval under 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:

105[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

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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 prescribed¹⁰⁷ form duly signed and
verified by such

accountant and setting forth such particulars as may be prescribed5
:]

108[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 109[in respect of
which accounts

of income and expenditure have not been rendered to the authority
prescribed under

clause (v) of subsection (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 110[or

before the 31st day of March, 111[2004]] shall be deemed to be the
income of the

previous year and shall accordingly be charged to tax ;]

112[Eleventh proviso omitted by the Finance Act, 2002, with effect
from 1st April,

2002] :

113[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 :]

113[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 114[or is approved by the prescribed authority] 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

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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 ;]

115[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 116[made on or before the 30th day of September of the assessment year] from which the exemption is sought :]

117[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 ;]

118[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

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may proceed with such applications under those sub-clauses from the stage at which they were on that day;]

(23D) 119[subject to the provisions of Chapter XIIIE, 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 notification 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 Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) 120[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) ;

(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) ;

(23E) 121[Omitted by the Finance Act, 2002, with effect from 1st April, 2003] ;

122[(23EA) 123[any income, 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 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 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

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so shared and shall accordingly be chargeable to income-tax ;]

124[(23EB) any income of the 125[Credit Guarantee Fund Trust for Small 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 ;]

126[(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);]

(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 authority¹²⁷ in

accordance with the rules¹²⁸ made in this behalf and satisfies the prescribed

conditions :

Provided further that any approval by the prescribed authority¹²⁷ 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 :

¹²⁹[Third and fourth provisos omitted by the Finance (No. 2) Act, 1998,

with effect from 1st April, 1999.]

¹³⁰[Provided also that nothing contained in this clause shall apply in respect of any investment made after the 31st day of March, 1999.] 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

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trustees for investments mainly by way of acquiring equity shares of a venture capital undertaking in accordance with the prescribed guidelines¹³¹ ;

(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 guidelines¹³² ; and

¹³³[(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 notified by the Central Government in this behalf ;

(d) “infrastructure facility” means road, highway, bridge, airport, port, rail system, 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 (1A) of section 80-IA ;]

134[(23FA) any income by way of 135[dividends, 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 rules¹³⁶ made in this behalf and

which satisfies the prescribed conditions¹³⁶ :

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.

137[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, –

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(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 guidelines¹³⁸ ;

(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 guidelines¹³⁸ ;

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 notified 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 ;]

139[(23FB) any income of a venture capital company or venture capital fund 140[from

investment] in a venture capital undertaking.

Explanation 141[1] : For the purposes of this clause, –

(a) “venture capital company” means such company –

(i) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and regulations made thereunder ;

(ii) which fulfils the conditions as may be specified, with the approval of

the Central Government, by the Securities and Exchange Board of

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India, by notification in the Official Gazette, in this behalf ;

(b) “venture capital fund” means such fund –

142[(i) operating under a trust deed registered under the provisions of

the Registration Act, 1908 (16 of 1908) or 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);]

(ii) which has been granted a certificate of registration under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and regulations made thereunder ;

(iii) which fulfils the conditions as may be specified, with the approval of

the Central Government, by the Securities and Exchange Board of India, by notification in the Official Gazette, in this behalf ; and

143[(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) nanotechnology;

(B) information technology relating to hardware and software development;

(C) seed research and development;

(D) bio-technology;

(E) research and development of new chemical entities in the pharmaceutical sector;

(F) production of bio-fuels;

(G) building and operating composite hotel-cum-convention centre with seating capacity of more than three thousand; or

(H) developing or operating and maintaining or developing, operating and maintaining any infrastructure facility as defined in the Explanation to clause (i) of sub-section (4) of section 80-IA; or

(ii) dairy or poultry industry;]

Explanation 2 : 144[Omitted by the Finance (No. 2) Act, 2004, with effect from 1st October, 2004.]

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(23G) 145[Omitted by the Finance Act, 2006, with effect from 1st April, 2007.]

(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 ;

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

(v) any income received –

(a) by the Board of Trustees constituted under the Coal Mines Provident Fund 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 ;

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

(26) in the case of a member of a Scheduled Tribe as defined in clause (25) of article 366 of the Constitution, residing in any area specified in Part I or Part II of the Table

appended to paragraph 20 of the Sixth Schedule to the Constitution or in the 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 (18 of 1971)], 146[or in the Ladakh region of the State of Jammu and Kashmir], any income which accrues or arises to him, –

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(a) from any source in the areas or States aforesaid, or
(b) by way of dividend or interest on securities ;
(26A) any income accruing or arising to any person 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, 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.
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) or sub-section (2) or sub-section (3) or subsection (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.

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) [Omitted by the Finance Act, 1997, with effect from 1st April, 1998] ;

147[(26AAA) in 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

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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 grandfather or brother from the same father has been recorded in that register;]

148[(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;]
(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 members of the Scheduled Castes or the Scheduled Tribes or backward classes or of any two or all of them.

Explanation : For the purposes of this clause, -

(a) "Scheduled Castes" and "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 ;

(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 notified as such by the Central Government in the Official Gazette

in this behalf ;

149[(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 ;]

(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) [Omitted by the Finance Act, 1997, with effect from 1st April, 1998.] ;

(29) 150[Omitted by the Finance Act, 2002, with effect from 1st April, 2003] ;

151[(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

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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 ;]

152[(h) the Coir Board established under section 4 of the Coir Industry Act,

1953 (45 of 1953);]

(30) 153in 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 scheme for replantation or replacement of tea bushes 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 Assessing Officer, along with his

return of income for the assessment year concerned or within such further

time as the 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) ;

(31) 154 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

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in the Official Gazette, specify :

Provided that the assessee furnishes to the Assessing Officer, along with his

return of income 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 ;

(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;

155[(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) and where the transfer of such asset

takes place on or after the 1st day of April, 2002 ;]

156[(34) any income by way of dividends referred to in section 115-0 ;]

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158[(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:

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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) ;

(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) ;]

159[(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 ;]

160[(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 consideration enhanced or further enhanced by any court, tribunal or other authority ;]

161[(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 where -

(a) the transaction of sale of such equity share or unit is entered into on or

after the date¹⁶² on which Chapter VII of the Finance (No. 2) Act, 2004 comes

into force; and

(b) such transaction is chargeable to securities transaction tax under that

Chapter.

163[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.]

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

164[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 share holding of the fund shall be computed with reference to the annual average of the monthly averages of the opening and closing figures.]

165[(39) any specified income, arising from any international sporting event held in

India, to the person or persons notified¹⁶⁶ 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 notified by the Central Government in the Official Gazette for the

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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 notify

in this behalf;]

167[(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;]

167[(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;]

168[(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 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 the body or authority referred to in this clause, which the Central Government may
notify in this behalf;]

169[(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.]

170[(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 1982).]

175[(45) any allowance or perquisite, as may be notified by the Central Government

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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;]

175[(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 notified 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, which is notified by the Central Government in the Official Gazette for the purposes of this clause.

1. Prior to omission, clause (3) stood as under :

‘(3) any receipts which are of a casual and non-recurring nature, to the extent such receipts do not exceed five thousand rupees in the aggregate :
Provided that where such receipts relate to winnings from races including horse races, the provisions of this clause shall have effect as if for the words “five thousand rupees”, the words “two thousand five hundred rupees” had been substituted :

Provided further that this clause shall not apply to -

- (i) capital gains chargeable under the provisions of section 45; or
- (ii) receipts arising from business or the exercise of a profession or occupation; or
- (iii) receipts by way of addition to the remuneration of an employee;’

2. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

3. Prior to omission, the second proviso, as inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2006, stood as under :

“Provided further that nothing contained in this sub-clause shall apply to any income by way of interest paid or

credited on or after the 1st day of April, 2005 to the Non-Resident (External) Account of such individual;”

4. Substituted for ‘savings certificates issued’ by the Finance Act, 2002, with effect from 1st April, 2003.

5. See rule 2B. For analysis, see Mashbra’s Income-tax Rules.

6. Prior to omission, clause (5A) stood as under :

‘(5A) in the case of an individual who is not a citizen of India and is a non-resident, who comes to India solely in

connection with the shooting of a cinematograph film in India by the individual, firm or company referred to in clause

(d) of the Explanation to clause (i) of sub-section (1) of section 9, any remuneration received by him for rendering

any service in connection with such shooting;’

7. Prior to omission, clause (5B) as amended by the Finance Act, 1999, with effect from 1st April 1999, stood as under:

‘(5B) in the case of an individual who renders services as a technician in the employment (commencing from a date

after the 31st day of March, 1993) of the Government or of a local authority or of any corporation set-up under any

special law or of any such institution or body established in India for carrying on scientific research as is approved for

the purposes of this clause by the prescribed authority or in any business carried on in India and the individual was not

resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India

and the tax on his income for such services chargeable under the head “Salaries” is paid to the Central Government

by the employer [which tax, in the case of an employer, being a company, may be paid notwithstanding anything

contained in section 200 of the Companies Act, 1956 (1 of 1956)], the tax so paid by the employer for a period not

exceeding forty-eight months commencing from the date of his arrival in India :

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so

to do, waive the condition relating to non-residence in India as specified in this clause in the case of any

individual who is employed in India for designing, erection or commissioning of machinery or plant or

supervising activities connected with such designing, erection or commissioning.

Explanation : For the purposes of this clause, “technician” means a person having specialised knowledge

and experience in –

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or

any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to availability of Indians having

specialised knowledge and experience therein, the needs of the country and other relevant

circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually

utilised;’

8. Prior to omission, sub-clause (i) as amended by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999, stood as

under :

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‘(i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or

concessional passage received by or due to such individual–

(a) from his employer, for himself, his spouse and children, in connection with his proceeding on home leave

out of India,

(b) from his employer or former employer for himself, his spouse and children, in connection with his

proceeding to his home country out of India after retirement from service in India or after the termination of

such service;’

9. Prior to omission, sub-clause (via) stood as under :

‘(via) the remuneration received by him as an employee of, or a consultant to, an institution or association or a body

established or formed outside India solely for philanthropic purposes, for services rendered by him in India in

connection with such purposes;

provided that such institution or association or body and the purposes for which his services are rendered in

India are approved by the Central Government;'

10. Prior to omission, sub-clause (viia) stood as under:

'(viia) where such individual renders services as a technician in the employment of the Government or of a local

authority or of any corporation set-up under any special law or of any such institution or body established in India for

carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any

business carried on in India and the individual was not resident in India in any of the four financial years immediately

preceding the financial year in which he arrived in India,

the remuneration for such services due to or received by him, which is chargeable under the head "Salaries", to the extent

mentioned below, namely :

(I) where such services commence from a date after the 31st day of March, 1971 but before the 1st day of April,

1988,-

(A) such remuneration due to or received by him during the period of twenty-four months commencing

from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at

the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration

for the period aforesaid over the amount so calculated is paid to the Central Government by the employer

[which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained

in section 200 of the Companies Act, 1956 (1 of 1956)], also the tax so paid by the employer; and

(B) where he continues, with the approval of the Central Government obtained before the 1st day of

October of the relevant assessment year, to remain in employment in India after the expiry of the period of

twenty-four months aforesaid and the tax on his income chargeable under the head "Salaries"

is paid to the Central Government by the employer [which tax, in the case of an employer, being a

company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956 (1

of 1956)], the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the first-mentioned twenty-four months;

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(II) where such services commence from a date after the 31st day of March, 1988 but before the 1st day of April,

1993, and tax on his income chargeable under the head “Salaries” is paid to the Central Government by the employer

[which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section

200 of the Companies Act, 1956 (1 of 1956), the tax so paid by the employer for a period not exceeding forty-eight

months commencing from the date of his arrival in India] :

Provided that the Central Government may, if it considers it necessary or expedient in the public interest so

to do, waive the condition relating to non-residence in India as specified in this sub-clause in the case of any

individual who is employed in India for designing, erection or commissioning of machinery or plant or

supervising activities connected with such designing, erection or commissioning.

Explanation : For the purposes of this sub-clause, “technician” means a person having specialised

knowledge and experience in–

(i) constructional or manufacturing operations, or in mining or in the generation of electricity or

any other form of power, or

(ii) agriculture, animal husbandry, dairy farming, deep sea fishing or ship building, or

(iii) such other field as the Central Government may, having regard to the availability of Indians

having specialised knowledge and experience therein, the needs of the country and other relevant

circumstances, by notification in the Official Gazette, specify,

who is employed in India in a capacity in which such specialised knowledge and experience are actually

utilised;’

11. Prior to omission, sub-clause (ix), stood as under :

‘(ix) any income chargeable under the head “Salaries” received by or due to him during the thirty-six months

commencing from the date of his arrival in India for service rendered as a professor or other teacher in a University

or other educational institution, and where any such individual continues to remain in employment in India after the

expiry of the thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid by

the University or other educational institution concerned to the Central Government, the tax so paid for a period not

exceeding twenty-four months following the expiry of the thirty-six months aforesaid, provided in either case the

following conditions are fulfilled, namely : (i) such individual was not resident in any of the four financial years

immediately preceding the financial year in which he arrived in India; and

(ii) his contract of service is approved by the Central Government –

(a) on or before the 1st day of October, 1964, in the case of a professor or other teacher whose service

commenced before the 1st day of April, 1964;

(b) before the commencement of his service or within one year of such commencement, in any other

case;'

12. Prior to omission, sub-clause (x) stood as under :

'(x) any sum due to or received by him, during the twenty-four months commencing from the date of his arrival in

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India, for undertaking any research work in India, provided the following conditions are fulfilled, namely :

(a) the research work is undertaken in connection with a research scheme approved in this behalf by the

Central Government on or before the 1st day of October of the relevant assessment year; and

(b) such sum is payable or paid directly or indirectly by the Government of a foreign State or any institution

or association or other body established outside India;'

13. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

14. Substituted for 'agreement entered into by the Central Government' by the Finance Act, 2002, with effect from 1st April, 2003.

15. Substituted for 'related agreement approved' by the Finance Act, 2002, with effect from 1st April, 2003.
16. Substituted for "an agreement entered after the 31st day of March, 1997 but before the 1st day of April, 1999 and approved by the Central Government in this behalf" by the Finance (No. 2) Act, 2004, with effect from 1st April, 2006. Earlier the expression 'after the 31st day of March, 1997 but before the 1st day of April, 1999' in the quoted portion was substituted for 'after the 31st day of March, 1997' by the Finance Act, 1999, with effect from 1st April, 2000.
17. Substituted for "or entered into after the 30th day of September, 2005 and approved by the Central Government in this behalf" by the Taxation Laws (Amendment) Act, 2005, with retrospective effect from 31st October, 2005.
18. Substituted for "or entered into after the 31st day of March, 2006, and approved by the Central Government in this behalf" by the Finance Act, 2006, with effect from 1st April, 2007. Earlier, the expression "entered into after the 31st day of March, 2006" in the quoted portion was substituted for "entered into after the 31st day of March, 2005" by the Finance Act, 2005, with effect from 1st April, 2006.
19. See Notification No. 120/2006, dated 16th May, 2006.
20. Substituted for 'by way of fees' by the Finance Act, 2003, with effect from 1st April, 2004.
21. Prescribed authority specified in rule 16B is Additional Secretary, Department of Economic Affairs in Ministry of Finance, Government of India in concurrence with Member (Income-tax), Central Board of Direct Taxes. For analysis, see Mashbra's Income-tax Rules.
22. Substituted for 'eight months' by the Finance Act, 1999, with retrospective effect from 1st April, 1998.
23. Inserted by the Finance Act, 2007, with retrospective effect from 1st April, 2005.
24. Substituted for 'any amount received by an employee of' by the Finance Act, 2003, with effect from 1st April, 2004.
25. Inserted by the Finance Act, 2001, with effect from 1st April, 2000.
26. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.
27. Inserted by the Finance Act, 2002, with effect from 1st April, 2002.

28. Substituted for 'at the time of his voluntary retirement' by the Finance Act, 2003, with effect from 1st April, 2004. Earlier the words 'voluntary retirement' in the quoted portion were substituted for 'voluntary retirement, in accordance with any

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scheme or schemes of voluntary retirement, to the extent such amount does not exceed five lakh rupees' by the Finance Act, 2000, with effect from 1st April, 2001.

29. See rule 2BA. For analysis, see Mashbra's Income-tax Rules.

30. Expression 'and such schemes in relation to companies, referred to in sub-clause (ii) or co-operative societies referred to in sub-clause (v) are approved by the Chief Commissioner or, as the case may be, Director-General in this behalf omitted by the Finance Act, 2000, with effect from 1st April, 2001.

30A. Inserted by the the Finance (No. 2) Act, 2009, with effect from 1st April, 2010:

31. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

32. Substituted by the Finance Act, 2003, with effect from 1st April, 2004. Prior to substitution, clause (10D) as amended by the Finance (No. 2) Act, 1996, with effect from 1st October, 1996, stood as under :

'(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy

other than any sum received under sub-section (3) of section 80DDA or under a Keyman insurance policy.

Explanation : 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;'

33. Substituted for "Explanation to sub-section (2A) of section 88" by the Finance Act, 2005, with effect from 1st April, 2006.

34. See rule 2A. For analysis, see Mashbra's Income-Tax Rules.

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;

35. See rule 2BB(2). For analysis, see Mashbra's Income-tax Rules.

36. Prior to omission, clause (14A) stood as under :

'(14A) any income received by a public financial institution as exchange risk premium from any person borrowing

foreign currency from such institution, provided the amount of such premium is credited by such institution to a fund

specified under clause (23E).

Explanation : For the purposes of this clause, –

(i) the expression "public financial institution" shall have the meaning assigned to it in section 4A of the

Companies Act, 1956 (1 of 1956);

(ii) the expression "exchange risk premium" means a premium paid by a person borrowing foreign currency

from a public financial institution to cover the risk which may be borne by such institution on account of

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fluctuations in exchange rate of foreign currencies borrowed by such institution;'

37. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

38. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

39. Inserted by the Taxation Laws (Amendment) Act, 2003, with retrospective effect from 1st April, 2001.

40. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2005.

41. Substituted by the Finance Act, 2001, with effect from 1st April, 2002. Prior to substitution, item (a) stood as under :

'(a) by Government or a local authority on moneys borrowed by it from, or debts owed by it to, sources outside

India;'

42. Substituted for 'a loan agreement entered into with any such financial institution' by the Finance Act, 2001, with effect from 1st April, 2002.

43. Substituted for 'moneys borrowed or debt incurred by it' by the Finance Act, 2001, with effect from 1st April, 2002.

44. Renumbered for Explanation by the Taxation Laws (Amendment) Act, 2003, with retrospective effect from 1st April, 1962.

45. Inserted by the Taxation Laws (Amendment) Act, 2003, with retrospective effect from 1st April, 1962.

46. Substituted for 'any moneys borrowed by it from sources outside India' by the Finance Act, 2001, with effect from 1st April, 2002.

47. Substituted for 'a loan agreement approved by the Central Government' by the Finance Act, 2001, with effect from 1st April, 2002.

48. Expression "before the 1st day of April, 2005" omitted by the Finance Act, 2005, with effect from 1st April, 2006. Earlier

this expression was inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2006.

* Reference to 'sub-section (6)' should have been 'clause (6)'.

49. Substituted by the Finance Act, 2007, with effect from 1st April, 2007. Prior to substitution, the Explanation stood as

under:

"Explanation : For the purposes of this item, the expression "scheduled bank" shall have the meaning assigned to it in

clause (ii) of the Explanation to clause (vii) of sub-section (1) of section 36;"

50. Substituted for 'being a company approved by the Central Government for the purposes of clause (viii) of sub-section (1)

of section 36' by the Finance Act, 2000, with effect from 1st April, 2000.

51. Substituted for 'a loan agreement approved by the Central Government' by the Finance Act, 2003, with effect from 1st

April, 2004.

52. Renumbered as Explanation 1 by the Finance Act, 1999, with effect from 1st April, 2000.

53. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

54. Inserted by the Finance Act, 1997, with effect from 1st April, 1998.

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55. Inserted by the Taxation Laws (Amendment) Act, 2003, with retrospective effect from 1st April, 1991.

56. Substituted by the Finance Act, 2001, with effect from 1st April, 2002. Prior to substitution, Explanation 1A, which was

inserted by the Finance Act, 2000, with effect from 1st April, 2001, stood as under :

‘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.’

57. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

58. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

59. For Scheme, see Mashbra’s Income-tax Rules.

60. Substituted by the finance Act, 2007, with effect from 1st April, 2008. Prior to substitution, sub-clause (vii) as inserted by the Finance Act, 2000 with effect from 1st April, 2001, stood as under:

“(vii) interest on bonds –

(a) issued by a local authority; and

(b) specified by the Central Government by notification in the Official Gazette;”

61. Inserted by the Special Economic Zones Act, 2005, with effect from 10th February, 2006. Under section 27 of the Special

Economic Zones Act, 2005, effective from 10th February, 2006, the provisions of the Income-tax Act, 1961, as in force for

the time being, apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special

Economic Zone or Unit subject to the modifications specified in the Second Schedule to that Act. The above amendment is

specified in the Second Schedule to that Act.

62. Substituted for ‘entered before the 1st day of April, 1997’ by the Finance Act, 1999, with effect from 1st April, 2000.

Earlier the quoted expression was inserted by the Finance Act, 1997, with effect from 1st April, 1998.

63. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2006.

64. Substituted for “1st day of October 2005” by the Taxation Laws (Amendment) Act, 2005, with retrospective effect from 31st October, 2005.

65. Substituted for “1st day of April, 2006” by the Finance Act, 2006, with effect from 1st April, 2007.

66. Substituted by the Finance Act, 2006, with effect from 1st April, 2007. Prior to substitution, sub-clause (iii), as amended by

the Finance Act, 1997, with effect from 1st April, 1998, stood as under:

"(iii) all other allowances not exceeding two thousand rupees per month in the aggregate received by any person by

reason of his membership of any State Legislature or of any Committee thereof, which the Central Government may,

by notification in the Official Gazette, specify in this behalf;"

67. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

68. Prior to omission, clause (18A) stood as under :

‘(18A) any ex gratia payments made by the Central Government consequent on the abolition of privy purse;’

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69. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2005.

70. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

71. Prior to omission, clause (20A) stood as under :

‘(20A) any income of an 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;’

72. See rule 17 and Form No. 10. For analysis, see Mashbra’s Income-tax Rules.

73. Prescribed authority specified in rule 6(1) in Director General (Income-tax Exemption) in concurrence with the Secretary, Department of Scientific and Industrial Research, Government of India.

74. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

75. Prior to omission, clause (22) stood as under :

‘(22) any income of a university or other educational institution, existing solely for educational purposes and not for purposes of profit;’

76. Prior to omission, clause (22A) stood as under :

‘(22A) any income of a 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;'

77. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

78. Prior to omission, clause (23), as amended by the Finance Act, 2000, with effect from 1st April, 2001, stood as under :

'(23) any income of an association or institution established in India which may be notified by the Central

Government in the Official Gazette having regard to the fact that the association or institution has as its object the

control, supervision, regulation or encouragement in India of the games of cricket, hockey, football, tennis or such

other games or sports as the Central Government may, by notification in the Official Gazette, specify in this behalf :

Provided that the association or institution shall make an application in the prescribed form and manner to

the prescribed authority for the purpose of grant of the exemption, or continuance thereof, under this

clause:

Provided further that the Central Government may, before notifying the association or institution under this

clause, call for such documents (including audited annual accounts) or information from the association or

institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the

association or institution and that Government may also make such inquiries as it may deem necessary in

this behalf:

Provided also that the association or institution,–

(a) applies its income or accumulates it for application, wholly and exclusively to the objects for

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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 subsection" shall be omitted;

(2) for the words "to charitable or religious purposes", the words "for the purposes of

games or sports" 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 the first proviso to this clause;

(ii) in sub-section (3), in clause (a), for the words "charitable or religious purposes", the

words "the purposes of games or sports" shall be substituted; and

(b) does not invest or deposit its funds, other than –

(i) any assets held by the association or institution where such assets form part of the

corpus of the fund of the association or institution 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 association or institution 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 association or 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; and

(c) does not distribute any part of its income in any manner to its members except as grants to

any association or institution affiliated to it;

(d) applies the amount received by way of donation referred to in clause (c) of subsection (2) of

section 80G for purposes of development of infrastructure for games or sports in India or for

sponsoring games and sports in India :

Provided also that the exemption under this clause 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, 1993 :

Provided also that the exemption under this clause shall not be denied in relation to voluntary contribution, other than voluntary contribution in cash or voluntary

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contribution of the nature referred to in clause (b) of the third proviso to this clause, subject to the condition that such voluntary contribution is not held by the association or 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 this clause shall apply in relation to any income of the association or 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 notification issued by the Central Government under this clause in relation to any association or institution 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;'

79. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

80. Refer rule 16C and Form No. 9. For analysis, see Mashbra's Income-tax Rules.
81. Substituted for 'under a pension scheme' by the Finance Act, 2001, with effect from 1st April, 2002.
82. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.
83. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.
84. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.
85. Substituted for "seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008" by the Finance Act, 2007, with effect from 1st April, 2008.
86. Substituted for 'three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004' by the Finance Act, 2003, with effect from 1st April, 2004.
87. Inserted by the Taxation Laws (Amendment) Act, 2006, with effect from 1st April, 2006.
88. Inserted by the Finance Act, 2007, with effect from 1st April, 2008.
89. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.
90. See rule 2BC.
91. Substituted for "which may be notified by the Central Government in the Official Gazette" by the Finance Act, 2007, with effect from 1st June, 2007.
92. Substituted for "which may be notified by the Central Government in the Official Gazette" by the Finance Act, 2007, with effect from 1st June, 2007.
93. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

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94. Prescribed authority specified in rule 2CA is the Chief Commissioner or the Director General.
95. See rule 2C(2), rule 2CA(2) and Form Nos. 56 and 56D. For analysis, see Mashbra's Income-tax Rules.
96. Prescribed authority specified in rule 2C and rule 2CA is the Chief Commissioner or Director General.

97. Substituted by the Finance Act, 2007, with effect from 1st June, 2007. Prior to substitution, the second proviso, as substituted by the Finance Act, 1999, with effect from 1st April, 1999, stood as under :

“Provided further that the Central Government, before notifying the fund or trust or institution, or the prescribed authority, before approving 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 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, and the Central Government or the prescribed authority, as the case may be, may also make such inquiries as it deems necessary in this behalf :”

98. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

99. Substituted by the Finance Act, 2002, with effect from 1st April, 2003. Prior to substitution, clause (a) as amended by the Finance Act, 2001, with effect from 1st April, 2002, stood as under: ‘(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 twenty-five per cent of its income is accumulated on or after the 1st day of April, 2001, the period of the accumulation of the amount exceeding twenty-five per cent of its income shall in no case exceed five years; and’

100. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

101. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

102. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

103. Substituted for “notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years” by the Taxation Laws

(Amendment) Act, 2006, with effect from 1st April, 2006.

104. 13th July, 2006.

105. Inserted by the Taxation Laws (Amendment) Act, 2006, with effect from 1st April, 2006.

106. Substituted for “every notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (vi) or sub-clause (via)” by the Finance Act, 2007, with effect from 1st June, 2007.

107. See rule 16CC and Form No. 10BB.

108. Inserted by the Taxation Laws (Amendment) Act, 2001, with effect from 3rd February, 2001.

109. Inserted by the Finance Act, 2002, with retrospective effect from 3rd February, 2001.

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110. Substituted for ‘or before the 31st day of March, 2002’ by the Finance Act, 2002, with retrospective effect from 3rd February, 2001.

111. Substituted for ‘2003’ by the Finance Act, 2003, with retrospective effect from 3rd February, 2001.

112. Prior to omission, the Eleventh proviso as inserted by the Finance Act, 2001, with effect from 1st April, 2002, stood as under :

‘Provided also that where the total receipts of the fund or institution referred to in sub-clause (iv) or of any trust or

institution referred to in sub-clause (v) or of any university or other educational institution referred to in sub-clause

(vi) or of any hospital or other institution referred to in sub-clause (via) exceed one crore rupees in any preceding

year, the fund or trust or institution or university or other educational institution or hospital or other institution, as the

case may be, shall –

(i) publish its accounts in a local newspaper ; and

(ii) furnish along with the application prescribed in the first proviso to this clause, the copy of the local

newspaper in which such accounts have been published :’

113. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

114. Inserted by the Finance Act, 2007, with effect from 1st June, 2007.

115. Inserted by the Finance Act, 2006, with effect from 1st June, 2006.

116. Substituted by the Finance (No. 2) Act, 2009 with retrospective effect from 1st April, 2009 for the following : -

“made at any time during the financial year immediately preceding the assessment year”

117. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.

118. Inserted by the Finance Act, 2007, with effect from 1st June, 2007.

119. Substituted for ‘any income of by the Finance Act, 2003, with effect from 1st April, 2004. Earlier ‘any income of was

substituted for ‘subject to the provisions of Chapter XIIE,’ any income of by the Finance Act, 1999 with effect from 1st April,

2000 and later the expression ‘subject to the provisions of Chapter XIIE’, was omitted by the Finance Act, 2002, with effect

from 1st April, 2003.

120. Inserted by the Finance (No. 2) Act, 2009, with effect from 1st April, 2010.

121. Prior to omission, clause (23E), stood as under :

‘(23E) any income of such Exchange Risk Administration Fund set-up by public financial institutions, 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 Fund and not charged to income-tax during

any previous year is shared, either wholly or in part, with a public financial institution, 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.

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Explanation : For the purposes of this clause, the expression “public financial institution” shall have the meaning

assigned to it in section 4A of the Companies Act, 1956 (1 of 1956) ;’

122. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

123. Substituted for “any income” by the Finance Act, 2006, with effect from 1st April, 2007.

124. Inserted by the Finance Act, 2002, with effect from 1st April, 2002.

125. Substituted for 'Credit Guarantee Fund Trust for Small Scale Industries' by the Finance Act, 2003, with retrospective effect from 1st April, 2002.

126. Inserted the Finance Act, 2007, with effect from 1st April, 2008.

127. Prescribed authority specified in rule 2D(1) is Director of Income-tax (Exemptions).

128. See rule 2D and Form Nos. 56A, 56B and 56C. For analysis, see Mashbra's Income-tax Rules.

129. Prior to omission, third and fourth provisos as inserted by the Finance Act, 1995, with effect from 1st April, 1996, stood as under :

'Provided also that if the aforesaid equity shares are transferred (other than in the event of the said shares being

listed in a recognised stock exchange in India) by a venture capital fund or a venture capital company to any person

at any time within a period of three years from the date of their acquisition, the aggregate amount of income by way

of dividends on such equity shares which has not been included in the total income of the previous year or years

preceding the previous year in which such transfer has taken place shall be deemed to be the income of the venture

capital fund or of the venture capital company of the previous year in which such transfer has taken place :

Provided also that the exemption shall not be allowed in respect of the long-term capital gains, if any, arising on such

transfer of equity shares as is mentioned in the third proviso.'

130. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

131. See rule 2D. For analysis, see Mashbra's Income-tax Rules.

132. See rule 2D. For analysis, see Mashbra's Income-tax Rules.

133. Clauses (c) and (d) substituted for clause (c) by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999. Prior to

substitution, clause (c), as amended by the Finance Act, 1997, with effect from 1st April, 1998, stood as under :

'(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 business of providing telecommunication services or in the manufacture or production of

such articles or things (including computer software) as may be notified by the Central Government in this behalf ;'

134. Inserted by the Finance Act, 1999, with effect from 1st April, 2000.

135. Substituted for 'dividends' by the Finance Act, 2003, with effect from 1st April, 2004. Earlier, 'dividends' was substituted for 'other than dividends referred to in section 115-O,' by the Finance Act, 2002, with effect from 1st April, 2003.

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136. See rule 2DA and Form Nos. 56AA, 56BA and 56CA. For analysis see Mashbra's Income-tax Rules.

137. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

138. See rule 2DA and Form Nos. 56AA, 56BA and 56CA. For analysis see Mashbra's Income-tax Rules.

139. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

140. Substituted for "set-up to raise funds for investment" by the Finance Act, 2007, with effect from 1st April, 2008.

141. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

142. Substituted by the Finance Act, 2001, with effect from 1st April, 2001. Prior to substitution, sub-clause (i) stood as under

:

'(i) operating under a trust deed registered under the provisions of the Registration Act, 1908 (16 of 1908) ;'

143. Substituted by the Finance Act, 2007, with effect from 1st April, 2008. Prior to substitution, clause (c) as substituted by

the Finance (No. 2) Act, 2004, with effect from 1st October, 2004, stood as under :

"(c) "venture capital undertaking" means a venture capital undertaking referred to in the Securities and Exchange

Board of India (Venture Capital Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act,

1992 (15 of 1992) and notified as such in the Official Gazette by the Board for the purposes of this clause;"

144. Prior to omission, Explanation 2 as inserted by the Finance Act, 2001, with effect from 1st April, 2001, stood as under :

‘Explanation 2 : For the removal of doubts, it is hereby declared that the income of a venture capital company or

venture capital fund shall continue to be exempt if the shares of the venture capital undertaking, in which the venture

capital company or venture capital fund has made the initial investment, are subsequently listed in a recognised stock

exchange in India ;’

145. Prior to omission, clause (23G), as substituted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999 and

later amended by the Finance Act, 2003, with effect from 1st April, 2004, by the Finance Act, 2001, with effect from 1st April,

2002 ; and by the Special Economic Zones Act, 2005, with effect from 10th February, 2006, stood as under :

“(23G) any income by way of dividends, other than dividends referred to in section 115-O interest or long-term

capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from

investments made on or after the 1st day of June, 1998 by way of shares or long-term finance in any enterprise or

undertaking wholly engaged in the business referred to in subsection (4) of section 80-IA or sub-section (3) of

section 80-IAB or a housing project referred to in sub-section (10) of section 80-IB or a hotel project or a hospital

project and which has been approved by the Central Government on an application made by it in accordance with the

rules made in this behalf and which satisfies the prescribed conditions :

Provided that the income, by way of dividends, other than dividends referred to in section 115-O, interest

or long-term capital gains of an infrastructure capital company, shall be taken into account in computing the

book profit and income-tax payable under section 115JB.

Explanation 1 : For the purposes of this clause, –

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(a) “infrastructure capital company” means such company as has made investments by way of

acquiring shares or providing long-term finance to an enterprise wholly engaged in the business

referred to in this clause ;

(b) "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 an enterprise wholly engaged in the business referred to in this clause ;

(c) Omitted by the Finance Act, 2001, with effect from 1st April, 2002 ;

(d) "long-term finance" shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36 ;

(e) "co-operative bank" shall have the meaning assigned to it in clause (dd) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961) ;

(f) "interest" includes any fee or commission received by a financial institution for giving any guarantee to, or enhancing credit in respect of, an enterprise which has been approved by the Central Government for the purposes of this clause.

(g) "hotel project" means a project for constructing a hotel of not less than three-star category as classified by the Central Government ;

(h) "hospital project" means a project for constructing a hospital with at least one hundred beds for patients.

Explanation 2 : For the removal of doubts, it is hereby declared that any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made before the 1st day of June, 1998 by way of shares or long-term finance in any enterprise carrying on the business of developing, maintaining and operating any infrastructure facility shall not be included and the provisions of this clause as it stood immediately before its amendment by the Finance (No. 2) Act, 1998 (21 of 1998) shall apply to such income ;"

146. Inserted by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

* Reference to 'sub-section (1) or (2) or (3) or (4)' should have been 'clause (1) or (2) or (3) or (4)'.

147. Inserted by the Finance Act, 2008, with retrospective effect from 1st April, 1990.

148. Inserted by the Finance Act, 2008, with effect from 1st April, 2009.

149. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

150. Prior to omission, clause (29) stood as under :

'(29) In the case of an authority constituted under any law for the time being in force for the marketing of

commodities, any income derived from the letting of godowns or warehouses for storage, processing or facilitating

the marketing of commodities;'

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151. Inserted by the Finance Act, 1999, with effect from 11th May, 1999.

152. Inserted by the Finance Act, 2008, with retrospective effect from 1st April, 2002.

153. See Rule 8(2). For analysis, see Mashbra's Income-tax Rules.

154. See Rules 7A and 7B. For analysis, see Mashbra's Income-tax Rules.

155. Inserted by the Finance Act, 2003, with effect from 1st April, 2003. Earlier clause (33) was omitted by the Finance Act,

2002, with effect from 1st April, 2003. Prior to omission, clause (33), as inserted by the Finance Act, 1997, with effect from

1st April, 1998, and later on amended by the Finance Act, 1999, with effect from 1st April, 2000 and Finance Act, 2001, with

retrospective effect from 1st April, 2000, stood as under :

'(33) any income by way of –

(i) dividends referred to in section 115-O ; or

(ii) income received in respect of units from the Unit Trust of India established under the Unit Trust of India

Act, 1963 ; or

(iii) income received in respect of the Units of Mutual Fund specified under clause (23D):

Provided that this clause shall not apply to any income arising from transfer of units of the Unit

Trust of India or of a mutual fund, as the case may be.'

156. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.
157. Inserted by the Special Economic Zones Act, 2005, with effect from 10th February, 2006. Under section 27 of the Special Economic Zones Act, 2005, effective from 10th February, 2006, the provisions of the Income-tax Act, 1961, as in force for the time being, apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special Economic Zone or Unit subject to the modifications specified in the Second Schedule to that Act. The above amendment is specified in the Second Schedule to that Act.
158. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.
159. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.
160. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2005.
161. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st April, 2005.
162. 1st October, 2004 [Notification No. S.O. 1058(E), dated 28-9-2004 (see 9 CAPJ 816)].
163. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.
164. Substituted for "fifty per cent" by the Finance Act, 2006, with effect from 1st June, 2006.
165. Inserted by the Taxation Laws (Amendment) Act, 2005, with effect from 1st April, 2006.
166. For Notification No. SO1230(E), dated 31st July, 2006, see Mashbra's Master Guide to Income-tax Act or 15 CAPJ 583.
167. Inserted by the Taxation Laws (Amendment) Act, 2005, with effect from 1st April, 2006.

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168. Inserted by the Finance Act, 2006, with effect from 1st April, 2006.
169. Inserted by the Finance Act, 2008, with effect from 1st April, 2008.
170. Inserted by the Finance (No. 2) Act, 2009, with retrospective effect from 1st April, 2009.
171. Substituted by the Finance Act, 2010 w.e.f. 01.04.2011 for the following: "scientific research association"
172. Inserted by the Finance Act, 2010 w.e.f. 01.04.2011.

173. Substituted by the Finance Act, 2010 w.e.f. 01.04.2011 for the following: "scientific research".

*. Gratuity exemption limit raised to rupees 10 lakhs in relation to the employees who retire or become incapacitated prior to such retirement or die on or after the 24th day of May, 2010 or whose employment is terminated on or after the said date vide Notification No. 43/2010 dated 11.06.2010.

174. Omitted by the Finance Act, 2011 w.e.f 01.06.2011 for the following:-

""Explanation : For the removal of doubts, it is hereby declared that the dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur.]"

175. Inserted by the Finance Act, 2011 w.e.f 01.04.2008.

Section 10A - Special provision in respect of newly established undertakings in free trade zone, etc.

1(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an 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 such 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 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

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sub-section shall be reckoned from the assessment year relevant to the previous year

in which the 2[undertaking began to manufacture or produce such articles or things or

computer software] in such free trade zone or export processing zone :

3[Third proviso omitted by the Finance Act, 2001, with effect from 1st April,

2002.]

4[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 5[1st day of April, 2012] and subsequent

years.

6[(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 assessee in the manner laid down in sub-section (1B) :

7[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

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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 prescribed 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 subsection (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 up, or the reconstruction, of a business already in

existence :

Provided that this condition shall not apply in respect of any undertaking which

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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 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 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.

9[(4) For the purposes of 10[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 11[this section] shall not be admissible for any assessment year

beginning on or after the 1st day of April, 2000, unless the assessee furnishes in the

prescribed form,¹² 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 subsection (1) of

section 36 shall apply as if every allowance or deduction referred to therein and

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relating to or allowable for any of the relevant assessment years

13[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 13[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.

14[(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.]

15[(7B) The provisions of this section shall not apply to any undertaking, being a Unit referred to in clause (zc) of section 2 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.]

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(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) 16[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

(9A) 17[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

Explanation 1 : 18[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

19[Provided that nothing contained in this Explanation shall apply to any change in

the shareholding of the company as a result of –

(a) its becoming a company in which the public are substantially interested ; or

(b) disinvestment of its equity shares by any venture capital company or

venture capital fund.]

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 customised electronic data or any product or service of similar

nature, as may be notified 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 the Foreign Exchange Regulation Act, 1973 (46

of 1973), 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

notified by the Government of India in the Ministry of Commerce and Industry

;

(iv) “export turnover” means the consideration 20[in respect of export 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,

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 notified 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.]

19[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.]

21[Explanation 4 : For the purposes of this section, “manufacture or produce” shall

include the cutting and polishing of precious and semi-precious stones.]

1. Substituted by the Finance Act, 2000, with effect from 1st April, 2001. Prior to substitution, section 10A as amended by the

Income-tax (Second Amendment) Act, 1998, with effect from 1st April, 1999 and Finance Act, 1999, with effect from 1st

April, 2000, stood as under : '10A. Special provision in respect of newly established industrial undertakings in free trade zones.

– (1) Subject to the provisions of this section, any profits and gains derived by an assessee from an industrial undertaking to

which this section applies 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 has begun or begins to manufacture or produce articles or things 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 ;

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(ia) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the 1st day

of April, 1995, its exports of such articles or things are not less than seventy-five per cent of the total sales thereof

during the previous year ;

(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 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 ;

(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) 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 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, 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, 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 and no

deficiency referred to in sub-section (3) of section 80J, in so far as such loss or deficiency relates to the business of

the industrial undertaking, shall be carried forward or set-off where such loss, or, as the case may be, deficiency

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 80J in relation to the profits and gains of the industrial 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 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) Where an industrial undertaking in any free trade zone has begun to manufacture or produce articles or things in any

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previous year relevant to the assessment year commencing on or after the 1st day of April, 1977, but before the 1st day of

April, 1981, the assessee may, at his option, 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, 1981, furnish to the Assessing Officer a declaration in writing that the provisions of sub-section (1) may

be made applicable to him for each of the relevant assessment years as reduced by the number of assessment years which

expired before the 1st day of April, 1981, and if he does so, then, the provisions of sub-section (1) shall apply to him for each

of such relevant assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the

assessee for the assessment year immediately succeeding the last of the relevant assessment years and any subsequent

assessment year.

(6) The provisions of sub-section (8) and sub-section (9) of section 80-I 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-I.

(7) 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.

(8) References in sub-section (5) 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.

Explanation : For the purposes of this section, –

(i) “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, specify

for the purposes of this section ;

(ii) “relevant assessment years” means the ten consecutive assessment years referred to in sub-section (3) ;

(iii) “manufacture” includes any –

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device ;

(iv) “electronic hardware technology park” means any park set-up in accordance with the Electronic Hardware

Technology Park (EHTP) Scheme notified by the Government of India in the Ministry of Commerce ;

(v) “software technology park” means any park set-up in accordance with the Software Technology Park Scheme

notified by the Government of India in the Ministry of Commerce ;

(vi) “produce”, in relation to articles or things referred to in clause (i) of sub-section (2), includes production of

computer programmes.’

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2. Substituted for ‘undertaking was first set up’ by the Finance Act, 2001, with effect from 1st April, 2001.

3. Prior to omission, the third proviso stood as under :

‘Provided also that the profits and gains derived from such domestic sales of articles or things or computer software

as do not exceed twenty-five per cent of total sales shall be deemed to be the profits and gains derived from the

export of articles or things or computer software :’

4. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

5. Substituted by the Finance (No. 2) Act, 2009 with effect from 1st April, 2009 for the following : - “1st day of April 2011”

6. Sub-sections (1A), (1B) and (1C) substituted for sub-section (1A) by the Finance Act, 2003, with effect from 1st April,

2004. Prior to substitution, sub-section (1A) as inserted by the Finance Act, 2002, with effect from 1st April, 2003, stood as

under :

‘(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 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 assessment

years.’

7. Inserted by the Finance Act, 2005, with effect from 1st April, 2006.

8. See rule 16DD and Form No. 56FF. For analysis, see Mashbra’s Income-tax Rules.

9. Substituted by the Finance Act, 2001, with effect from 1st April, 2001. Prior to substitution, sub-section (4) stood as under

:

‘(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, 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

assessee.’

10. Substituted for ‘sub-section (1)’ by the Finance Act, 2003, with effect from 1st April, 2003.

11. Substituted for ‘sub-section (1)’ by the Finance Act, 2003, with effect from 1st April, 2003.

12. See rule 16D and Form No. 56F. For analysis, see Mashbra’s Income-tax Rules.

13. Inserted by the Finance Act, 2003, with retrospective effect from 1st April, 2001.

14. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

15. Inserted by the Special Economic Zones Act, 2005, with effect from 10th February, 2006. Under section 27 of the Special Economic Zones Act, 2005, effective from 10th February, 2006, the provisions of the Income-tax Act, 1961, as in force for

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the time being, apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special Economic Zone or Unit subject to the modifications specified in the Second Schedule to that Act. The above amendment is specified in the Second Schedule to that Act.

16. Prior to omission, sub-section (9), stood as under :

‘(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to such previous year and the subsequent years.’

17. Prior to omission, sub-section (9A) as inserted by the Finance Act, 2002, with effect from 1st April, 2003, stood as under :

‘(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place :

Provided that, –

(a) in the case of a firm, the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction

under this section ;

(b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his

shareholding continues to remain as such for the period for which the company is eligible for

deduction under this section.'

18. Prior to omission, Explanation 1 stood as under :

'Explanation 1 : For the purposes of this section, in the case of a company, where on the last day of any previous

year, the shares of the company carrying not less than fifty-one per cent of the voting power are not beneficially held

by persons who held the shares of the company carrying not less than fifty-one per cent of the voting power on the

last day of the year in which the undertaking was set-up, the company shall be presumed to have transferred its

ownership or the beneficial interest in the undertaking.'

19. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

20. Substituted for 'in respect of export' by the Finance Act, 2001, with effect from 1st April, 2001.

21. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

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Section 10AA - Special provisions in respect of newly established Units in Special

Economic Zones

1(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 (2) 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, 2006, 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 utilised for the purposes of the business of the assessee in the manner laid down in sub-section (2).

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(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 specified² 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 income 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 subsection (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

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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.

3[(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

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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 subsection (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 4[by the undertaking].

5[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) 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.

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,

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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, 2005;

(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 clause (za) and (zc) 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.]

1. Inserted by the Special Economic Zones Act, 2005, with effect from 10th February, 2006. Under section 27 of the Special

Economic Zones Act, 2005, effective from 10th February, 2006, the provisions of the Income-tax Act, 1961, as in force for

the time being, apply to, or in relation to, the Developer or entrepreneur for carrying on the authorised operations in a Special

Economic Zone or Unit subject to the modifications specified in the Second Schedule to that Act. The above amendment is

specified in the Second Schedule to that Act.

2. See rule 16DD and Form No. 56FF. For analysis, see Mashbra’s Income-tax Rules.

3. Substituted by the Finance Act, 2007, with retrospective effect from 10th February, 2006. Prior to substitution, sub-section

(4) stood as under:

“(4) This section applies to any undertaking being the Unit, which has begun or begins to manufacture or produce

articles or things or 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.”

4. Substituted by the Finance (No. 2) Act, 2009 with effect from 1st April, 2010, for the words : - "by the assessee"

5. Inserted by the Finance Act, 2010.

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Section 10B - Special provisions in respect of newly established hundred per cent exportoriented undertakings

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1(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 :

2[Second proviso omitted by the Finance Act, 2001, with effect from 1st April, 2002.]

3[Provided 4[~~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 5[1st day of April, 2012] and subsequent

years:

6[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

pervious 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.

7[(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 form⁸, 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 subsection (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 9[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 allowances or deduction ;

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(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 3[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.

10[(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 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 years.

(9) 11[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

(9A) 12[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

Explanation 1 : 13[Omitted by the Finance Act, 2003, with effect from 1st April, 2004.]

14[Provided that nothing contained in this Explanation shall apply to any

change in the shareholding of the company as a result of –

(a) its becoming a company in which the public are substantially interested ; or

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(b) disinvestment of its equity shares by any venture capital company

or venture capital fund.]

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 customised electronic data or any product or service of similar

nature as may be notified 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 the Foreign Exchange Regulation Act, 1973 (43

of 1973), and any rules made thereunder or any other corresponding law for

the time being in force ;

(iii) “export turnover” means the consideration 15[in respect of export 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 14 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 year falling within a

period of ten consecutive assessment years, referred to in this section.

16[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.]

17[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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1. Substituted by the Finance Act, 2000, with effect from 1st April, 2001. Prior to substitution, section 10B as amended by the

Income-tax (Second Amendment) Act, 1998, with effect from 1st April, 1999 and Finance Act, 1999, with effect from 1st

April, 2000, stood as under : ‘10B. Special provision in respect of newly established hundred per cent export-oriented

undertakings. - (1) Subject to the provisions of this section, any profits and gains derived by an assessee from a hundred per cent export-oriented undertaking (hereafter in this section referred to as the undertaking) to which this section applies shall not be included in the total income of the assessee.

(2) This section applies to any undertaking which fulfils all the following conditions, namely:

(i) it manufactures or produces any article or thing ;

(ia) in relation to an undertaking which begins to manufacture or produce any article or thing on or after the

1st day of April, 1994, its exports of such articles and things are not less than seventy-five per cent of the

total sales thereof during the previous year; (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 industrial 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 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) The profits and gains referred to in sub-section (1) shall not be included in the total income of the assessee in respect of

any 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, :

(4) 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 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, 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 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 ;

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(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 ;

(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 years.

(5) Where the undertaking has begun to manufacture or produce articles or things in any previous year relevant to the

assessment year commencing before the 1st day of April, 1989, the assessee may, at his option, before the due date for

furnishing the return of his income under sub-section (1) of section 139 for the assessment year commencing on the 1st day

of April, 1989, furnish to the Assessing Officer a declaration in writing that the provisions of subsection (1) may be made

applicable to him for any five consecutive assessment years falling within a period of eight years beginning with the assessment

year commencing on the 1st day of April, 1989, and if he does so, then, the provisions of sub-section (1) shall apply to him for

each of such assessment years and the provisions of sub-section (4) shall also apply in computing the total income of the assessee for the assessment year immediately succeeding the last of such assessment years and any subsequent assessment year.

(6) The provisions of sub-section (8) and sub-section (9) of section 80-I 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 industrial undertaking referred to in section 80-I.

(7) 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 subsection (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.

Explanation : For the purposes of this section, –

(i) “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 14 of the Industries (Development and

Regulation) Act, 1951 (65 of 1951), and the rules made under that Act ;

(ii) “relevant assessment years” means the ten consecutive assessment years referred to in sub-section

(3) ;

(iii) “manufacture” includes any –

(a) process, or

(b) assembling, or

(c) recording of programmes on any disc, tape, perforated media or other information storage device ;

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(iv) “produce”, in relation to any article or thing referred to in clause (i) of sub-section (2) includes production of computer programmes.’

2. Prior to omission, the second proviso stood as under :

‘Provided further that the profits and gains derived from such domestic sales of articles or things or computer

software as do not exceed twenty-five per cent of total sales shall be deemed to be the profits and gains derived

from the export of articles or things or computer software :’

3. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

4. Substituted for “also” by the Finance Act, 2006, with effect from 1st April, 2006.

Substituted for “2011” by the with retrospective effect from 1st April, 2009. Earlier “2011” substituted for “2010” by the

Finance Act, 2008, with effect from 1st April, 2008.

5. Substituted by the Finance (No. 2) Act, 2009, for the words:- “1st day of April, 2011”

6. Inserted by the Finance Act, 2006, with effect from 1st April, 2006.

7. Substituted by the Finance Act, 2001, with effect from 1st April, 2001. Prior to substitution, sub-section (4) stood as under

:

‘(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, 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

assessee.’

8. See rule 16E and Form No. 56G. For analysis, see Mashbra’s Income-tax Rules.

9. Inserted by the Finance Act, 2003, with retrospective effect from 1st April, 2001.

10. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

11. Prior to omission, sub-section (9) stood as under :

‘(9) Where during any previous year, the ownership or the beneficial interest in the undertaking is transferred by any

means, the deduction under sub-section (1) shall not be allowed to the assessee for the assessment year relevant to

such previous year and the subsequent years.’

12. Prior to omission, sub-section (9A) as inserted by the Finance Act, 2002, with effect from 1st April, 2003, stood as under :

‘(9A) Notwithstanding anything contained in sub-section (9), where as a result of reorganisation of business, a firm or

a sole proprietary concern is succeeded by a company and the ownership or beneficial interest in the undertaking of the firm or the sole proprietary concern is transferred to the company, the deduction under sub-section (1) in respect of such undertaking shall be allowed to the company, as the same would have been allowed to such firm or sole proprietary concern, as the case may be, if the reorganisation had not taken place :
Provided that, –

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(a) in the case of a firm, the aggregate of the shareholding in the company of the partners of the firm is not less than fifty-one per cent of the total voting power in the company and their shareholding continues to be as such for the period for which the company is eligible for deduction under this section ;
(b) in the case of a sole proprietary concern, the shareholding of the sole proprietor in the company is not less than fifty-one per cent of the total voting power in the company and his shareholding continues to remain as such for the period for which the company is eligible for deduction under this section.’

13. Prior to omission, Explanation 1, stood as under :

‘Explanation 1 : For the purposes of this section, in the case of a company, where on the last day of any previous year, the shares of the company carrying not less than fifty-one per cent of the voting power are not beneficially held by persons who held the shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year in which the undertaking was set-up, the company shall be presumed to have transferred its ownership or the beneficial interest in the undertaking.’

14. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

15. Substituted for ‘in respect of export’ by the Finance Act, 2001, with effect from 1st April, 2001.

16. Inserted by the Finance Act, 2001, with effect from 1st April, 2001.

17. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

Section 10BA - Special provisions in respect of export of certain articles or things

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1[(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

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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 form, 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 station as defined in the Customs Act, 1962 (52 of 1962).]

1. Inserted by the Taxation Laws (Amendment) Act, 2003, with effect from 1st April, 2004.

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Section 10BB - Meaning of computer programmes in certain cases

1[The profits and gains derived by an undertaking from the production of computer

programmes under section 10B, as it stood prior to its substitution by section 7 of the

Finance Act, 2000 (10 of 2000), shall be construed as if for the words “computer

programmes”, the words “computer programmes or processing or management of electronic

data” had been substituted in that section.]

1. Inserted by the Finance Act, 2001, with retrospective effect from 1st April, 1994.

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Section 10C - Special provision in respect of certain industrial undertakings in North-

Eastern Region

1[(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.

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(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

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(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 :

2[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, specify 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, specify 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.]

1. Inserted by the Finance Act, 1999, with effect from 1st April, 1999.

2. Inserted by the Finance Act, 2003, with effect from 1st April, 2004.

Section 11 - Income from property held for charitable or religious purposes

(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 -

(a) income derived from property held under trust wholly for charitable or religious

purposes, to the extent to which such income is applied to such purposes in India ;

and, where any such income is accumulated or set apart for application to such

purposes in India, to the extent to which the income so accumulated or set apart is

not in excess of 1[fifteen per cent] of the income from such property ;

(b) income derived from property held under trust in part only for such purposes, the

trust having been created before the commencement of this Act, to the extent to

which such income 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 1[fifteen per cent] of the income from such

property ;

(c) income 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 ;

(d) income in the form of voluntary contributions made with a specific direction that

they shall form part of the corpus of the trust or institution.

Explanation : For the purposes of clauses (a) and (b), –

(1) in computing the 1[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 2[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

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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) of section 139 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.

(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 :

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(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.

(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.

(2) Where 2[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:

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(a) such person specifies, by notice in writing given to the Assessing Officer in the

prescribed³ manner, 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;

(b) the money so accumulated or set apart is invested or deposited in the forms or

modes specified in sub-section (5):

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.

4[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.]

5[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.]

(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

(b) ceases to remain invested or deposited in any of the forms or modes specified in

sub-section (5), or

(c) is not utilised 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,

5[(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 6[set apart or ceases to remain so invested or deposited or

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credited or paid or], as the case may be, of the previous year immediately following the

expiry of the period aforesaid.

(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 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 Assessing Officer under clause

(a) of sub-section (2):

5[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:]

7[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 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.

(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.

(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 2 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;

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(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 deposit in any public sector company:

8[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

9[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

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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 9[which is eligible for deduction under clause (viii) of sub-section (1) of

section 36];

8[(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 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;

(b) “public company” 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;

(xi) deposits with the Industrial Development Bank of India established under the

Industrial Development Bank of India Act, 1964 (18 of 1964);

(xii) any other form or mode of investment or deposit as may be prescribed.¹⁰

1. Substituted for 'twenty-five per cent' by the Finance Act, 2002, with effect from 1st April, 2003.

2. Substituted for 'seventy-five per cent' by the Finance Act, 2002, with effect from 1st April, 2003.

* Should be read as clause (b) of sub-section (1) of section 55.

3. See rule 17 and Form No. 10 for notice of accumulation of income. For analysis, see Mashbra's Income-tax Rules.

4. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

5. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

6. Substituted for 'set apart or ceases to remain so invested or deposited or' by the Finance Act, 2002, with effect from 1st

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April, 2003.

7. Inserted by the Finance Act, 2003, with effect from 1st April, 2003.

8. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

9. Substituted for 'which is approved by the Central Government for the purposes of clause (viii) of sub-section (1) of section

36' by the Finance Act, 2000, with effect from 1st April, 2000.

10. See rule 17C.

Section 12 - Income of trusts or institutions from contributions

1[1] Any voluntary contributions 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 from property held under trust wholly for charitable or religious purposes and the provisions of that section and section 13 shall apply accordingly.

2[(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

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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.]

3[(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 4[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 5[or before the 31st
day of March, 6[2004]] shall be deemed to be the income of the previous year and shall
accordingly be charged to tax.]

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1. Numbered by the Finance Act, 2000, with effect from 1st April, 2001.
 2. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.
 3. Inserted by the Taxation Laws (Amendment) Act, 2001, with effect from 3rd February, 2001.
 4. Inserted by the Finance Act, 2002, with retrospective effect from 3rd February, 2001.
 5. Substituted for 'or before the 31st day of March, 2002' by the Finance Act, 2002, with retrospective effect from 3rd February, 2001.
 6. Substituted for '2003' by the Finance Act, 2003, with retrospective effect from 3rd February, 2001.

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Section 12A - Conditions as to registration of trusts, etc.

1[[1] The 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 form¹ and in the prescribed manner² to the

3[***] 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 whichever is later and such trust or institution is registered under

section 12AA:

Provided that where an application for registration of the trust or institution is made after the expiry of the period aforesaid, the provisions of section 11 and section 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 3[***] 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 period aforesaid for sufficient reasons;

(ii) from the 1st day of the financial year in which the application is made, if the 3[***] Commissioner is not so satisfied:

1[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;]

1[(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 form and manner to the 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 4[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 form⁵
duly signed and

verified by such accountant and setting forth such particulars as may
be prescribed⁵.

(c) 6[Omitted by the Finance Act, 2002, with effect from 1st April,
2002.]

1[(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.]

1. Inserted by the Finance Act, 2007, with effect from 1st June, 2007.

2. See rule 17A and Form No. 10A. For analysis, see Mashbra's
Income-tax Rules.

3. The words 'Chief Commissioner or' omitted by the Finance Act,
1999, with effect from 1st June, 1999.

4. Substituted for "the provisions of section 11 and section 12
exceeds fifty thousand rupees in any previous year" by the

Taxation Laws (Amendment) Act, 2006 with effect from 1st April,
2006.

5. See rule 17B and Form No. 10B. For analysis, see Mashbra's
Income-tax Rules.

6. Prior to omission, clause (c) as inserted by the Finance Act, 2001,
with effect from 1st April, 2002, stood as under:

'(c) where the total income of the trust or institution as computed
under this Act without giving effect to the

provisions of sections 11 and 12 exceeds one crore rupees in any
previous year, the trust or institution—

(i) publishes its accounts in a local newspaper, before the due date
for furnishing the return of income under

sub-section (4A) of section 139; and

(ii) furnishes a copy of such newspaper along with such return.'

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Section 12AA - Procedure for registration

(1) The 1[***] Commissioner, on receipt of an application for
registration of a trust or

institution made under clause (a) 3[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.

2[(1A) All applications, pending before the 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 Commissioner and the 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 subsection (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) 3[or clause (aa) of sub-section (1)] of section 12A.

4[(3) Where a trust or an institution has been granted registration under clause (b) of

sub-section (1) 5[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

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.

1. The words 'Chief Commissioner or' omitted by the Finance Act, 1999, with effect from 1st June, 1999. Earlier these words

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were inserted by the Finance (No. 2) Act, 1996, with effect from 1st April, 1997.

2. Inserted by the Finance Act, 1999, with effect from 1st June, 1999.

3. Inserted by the Finance Act, 2007, with effect from 1st June, 2007.

4. Inserted by the Finance (No. 2) Act, 2004, with effect from 1st October, 2004.

5. Inserted by the Finance Act, 2010 w.e.f. 01.06.2010.

Section 13 - Section 11 not to apply in certain cases

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(1) Nothing contained in section 11 or section 12 shall operate so as to exclude from the

total income of the previous year of the persons in receipt thereof –

(a) any part of the income from the property held under a trust for private religious

purposes which does not enure for the benefit 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 benefit of any particular religious

community or caste;

(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 benefit of any person referred to in subsection (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;

(d) in 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 funds of the trust or institution are invested or deposited 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

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(ii) any funds of the trust or institution invested or deposited 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

1[(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;

(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;

(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, 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.

Explanation: For the purposes of sub-clause (ii) of clause (c), in

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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) and clause (d) of

sub-section (1), the income or the property 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 property of the trust or institution is, or continues to

be, lent 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 property 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;

(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;

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(h) if any funds of the trust or institution are, or continue to remain, invested for any

period during the previous year (not being a period before the 1st day of January,

1971), in any concern in which any person referred to in sub-section (3) has

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 founder of the institution;

(b) any person who has made a substantial contribution to the trust or institution,
that is to say, any person whose total contribution up to the end of the relevant
previous year exceeds fifty thousand rupees;

(c) where such author, founder or person is a Hindu undivided family, a member of
the family;

(cc) any trustee of the trust or manager (by whatever name called) of the institution;

(d) any relative of any such author, founder, person, member, trustee or manager as
aforesaid;

(e) any concern in which any of the persons referred to in clauses (a), (b), (c), (cc)
and (d) has a substantial interest.

(4) Notwithstanding anything contained in clause (c) of sub-section (1) 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 capital of that
concern, 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 investment, by
reason only that the funds of the trust or the institution have been invested in a concern in
which such person has a substantial interest.

(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.

2[(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

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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).]

3[(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.]

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 subsection (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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1. Substituted by the Finance Act, 2007, with retrospective effect from 1st April, 1999. Prior to substitution, sub-clause (iii)

stood as under:

“(iii) any shares in a company [not being a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act are held by the trust or institution after the 30th day of November, 1983:”

2. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

3. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.

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Section 13A - Special provision relating to incomes of political parties

Any income of a political party which is chargeable under the head “Income from house

property” or “Income from other sources” or 1[“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 Assessing Officer to properly deduce its income

therefrom;

(b) in respect of each such voluntary contribution in excess of 2[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.

3[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 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.]

4[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).]

1. Inserted by the Finance Act, 2003, with retrospective effect from 1st April, 1979.

2. Substituted for ‘ten thousand rupees’ by the Election and other Related Laws (Amendment) Act, 2003, with effect from 11th September, 2003.

3. Inserted by the Election and other Related Laws (Amendment) Act, 2003, with effect from 11th September, 2003.

4. Substituted by the Election and other Related Laws (Amendment) Act, 2003, with effect from 11th September, 2003. Prior to substitution, the Explanation, stood as under:

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‘Explanation: For the purposes of this section, “political party” means an association or body of individual citizens of

India registered with the Election Commission of India as a political party under paragraph 3 of the Election Symbols

(Reservation and Allotment) Order, 1968, and includes a political party deemed to be registered with that

Commission under the proviso to sub-paragraph (2) of that paragraph.’

Section 13B - Special provisions relating to voluntary contributions received by electoral

trust

1[Any voluntary contributions received by an electoral trust shall not be included in the total

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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 rules made by the Central

Government.

1. Inserted by the Finance (No. 2) Act, 2009, with effect from 1st April, 2010.

Chapter IV - COMPUTATION OF TOTAL INCOME

1[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 rules made by the Central

Government.

1. Inserted by the Finance (No. 2) Act, 2009, with effect from 1st April, 2010.

Section 14 to 14A - Heads of income

1[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 rules made by the Central

Government.

1. Inserted by the Finance (No. 2) Act, 2009, with effect from 1st April, 2010.

Section 14 - Heads of income

Save as otherwise provided by this Act, all income shall, for the purposes of charge of

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income-tax and computation of total income, be classified under the following heads of

income:

A. – Salaries

B. – [Omitted by the Finance Act, 1988, with effect from 1st April, 1989]

C. – Income from house property

D. – Profits and gains of business or profession

E. – Capital gains

F. – Income from other sources.

Section 14A - Expenditure incurred in relation to income not includible in total income

1[2[1] For the purposes of computing the total income under this Chapter, no deduction shall

be allowed in respect of expenditure incurred by the assessee in relation to income which

does not form part of the total income under this Act.]

3[(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 prescribed⁴, 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[(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:]

5[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.]

1. Inserted by the Finance Act, 2001, with retrospective effect from 1st April, 1962.

2. Numbered by the Finance Act, 2006, with effect from 1st April, 2007.

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3. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.

4. See Rule 8D.

5. Inserted by the Finance Act, 2002, with retrospective effect from 11th May, 2001.

Section 15 to 17 - A.--Salaries

1[2[1] For the purposes of computing the total income under this Chapter, no deduction shall

be allowed in respect of expenditure incurred by the assessee in relation to income which

does not form part of the total income under this Act.]

3[(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 prescribed⁴, 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.]

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3[(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:]

5[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.]

1. Inserted by the Finance Act, 2001, with retrospective effect from 1st April, 1962.

2. Numbered by the Finance Act, 2006, with effect from 1st April, 2007.

3. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.

4. See Rule 8D.

5. Inserted by the Finance Act, 2002, with retrospective effect from 11th May, 2001.

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Section 15 - Salaries

The following income shall be chargeable to income-tax under the head "Salaries" -

(a) any salary due from an employer or a former employer to an assessee in the

previous year, whether paid or not;

(b) any salary paid or allowed 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.

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.

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.

Section 16 - Deductions from salaries

The income chargeable under the head "Salaries" shall be computed after making the

following deductions, namely:

(i) 1[Omitted by the Finance Act, 2005, with effect from 1st April, 2006];

2[(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;]

(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 276 of the Constitution, leviable by or

under any law.

1. Prior to omission, clause (i) as substituted by the Finance Act, 2003, with effect from 1st April, 2004, stood as under:

‘(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,-

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(A) does not exceed five lakh rupees, a deduction of a sum equal to forty per cent of the salary or thirty thousand rupees, whichever is less;

(B) exceeds five lakh rupees, a deduction of a sum of twenty thousand rupees;’ Earlier, clause (i) was

amended by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999 and by the Finance Act, 2001,

with effect from 1st April, 2002.

2. Substituted by the Finance Act, 2001, with effect from 1st April, 2002. Prior to substitution, clause (ii) stood as under:

‘(ii) a deduction in respect of any allowance in the nature of an entertainment allowance specifically granted to the

assessee by his employer –

(a) in the case of an 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; and

(b) in the case of any other assessee who is in receipt of such entertainment allowance and has been

continuously in receipt of such entertainment allowance regularly from his present employer from a date

before the 1st day of April, 1955, the amount of such entertainment allowance regularly received by the

assessee from his present employer in any previous year ending before the 1st day of April, 1955 or a sum

equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or seven thousand

five hundred rupees, whichever is the least;’

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Section 17 - "Salary", "perquisite" and "profits in lieu of salary" defined

For the purposes of sections 15 and 16 and of this section, –

(1) “salary” includes –

(i) wages;

(ii) any annuity or pension;
(iii) any gratuity;
(iv) any fees, commissions, perquisites or profits in lieu of or in addition to any salary or wages;
(v) any advance of salary;
(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; and

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(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;
1[(viii) the contribution made by the 2[Central Government or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD;]

(2) 3“perquisite” includes –

(i) the value of rent-free accommodation provided to the assessee by his employer;
(ii) the value of any concession in the matter of rent respecting any accommodation provided to the assessee by his employer;

4[Explanation 1: For the purposes of this sub-clause, concession in the

matter of rent shall be deemed to have been provided if, –

5[(a) in a case where an unfurnished accommodation is provided by any

employer other than Central Government or any State Government
and

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(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

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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 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.]

6[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, airconditioning 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.]

6[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:

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(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;]

7[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 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 8[fifty thousand rupees]:

9[Proviso omitted by the Finance Act, 2007, with effect from 1st April, 2008.] 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

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for the purposes of this sub-clause;

(iiia) 10[Omitted by the Finance Act, 2000, with effect from 1st April, 2001];

(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 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 11[annuity;]

11a[(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 2 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;

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(vii) the amount of any contribution to an approved superannuation fund by

the employer in respect of the assessee, to the extent it exceeds 14[one lakh

rupees; and]

(viii) the value of any other fringe benefit or amenity as may be prescribed:]

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;

(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 approved by the Government for the purposes of medical treatment of its employees;

(b) in respect of the prescribed diseases⁴ or ailments, in any hospital approved by the Chief Commissioner having regard to the prescribed guidelines¹⁵:

Provided that, in a case falling in sub-clause (b), the employee shall attach 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 16[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 subsection (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 16[or the Insurance Regulatory and Development Authority established under subsection (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)] for the

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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 17[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 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, 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:

18[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 or a nursing home,
- (ii) “family”, in relation to an individual, shall have the same

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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.

(3) “profits in lieu of salary” includes –

- (i) the amount of any compensation 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), clause (10A), clause (10B), clause (11), clause (12), 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, to the extent to which it does not

consist of contributions by the assessee or 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.

19[(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.]

1. Inserted by the Finance (No. 2) Act, 2004, with retrospective effect from 1st April, 2004.

2. Substituted for “Central Government” by the Finance Act, 2007, with retrospective effect from 1st April, 2004.

3. See rule 3. For analysis, see Mashbra’s Income-tax Rules.

4. Inserted by the Finance Act, 2007, with retrospective effect from 1st April, 2002.

5. Substituted by the Finance Act, 2007, with retrospective effect from 1st April, 2006. Prior to substitution, clause (a) stood

as under:

“(a) in a case where an unfurnished accommodation is provided by any employer other than the Central Government

or any State Government and –

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(i) the accommodation is owned by the employer, the value of the accommodation determined at the rate

of ten per cent. of salary in cities having population exceeding four lakhs as per 1991 census and seven and

one-half per cent of salary in other cities, 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 ten 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.”

6. Inserted by the Finance Act, 2007, with retrospective effect from 1st April, 2002.

7. Inserted by the Finance Act, 2007, with retrospective effect from 1st April, 2006.

8. Substituted for “twenty-four thousand rupees” by the Finance Act, 2001, with effect from 1st April, 2002.

9. Prior to omission, the proviso as inserted by the Finance Act, 2000, with effect from 1st April, 2001 and amended by the

Finance Act, 2001, with effect from 2001, stood as under:

“Provided that nothing contained in this sub-clause shall apply to the value of any benefit provided by a company free

of cost or at a concessional rate to its employees by way of allotment of shares, debentures or warrants directly or

indirectly under any Employees’ Stock Option Plan or Scheme of the company offered to such employees in

accordance with the guidelines issued in this behalf by the Central Government.”

10. Prior to omission, sub-clause (iiia) as inserted by the Finance Act, 1999, with effect from 1st April, 2000, stood as under:

‘(iiia) the value of any specified security allotted or transferred, directly or indirectly, by any person free of cost or at

concessional rate, to an individual who is or has been in employment of that person:

Provided that in a case where allotment or transfer of specified securities is made in pursuance of an option

exercised by an individual, the value of the specified securities shall be taxable in the previous year in which

such option is exercised by such individual.

Explanation: For the purposes of this clause, -

(a) “cost” means the amount actually paid for acquiring specified securities and where no money

has been paid, the cost shall be taken as nil;

(b) “specified security” means the securities as defined in clause (h) of section 2 of the Securities

Contracts (Regulation) Act, 1956 (42 of 1956) and includes employees’ stock option and sweat

equity shares;

(c) “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; and

(d) “value” means the difference between the fair market value and the cost for acquiring specified

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securities;’

11. Substituted by the Finance (No. 2) Act, 2009 with effect from 1st April, 2010.

“annuity; and”

11a. Substituted by the the Finance (No. 2) Act, 2009, with effect from 1st April, 2010 for the following : -

"12[(vi) the value of any other fringe benefit or amenity (excluding the fringe benefits chargeable to tax under

Chapter XIIH) as may be prescribed13:]"

12. Substituted by the Finance Act, 2005, with effect from 1st April, 2006. Prior to substitution, clause (vi) as inserted by the

Finance Act, 2001, with effect from 1st April, 2002, stood as under:

"(vi) the value of any other fringe benefit or amenity as may be prescribed;"

13. See rule 3. For analysis, see Mashbra’s Income-tax Rules.

14. Substituted for the words “one lakh rupees;” vide Finance (No. 2) Act, 2009 with effect from 1st April, 2010.

15. See rule 3A(1) and (1A). For analysis, see Mashbra’s Income-tax Rules.

16. Inserted by the Finance Act, 2006, with effect from 1st April, 2007.

17. Substituted for 'ten' by the Finance (No. 2) Act, 1998, with effect from 1st April, 1999.

18. Inserted by the Finance Act, 2002, with effect from 1st April, 2002.

19. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

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Section 18 to 21 - B.--[Omitted]

B.--[Omitted]

Section 18 - [Omitted]

1[***]

1. Sub-head "B. – Interest on securities" and sections 18, omitted by the Finance Act, 1988, with effect from 1st April, 1989

Section 19 - [Omitted]

1[***]

1. Sub-head "B. – Interest on securities" and sections 19, omitted by the Finance Act, 1988, with effect from 1st April, 1989

Section 20 - [Omitted]

1[***]

1. Sub-head "B. – Interest on securities" and sections 20, omitted by the Finance Act, 1988, with effect from 1st April, 1989

Section 21 - [Omitted]

1[***]

1. Sub-head "B. – Interest on securities" and sections 21, omitted by the Finance Act, 1988, with effect from 1st April, 1989

Section 22 to 27 - C.--Income from house property

1[***]

1. Sub-head "B. – Interest on securities" and sections 21, omitted by the Finance Act, 1988, with effect from 1st April, 1989

Section 22 - Income from house property

The annual value of property consisting of any buildings or lands appurtenant thereto of

which the assessee is the owner, other than such portions of such property as he may occupy

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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”.

Section 23 - Annual value how determined

1[(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 receivable 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 levied 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 rules² 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

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(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.]

1. Substituted by the Finance Act, 2001, with effect from 1st April, 2002. Prior to substitution, section 23, stood as under:

‘23. Annual value how determined. -

(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 is let and the annual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable:

Provided that where the property is in the occupation of a tenant, the taxes levied by any local authority in respect of the property shall, to the extent such taxes are borne

by the owner, 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:

Provided further that the annual value as determined under this subsection shall, -

(a) in the case of a building comprising one or more residential units, the erection of

which is begun after the 1st day of April, 1961, and completed before the 1st day of

April, 1970, for a period of three years from the date of completion of the building, be

reduced by a sum equal to the aggregate of -

(i) in respect of any residential unit whose annual value as so determined does not

exceed six hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds six

hundred rupees, an amount of six hundred rupees;

(b) in the case of a building comprising one or more residential units, the erection of

which is begun after the 1st day of April, 1961, and completed after the 31st day of

March, 1970, but before the 1st day of April 1978, for a period of five years from the

date of completion of the building, be reduced by a sum equal to the aggregate of -

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(i) in respect of any residential unit whose annual value as so determined does not

exceed one thousand two hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds one

thousand two hundred rupees, an amount of one thousand two hundred rupees;

(c) in the case of a building comprising one or more residential units, the erection of

which is completed after the 31st day of March, 1978, but before the 1st day of April,

1982, for a period of five years from the date of completion of the building, be reduced

by a sum equal to the aggregate of –

(i) in respect of any residential unit whose annual value as so determined does not

exceed two thousand four hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds two

thousand four hundred rupees, an amount of two thousand four hundred rupees;

(d) in the case of a building comprising one or more residential units, the erection of

which is completed after the 31st day of March, 1982 but before the 1st day of April

1992, for a period of five years from the date of completion of the building, be reduced

by a sum equal to the aggregate of –

(i) in respect of any residential unit whose annual value as so determined does not

exceed three thousand six hundred rupees, the amount of such annual value;

(ii) in respect of any residential unit whose annual value as so determined exceeds three

thousand six hundred rupees, an amount of three thousand six hundred rupees.

Explanation 1: For the purposes of this sub-section, “annual rent” means –

(a) in a case where the property is let throughout the previous year, the actual rent

received or receivable by the owner in respect of such year; and

(b) in any other case, the amount which bears the same proportion to the amount of

the actual rent received or receivable by the owner for the period for which the property

is let, as the period of twelve months bears to such period.

Explanation 2: For the removal of doubts, it is hereby declared that where a deduction in

respect of any taxes referred to in the first proviso to this sub-section is allowed in

determining the annual value of the property in respect of any previous year (being a

previous year relevant to the assessment year commencing on the 1st day of April,

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or any earlier assessment year), no deduction shall be allowed under the first proviso in

determining the annual value of the property in respect of the previous year in which

such taxes are actually paid by the owner.

(2) Where the property consists of –

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(a) a house or part of a house in the occupation of the owner for the purposes of his own

residence, –

(i) which is not actually let during any part of the previous year and no other benefit

therefrom is derived by the owner, the annual value of such house or part of the house

shall be taken to be nil;

(ii) which is let during any part or parts of the previous year, that part of the annual

value (annual value being determined in the same manner as if the property had been

let) which is proportionate to the period during which the property is in the occupation of

the owner for the purposes of his own residence, or, as the case may be, where such

property is let out in parts, that portion of the annual value appropriate to any part

which was occupied by the owner for his own residence, which is proportionate to the

period during which such part is wholly occupied by him for his own residence shall be

deducted in determining the annual value.

Explanation: The deduction under this sub-clause shall be made irrespective of whether

the period during which the property or, as the case may be, part of the property was

used for the residence of the owner precedes or follows the period during which it is let;

(b) more than one house in the occupation of the owner for the purposes of his own residence,

the provisions of clause (a) shall apply only in respect of one of such houses, which the assessee

may, at his option, specify in this behalf;

(c) more than one house and such houses are in the occupation of the owner for the purposes of

his own residence, the annual value of the house or houses, other than the house in respect of

which the assessee has exercised an option under clause (b), shall be determined under

sub-section (1) as if such house or houses had been let.

Explanation: Where any such residential unit as is referred to in the second proviso to subsection

(1) is in the occupation of the owner for the purposes of his own residence, nothing contained in

that proviso shall apply in computing the annual value of that residential unit.

(3) Where the property referred to in sub-section (2) consists of one residential house only and it 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 shall be taken to be nil:

Provided that the following conditions are fulfilled, namely:

(i) such house is not actually let, and

(ii) no other benefit therefrom is derived by the owner.'

2. See rule 4. For analysis, see Mashbra's Income-tax Rules.

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Section 24 - Deductions from income from house property

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1[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 2[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 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:]

3[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

capital borrowed, for the purpose of repayment of such capital]

1. Substituted by the Finance Act, 2001, with effect from 1st April, 2002. Prior to substitution, section 24, as amended by the

Finance (No. 2) Act, 1998, with effect from 1st April, 1999; Finance Act, 1999, with effect from 1st April, 2000 and Finance

Act, 2000, with effect from 1st April, 2001, stood as under:

‘24. Deductions from income from house property. –

(1) Income chargeable under the head “Income from house property” shall, subject to the provisions of

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sub-section (2), be computed after making the following deductions, namely:

(i) in respect of repairs of, and collection of rent from, the property, a sum equal to one-fourth] of

the annual value;

(ii) the amount of any premium paid to ensure the property against risk of damage or

destruction;

(iii) [Omitted by the Finance Act, 1968, with effect from 1st April, 1969;]

(iv) where the property is subject to an annual charge (not being a charge created by the

assessee voluntarily or a capital charge), the amount of such charge;

(v) where the property is subject to a ground rent, the amount of such ground rent;

(vi) where the property has been acquired, constructed, repaired, renewed or reconstructed with

borrowed capital, the amount of any interest payable on such capital.

Explanation: Where the property has been acquired or constructed with borrowed

capital, the interest, if any, payable on such capital 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 a 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;

(vii) any sums paid on account of land revenue or any other tax levied by the State Government

in respect of the property; (viii) [Omitted by the Finance Act, 1992, with effect from 1st April, 1993;]

(ix) where the property is let and was vacant during a part of the year, that part of the annual

value which is proportionate to the period during which the property is wholly unoccupied or,

where the property is let out in parts that portion of the annual value appropriate to any vacant

part, which is proportionate to the period during which such part is wholly unoccupied.

Explanation: The deduction under this clause shall be made irrespective of whether the

period during which the property or, as the case may be, part of the property was

vacant precedes or follows the period during which it is let;

(x) subject to such rules as may be made in this behalf, the amount in respect of rent from

property let to a tenant which the assessee cannot realise.

(2) No deduction shall be allowed under sub-section (1) in respect of property of the nature referred to in

sub-clause (i) of clause (a) of sub-section (2), or sub-section (3) of section 23:

Provided that nothing in this sub-section shall apply to the allowance of a deduction under clause

(vi) of sub-section (1) of an amount not exceeding thirty thousand rupees in respect of the

property of the nature referred to in sub-clause (i) of clause (a) of subsection (2) of section 23 or

sub-section (3) of section 23:

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Provided further that where the property is acquired or constructed with capital borrowed on or

after the 1st day of April, 1999 and such acquisition or construction is completed before the 1st

day of April, 2003, the provisions of the first proviso shall have effect as if for the words "thirty

thousand rupees", the words "one lakh rupees" had been substituted.

(3) The total amount deductible under sub-section (1) in respect of property of the nature referred to in

sub-clause (ii) of clause (a) of sub-section (2) of section 23 shall not exceed the annual value of the

property as determined under that section.'

2. Substituted for 'before the 1st day of April, 2003' by the Finance Act, 2002, with effect from 1st April, 2003.

3. Inserted by the Finance Act, 2002, with effect from 1st April, 2003.

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Section 25 - Amounts not deductible from income from house property

Notwithstanding anything contained in section 24, any 1[***] 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

XVIIB 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".

1. Words 'annual charge or' omitted by the Finance Act, 2001, with effect from 1st April, 2002.

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Section 25A - Special provision for cases where unrealised rent allowed as deduction is

realised subsequently

Where a deduction has been made under clause (x) of sub-section (1) of section 24 1[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 1[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.

1. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

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Section 25AA - Unrealised rent received subsequently to be charged to income-tax

1[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

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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.]

1. Inserted by the Finance Act, 2001, with effect from 1st April, 2002.

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Section 25B - Special provision for arrears of rent received

1[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

2[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.]

1. Inserted by the Finance Act, 2000, with effect from 1st April, 2001.

2. Substituted for 'a sum equal to one-fourth of such amount for repairs of, and collection of rent from, the property' by the

Finance Act, 2001, with effect from 1st April, 2002.

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Section 26 - Property owned by co-owners

Where property consisting of building 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.

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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