(*b*) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the net consideration shall not be charged under section 45.

Explanation.—For the purposes of this sub-section,—

(*i*) "cost", in relation to any new asset, being a deposit [1]*** referred to in sub-clause (*iii*), or specified under sub-clause (*v*), of clause (*f*) of section 115C, means the amount of such deposit;

(*ii*) "net consideration", in relation to the transfer of the original asset, means the full value of the consideration received or accruing as a result of the transfer of such asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(*2*) Where the new asset is transferred or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (*1*) shall be deemed to be income chargeable under the head "Capital gains" relating to capital assets other than short-term capital assets of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.

115G. Return of income not to be filed in certain cases. It shall not be necessary for a non-resident Indian to furnish under sub-section (*1*) of section 139 a return of his income if—

(*a*) his total income in respect of which he is assessable under this Act during the previous year consisted only of investment income or income by way of long-term capital gains or both; and

(*b*) the tax deductible at source under the provisions of Chapter XVIIB has been deducted from such income.

115H. Benefit under Chapter to be available in certain cases even after the assessee becomes resident.—Where a person, who is a non-resident Indian in any previous year, becomes assessable as resident in India in respect of the total income of any subsequent year, he may furnish to the [2][Assessing Officer] a declaration in writing along with his return of income under section 139 for the assessment year for which he is so assessable, to the effect that the provisions of this Chapter shall continue to apply to him in relation to the investment income derived from any foreign exchange asset being an asset of the nature referred to in sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) or sub-clause (*v*) of clause (*f*) of section 115C; and if he does so, the provisions of this Chapter shall continue to apply to him in relation to such income for that assessment year and for every subsequent assessment year until the transfer or conversion (otherwise than by transfer) into money of such assets.

115-I. Chapter not to apply if the assessee so chooses.—A non-resident Indian may elect not to be governed by the provisions of this Chapter for any assessment year by furnishing his return of income for that assessment year under section 139 declaring therein that the provisions of this Chapter shall not apply to him for that assessment year and if he does so, the provisions of this Chapter shall not apply to him for that assessment year and his total income for that assessment year shall be computed and tax on such total income shall be charged in accordance with the other provisions of this Act.]

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1. The words, brackets, figures and letter "referred to in clause (*4A*) of section 10 or" omitted by Act 26 of 1988, s. 32 (w.e.f. 1-4-1989).

2. Subs. by Act 4 of 1988, s. 2, for "Income-tax officer" (w.e.f. 1-4-1989).

[1][CHAPTER XII-B

SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES

115J. Special provisions relating to certain companies.—(*1*) Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee being a company [2][(other than a company engaged in the business of generation or distribution of electricity)], the total income, as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1988 [3][but before the 1st day of April, 1991] (hereafter in this section referred to as the relevant previous year), is less than thirty per cent of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent of such book profit.

[4][(*1A*) Every assessee, being a company, shall, for the purposes of this section, prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1 of 1956).]

Explanation.—For the purposes of this section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year [5][prepared under sub-section (*1A*)], as increased by—

(*a*) the amount of income-tax paid or payable, and the provision therefor; or

(*b*) the amounts carried to any reserves [2][(other than the reserves specified in section 80HHD [6][or sub-section (*1*) of section 33AC])], by whatever name called; or

(*c*) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(*d*) the amount by way of provision for losses of subsidiary companies; or

(*e*) the amount or amounts of dividends paid or proposed; or

(*f*) the amount or amounts of expenditure relatable to any income to which any of the provisions of Chapter III [7][applies; or]

[2][(*g*) the amount withdrawn from the reserve account under section 80HHD, where it has been utilised for any purpose other than those referred to in sub-section (*4*) of that section; or

(*h*) the amount credited to the reserve account under section 80HHD, to the extent that amount has not been utilised within the period specified in sub-section (*4*) of that section;]

[6][(*ha*) the amount deemed to be the profits under sub-section (*3*) of section 33AC,]

[8][if any amount referred to in clauses (*a*) to (*f*) is debited or, as the case may be, the amount referred to in clauses (*g*) and (*h*) is not credited] to the profit and loss account, and as reduced by,—

(*i*) the amount withdrawn from reserves [2][(other than the reserves specified in section 80HHD)] or provisions, if any such amount is credited to the [9][profit and loss account:

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1. Ins. by Act 11 of 1987, s. 43 (w.e.f. 1-4-1988).
2. Ins. by Act 3 of 1989, s. 19 (w.e.f. 1-4-1989).
3. Ins. by Act 12 of 1990, s. 32 (w.e.f. 1-4-1990).
4. Ins. by Act 13 of 1989, s. 19 (w.e.f. 1-4-1989).
5. Subs. by s. 19, *ibid*., for "prepared in accordance with the provisions of Parts II and III of the Sixth Schedule to the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-4-1989).
6. Ins. by Act 36 of 1989, s. 12 (w.e.f. 1-4-1990).
7. Subs. by Act 3 of 1989, s. 19, for "applies," (w.e.f. 1-4-1989).
8. Subs. by s. 19, *ibid*., for "if any such amount is debited" (w.e.f. 1-4-1989).
9. Subs. by Act 13 of 1989, s. 19, for "profit and loss account; or" (w.e.f. 1-4-1988).

Provided that, where this section is applicable to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1988 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation*; or]

(*ii*) the amount of income to which any of the provisions of Chapter III applies, if any such amount is credited to the profit and loss account; or

[1][(*iii*) the amounts [as arrived at after increasing the net profit by the amounts referred to in clauses (*a*) to (*f*) and reducing the net profit by the amounts referred to in clauses (*i*) and (*ii*)] attributable to the business, the profits from which are eligible for deduction under section 80HHC or section 80HHD; so, however, that such amounts are computed in the manner specified in sub-section (*3*) or sub-section (*3A*) of section 80HHC or sub-section (*3*) of section 80HHD, as the case may be; or]

[2][(*iv*)] the amount of the loss or the amount of depreciation which would be required to be set off against the profit of the relevant previous year as if the provisions of clause (*b*) of the first proviso to sub-section (*1*) of section 205 of the Companies Act, 1956 (1 of 1956), are applicable.

(*2*) Nothing contained in sub-section (*1*) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (*2*) of section 32 or sub-section (*3*) of section 32A or clause (*ii*) of sub-section (*1*) of section 72 or section 73 or section 74 or sub-section (*3*) of section 74A or sub-section (*3*) of section 80J.]

[3]**[115JA. Deemed income relating to certain companies**.—(*1*) Notwithstanding anything contained in any other provisions of this Act, where in the case of an assessee, being a company, the total income, as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 [4][but before the 1st day of April, 2001] (hereafter in this section referred to as the relevant previous year) is less than thirty per cent of its book profit, the total income of such assessee chargeable to tax for the relevant previous year shall be deemed to be an amount equal to thirty per cent of such book profit.

(*2*) Every assessee, being a company, shall, for the purposes of this section prepare its profit and loss account for the relevant previous year in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956 (1 of 1956):

Provided that while preparing profit and loss account, the depreciation shall be calculated on the same method and rates which have been adopted for calculating the depreciation for the purpose of preparing the profit and loss account laid before the company at its annual general meeting in accordance with the provisions of section 210 of the Companies Act, 1956 (1 of 1956):

Provided further that where a company has adopted or adopts the financial year under the Companies Act, 1956 (1 of 1956), which is different from the previous year under the Act, the method and rates for calculation of depreciation shall correspond to the method and rates which have been adopted for calculating the depreciation for such financial year or part of such financial year falling within the relevant previous year.

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1. Ins. by Act 3 of 1989, s. 19 (w.e.f. 1-4-1989).

2. Clause (*iii*) renumbered as clause (*iv*) by s. 19, *ibid*. (w.e.f. 1-4-1989).

3. Ins. by Act 33 of 1996, s. 39 (w.e.f. 1-4-1997).

4. Ins. by Act 10 of 2000, s. 50 (w.e.f. 1-4-2001).

Explanation.—For the purposes of this section, "book profit" means the net profit as shown in the profit and loss account for the relevant previous year prepared under sub-section (*2*), as increased by—

(*a*) the amount of income-tax paid or payable, and the provision therefor; or

(*b*) the amounts carried to any reserves by whatever name called; or

(*c*) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(*d*) the amount by way of provision for losses of subsidiary companies; or

(*e*) the amount or amounts of dividends paid or proposed; or

(*f*) the amount or amounts of expenditure relatable to any income to which any of the provisions of Chapter III applies;

[1][(*g*) the amount or amounts set aside as provision for diminution in the value of any asset,

if any amount referred to in clauses (*a*) to (*g*) is debited to the profit and loss account, and as reduced by,—]

(*i*) the amount withdrawn from any reserves or provisions if any such amount is credited to the profit and loss account:

Provided that, where this section is applicable to an assessee in any previous year (including the relevant previous year), the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 [2][but ending before the 1st day of April, 2001] shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation*; or

(*ii*) the amount of income to which any of the provisions of Chapter III applies, if any such amount is credited to the profit and loss account; or

[3][(*iii*) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account.

Explanation.—For the purposes of this clause,—

(*a*) the loss shall not include depreciation;

(*b*) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is *nil;* or]

(*iv*) the amount of profits derived by an industrial undertaking from the business of generation or generation and distribution of power; or

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1. Subs. by Act 33 of 2009, s. 44, for "if any amount referred to in clauses (*a*) to (*f*) is debited to the profit and loss account, and as reduced by, —" (w.e.f. 1-4-1998).

2. Ins. by Act 10 of 2000, s. 50 (w.e.f. 1-4-2001).

3. Subs. by Act 20 of 2002, s. 51, for "clause (*iii*) and the *Explanation* thereto" (w.e.f. 1-4-1997).

(*v*) the amount of profits derived by an industrial undertaking located in an industrially backward State or district as referred to in [1][sub-section (*4*) and sub-section (*5*) of section 80-IB], for the assessment years such industrial undertaking is eligible to claim a deduction of hundred per cent of the [2][profits and gains under sub-section (*4*) or sub-section (*5*) of section 80-IB]; or

(*vi*) the amount of profits derived by an industrial undertaking from the business of developing, maintaining and operating any infrastructure facility [3][as defined in the *Explanation* to sub-section (*4*) of section 80-IA and subject to fulfilling the conditions laid down in that sub-section]; or

(*vii*) the amount of profits of sick industrial company for the assessment year commencing from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (*1*) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (*ga*) of sub-section (*1*) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986); [4][or]

[5][(*viii*) the amount of profits eligible for deduction under section 80HHC, computed under clause (*a*), (*b*) or (*c*) of sub-section (*3*) or sub-section (*3A*), as the case may be, of that section, and subject to the conditions specified in sub-sections (*4*) and (*4A*) of that section;

(*ix*) the amount of profits eligible for deduction under section 80HHE, computed under sub-section (*3*) of that section.]

(*3*) Nothing contained in sub-section (*1*) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (*2*) of section 32 or sub-section (*3*) of section 32A or clause (*ii*) of sub-section (*1*) of section 72 or section 73 or section 74 or sub-section (*3*) of section 74A.

(*4*) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.]

[6]**[115JAA. Tax credit in respect of tax paid on deemed income relating to certain companies.**—(*1*) Where any amount of tax is paid under sub-section (*1*) of section 115JA by an assessee being a company for any assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.

[7][(*1A*) Where any amount of tax is paid under sub-section (*1*) of section 115JB by an assessee, being a company for the assessment year commencing on the 1st day of April, 2006 and any subsequent assessment year, then, credit in respect of tax so paid shall be allowed to him in accordance with the provisions of this section.]

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1. Subs. by Act 27 of 1999, s. 90, for "sub-clause (*b*) or sub-clause (*c*) of clause (*iv*) of sub-section (*2*) of section 80-IA" (w.e.f. 1-4-2000).
2. Subs. by s. 90, *ibid*., for "profits and gains under sub-section (*5*) of section 80-IA" (w.e.f. 1-4-2000).
3. Subs. by s. 90, *ibid.*, for "under sub-section (*12*) of section 80-IA, and subject to fulfilling the conditions laid down in sub-section (*4A*) of section 80-IA" (w.e.f. 1-4-2000).
4. Ins. by Act 26 of 1997, s. 37 (w.e.f. 1-4-1997).
5. Ins. by s. 37, *ibid*. (w.e.f. 1-4-1998).
6. Ins. by Act 26 of 1997, s. 38 (w.e.f. 1-4-1997).
7. Ins. by Act 18 of 2005, s. 35 (w.e.f. 1-4-2006).

[1][(*2*) The tax credit to be allowed under sub-section (*1*) shall be the difference of the tax paid for any assessment year under sub-section (*1*) of section 115JA and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act:

Provided that no interest shall be payable on the tax credit allowed under sub-section (*1*).

(*2A*) The tax credit to be allowed under sub-section (*1A*) shall be the difference of the tax paid for any assessment year under sub-section (*1*) of section 115JB and the amount of tax payable by the assessee on his total income computed in accordance with the other provisions of this Act:

Provided that no interest shall be payable on the tax credit allowed under sub-section (*1A*):

[2][Provided further that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, allowed against the tax payable under the provisions of sub-section (*1*) of section 115JB exceeds the amount of such tax credit admissible against the tax payable by the assessee on its income in accordance with the other provisions of this Act, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.]

(*3*) The amount of tax credit determined under sub-section (*2*) shall be carried forward and set off in accordance with the provisions of sub-sections (*4*) and (*5*) but such carry forward shall not be allowed beyond the fifth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (*1*).

(*3A*) The amount of tax credit determined under sub-section (*2A*) shall be carried forward and set off in accordance with the provisions of sub-sections (*4*) and (*5*) but such carry forward shall not be allowed beyond the [3][fifteenth assessment year] immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (*1A*).]

(*4*) The tax credit shall be allowed set-off in a year when tax becomes payable on the total income computed in accordance with the provisions of this Act other than section 115JA [4][or section 115JB, as the case may be].

(*5*) Set off in respect of brought forward tax credit shall be allowed for any assessment year to the extent of the difference between the tax on his total income and the tax which would have been payable under the provisions of sub-section (*1*) of section 115JA [4][or section 115JB, as the case may be] for that assessment year.

(*6*) Where as a result of an order under sub-section (*1*) or sub-section (*3*) of section 143, section 144, section 147, section 154, section 155, sub-section (*4*) of section 245D, section 250, section 254, section 260, section 262, section 263 or section 264, the amount of tax payable under this Act is reduced or increased, as the case may be, the amount of tax credit allowed under this section shall also be increased or reduced accordingly.

[5][(*7*) In case of conversion of a private company or unlisted public company into a limited liability partnership under the Limited Liability Partnership Act, 2008 (6 of 2009), the provisions of this section shall not apply to the successor limited liability partnership.

Explanation.—For the purposes of this section, the expressions "private company" and "unlisted public company" shall have the meanings respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009).]]

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1. Subs. by Act 21 of 2006, s. 23, for sub-sections (*2*) and (*3*) (w.e.f. 1-4-2007).

2. Ins. by Act 7 of 2017, s. 46 (w.e.f. 1-4-2018).

3. Subs. by, s. 46, *ibid*., for "tenth assessment year" (w.e.f. 1-4-2018).

4. Ins. by Act 10 of 2000, s. 51 (w.e.f. 1-4-2001).

5. Ins. by Act 14 of 2010, s. 29 (w.e.f. 1-4-2011).

[1]**[115JB. Special provision for payment of tax by certain companies.**—(*1*) Notwithstanding anything contained in any other provision of this Act, where in the case of an assessee, being a company, the income-tax, payable on the total income as computed under this Act in respect of any previous year relevant to the assessment year commencing on or after [2][the 1st day of April, 2012], is less than [3][eighteen and one-half per cent.] of its book profit, [4][such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee on such total income shall be the amount of income-tax at the rate of [3][eighteen and one-half per cent.]].

(*2*) [5][Every assessee,—

(*a*) being a company, other than a company referred to in clause (*b*), shall, for the purposes of this section, prepare its [6][statement of profit and loss] for the relevant previous year in accordance with the provisions of [7][Schedule III] to [8][the Companies Act, 2013 (18 of 2013)]; or

(*b*) being a company, to which the [9][second proviso to sub-section (*1*) of section 129] of [8][the Companies Act, 2013 (18 of 2013)] is applicable, shall, for the purposes of this section, prepare its [6][statement of profit and loss] for the relevant previous year in accordance with the provisions of the Act governing such company:]

Provided that while preparing the annual accounts including [6][statement of profit and loss],—

(*i*) the accounting policies;

(*ii*) the accounting standards adopted for preparing such accounts including [6][statement of profit and loss;

(*iii*) the method and rates adopted for calculating the depreciation,

shall be the same as have been adopted for the purpose of preparing such accounts including [6][statement of profit and loss] and laid before the company at its annual general meeting in accordance with the provisions of [10][section 210] of [8][the Companies Act, 2013 (18 of 2013)]:

Provided further that where the company has adopted or adopts the financial year under [8][the Companies Act, 2013 (18 of 2013)], which is different from the previous year under this Act,—

(*i*) the accounting policies;

(*ii*) the accounting standards adopted for preparing such accounts including [6][statement of profit and loss];

(*iii*) the method and rates adopted for calculating the depreciation,

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1. Ins. by Act 10 of 2000, s. 52 (w.e.f. 1-4-2001).

2. Subs. by Act 8 of 2011, s. 18, for "the 1st day of April, 2011" (w.e.f. 1-4-2012).

3. Subs. by s. 18, *ibid*., for "eighteen per cent." (w.e.f. 1-4-2012).

4. Subs. by Act 20 of 2002, s. 52, for "the tax payable for the relevant previous year shall be deemed to be seven and one-half per cent. of such book profit" (w.e.f. 1-4-2001).

5. Subs. by Act 23 of 2012, s. 48, for the portion beginning with the words "Every assessee," and ending with the words and figures "the Companies Act, 1956 (1 of 1956):" (w.e.f. 1-4-2013).

6. Subs. by Act 7 of 2017, s. 47, for "profit and loss account" (w.e.f. 1-4-2017).

7. Subs. by s. 47, *ibid*., for "Part II of Schedule VI" (w.e.f. 1-4-2017).

8. Subs. by s. 47, *ibid*., for "the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-4-2017).

9. Subs. by s. 47, *ibid*., for "proviso to sub-section (*2*) of section 211" (w.e.f. 1-4-2017).

10. Subs. by s. 47, *ibid*., for "section 210" (w.e.f. 1-4-2017).

shall correspond to the accounting policies, accounting standards and the method and rates for calculating the depreciation which have been adopted for preparing such accounts including [1][statement of profit and loss] for such financial year or part of such financial year falling within the relevant previous year.

Explanation [2][*1*].—For the purposes of this section, "book profit" means the [3][profit] as shown in the [1][statement of profit and loss] for the relevant previous year prepared under sub-section (*2*), as increased by—

(*a*) the amount of income-tax paid or payable, and the provision therefor; or

(*b*) the amounts carried to any reserves, by whatever name called [4][, other than a reserve specified under section 33AC]; or

(*c*) the amount or amounts set aside to provisions made for meeting liabilities, other than ascertained liabilities; or

(*d*) the amount by way of provision for losses of subsidiary companies; or

(*e*) the amount or amounts of dividends paid or proposed; or

(*f*) the amount or amounts of expenditure relatable to any income to which [5][section 10 (other than the provisions contained in clause (*38*) thereof) or [6]*** section 11 or section 12 apply; or]

[7][(*fa*) the amount or amounts of expenditure relatable to income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; or

(*fb*) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—

(*A*) the capital gains arising on transactions in securities; or

(*B*) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (*1*); or

(*fc*) the amount representing notional loss on transfer of a capital asset, being share of a special purpose vehicle, to a business trust in exchange of units allotted by the trust referred to in clause (*xvii*) of section 47 or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (*xvii*) of section 47; or]

[8][(*fd*) the amount or amounts of expenditure relatable to income by way of royalty in respect of patent chargeable to tax under section 115BBF; or]

[9][(*g*) the amount of depreciation,]

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1. Subs. by Act 7 of 2017, s. 47, for "profit and loss account" (w.e.f. 1-4-2017).
2. The *Explanation* numbered as *Explanation* 1 by Act 18 of 2008, s. 23 (w.e.f. 1-4-2001).
3. Subs. by Act 7 of 2017, s. 47, for "net profit" (w.e.f. 1-4-2017).
4. Ins. by Act 20 of 2002, s. 52 (w.e.f. 1-4-2003).
5. Subs. by Act 21 of 2006, s. 24, for "section 10 (other than the provisions contained in clause (23G) thereof) or section 10A or section 10B or section 11 or section 12 apply," (w.e.f. 1-4-2007).
6. The words, figures and letters "section 10A or section 10B or" omitted by Act 22 of 2007, s. 34 (w.e.f. 1-4-2008).
7. Ins. by Act 20 of 2015, s. 30 (w.e.f. 1-4-2016).
8. Ins. by Act 28 of 2016, s. 55 (w.e.f. 1-4-2017).
9. Ins. by Act 21 of 2006, s. 24 (w.e.f. 1-4-2007).

[1][(*h*) the amount of deferred tax and the provision therefor,

[2][(*i*) the amount or amounts set aside as provision for diminution in the value of any asset,

[3][(*j*) the amount standing in revaluation reserve relating to revalued asset on the retirement or disposal of such asset,

[4][(*k*) the amount of gain on transfer of units referred to in clause (*xvii*) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through [5][statement of profit and loss], as the case may be;]

if any amount referred to in clauses (*a*) to (*i*) is debited to the [5][statement of profit and loss] or if any amount referred to in clause (*j*) is not credited to the [5][statement of profit and loss], and as reduced by,—]]]

[6][(*i*) the amount withdrawn from any reserve or provision (excluding a reserve created before the 1st day of April, 1997 otherwise than by way of a debit to the [5][statement of profit and loss]), if any such amount is credited to the [5][statement of profit and loss]:

Provided that where this section is applicable to an assessee in any previous year, the amount withdrawn from reserves created or provisions made in a previous year relevant to the assessment year commencing on or after the 1st day of April, 1997 shall not be reduced from the book profit unless the book profit of such year has been increased by those reserves or provisions (out of which the said amount was withdrawn) under this *Explanation* or *Explanation* below the second proviso to section 115JA, as the case may be; or]

(*ii*) the amount of income to which any of the provisions of [7][section 10 (other than the provisions contained in clause (*38*) thereof)] or [8]*** section 11 or section 12 apply, if any such amount is credited to the [5][statement of profit and loss]; or

[9][(*iia*) the amount of depreciation debited to the [5][statement of profit and loss] (excluding the depreciation on account of revaluation of assets); or

(*iib*) the amount withdrawn from revaluation reserve and credited to the [5][statement of profit and loss], to the extent it does not exceed the amount of depreciation on account of revaluation of assets referred to in clause (*iia*); or]

[10][(*iic*) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any, such amount is credited to the [5][statement of profit and loss]; or

(*iid*) the amount of income accruing or arising to an assessee, being a foreign company, from,—

(*A*) the capital gains arising on transactions in securities; or

(*B*) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

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1. Subs. by Act 18 of 2008, s. 23, for the portion beginning with the words "if any amount referred" and ending with the words "as reduced by—" (w.e.f. 1-4-2001).
2. Subs. by Act 33 of 2009, s. 46, for "if any amount referred to in clauses (*a*) to (*h*) is debited to the profit and loss account, and as reduced by—" (1-4-2001)
3. Subs. by Act 23 of 2012, s. 48, for "if any amount referred to in clauses (*a*) to (*i*) is debited to the profit and loss account, and as reduced by, —" (w.e.f. 1-4-2013).
4. Ins. by Act 20 of 2015, s. 30 (w.e.f. 1-4-2016).
5. Subs. by Act 7 of 2017, s. 47, for "profit or loss account" (w.e.f. 1-4-2017).
6. Subs. by Act 20 of 2002, s. 52, for clause (*i*) and the proviso (w.e.f. 1-4-2001).
7. Subs. by Act 21 of 2006, s. 24, for "section 10 (other than the provisions contained in clause (23G) thereof)" (w.e.f. 1-4-2007).
8. The words, figures and letters "section 10A or section 10B or" omitted by Act 22 of 2007, s. 34 (w.e.f. 1-4-2008).
9. Ins. by Act 21 of 2006, s. 24 (w.e.f. 1-4-2007).
10. Ins. by Act 20 of 2015, s. 30 (w.e.f. 1-4-2016).

if such income is credited to the [1][statement of profit and loss] and the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (*1*); or

(*iie*) the amount representing,—

(*A*) notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (*xvii*) of section 47; or

(*B*) notional gain resulting from any change in carrying amount of said units; or

(*C*) gain on transfer of units referred to in clause (*xvii*) of section 47,

if any, credited to the [1][statement of profit and loss]; or

(*iif*) the amount of loss on transfer of units referred to in clause (*xvii*) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be; or]

[2][(*iig*) the amount of income by way of royalty in respect of patent chargeable to tax under section 115BBF;] or

[3][(*iih*) the aggregate amount of unabsorbed depreciation and loss brought forward in case of a company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016.

Explanation.—For the purposes of this clause, the expression "Adjudicating Authority" shall have the meaning assigned to it in clause (*1*) of section 5 of the Insolvency and Bankruptcy Code, 2016 and the loss shall not include depreciation; or;]

[4][(*iii*) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account [3][in case of a company other than the company referred to in clause (*iih*)].

Explanation.—For the purposes of this clause,—

(*a*) the loss shall not include depreciation;

(*b*) the provisions of this clause shall not apply if the amount of loss brought forward or unabsorbed depreciation is *nil*; or]

[5]* * * * *

(*vii*) the amount of profits of sick industrial company for the assessment year commencing on and from the assessment year relevant to the previous year in which the said company has become a sick industrial company under sub-section (*1*) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and ending with the assessment year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

Explanation.—For the purposes of this clause, "net worth" shall have the meaning assigned to it in clause (*ga*) of sub-section (*1*) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986); or

[6][(*viii*) the amount of deferred tax, if any such amount is credited to the [1][statement of profit and loss].]

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1. Subs. by Act 7 of 2017, s. 47, for "profit and loss account" (w.e.f. 1-4-2017).

2. Ins. by Act 28 of 2016, s. 55 (w.e.f. 1-4-2017).

3. Ins. by Act 13 of 2018, s. 37 (w.e.f. 1-4-2018).

4. Subs. by Act 20 of 2002, s. 52, for clause (*iii*) and the *Explanation* (w.e.f. 1-4-2001).

5. Clause (*iv*), clause (*v*) and clause (*vi*) omitted by Act 8 of 2011, s. 18 (w.e.f. 1-4-2005).

6. Ins. by Act 18 of 2008, s. 23 (w.e.f. 1-4-2001).

[1][*Explanation* 2.—For the purposes of clause (*a*) of *Explanation* 1, the amount of income-tax shall include—

(*i*) any tax on distributed profits under section 115-O or on distributed income under section 115R;

(*ii*) any interest charged under this Act;

(*iii*) surcharge, if any, as levied by the Central Acts from time to time;

(*iv*) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and

(*v*) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.]

[2][*Explanation* 3.—For the removal of doubts, it is hereby clarified that for the purposes of this section, the assessee, being a company to which the [3][second proviso to sub-section (*1*) of section 129 of the Companies Act, 2013 (18 of 2013)] is applicable, has, for an assessment year commencing on or before the 1st day of April, 2012, an option to prepare its [4][statement of profit and loss] for the relevant previous year either in accordance with the provisions of [5][Schedule III to the Companies Act, 2013 (18 of 2013)] or in accordance with the provisions of the Act governing such company.

[6]**[***Explanation* 4.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

(*i*) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (*1*) of section 90 or the Central Government has adopted any agreement under sub-section (*1*) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or

(*ii*) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (*i*) and the assessee is not required to seek registration under any law for the time being in force relating to companies.]

[7][*Explanation* 4A.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in those sections.]

[8][[9]**[***Explanation* 5**]**.—For the purposes of sub-section (*2*), the expression "securities" shall have the same meaning as assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

[10][(*2A*) For a company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit as computed in accordance with *Explanation 1* to sub-section (*2*) shall be further—

(*a*) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss;

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1. Ins. by Act 18 of 2008, s. 23 (w.e.f. 1-4-2001).
2. Ins. by Act 23 of 2012, s. 48 (w.e.f. 1-4-2013).
3. Subs. by Act 7 of 2017, s. 47, for "proviso to sub-section (*2*) of section 211 of the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-4-2017).
4. Subs. by s. 47, *ibid*., for "profit and loss account" (w.e.f. 1-4-2017).
5. Subs. by s. 47, *ibid*., for "Part II and Part III of Schedule VI to the Companies Act, 1956 (1 of 1956)" (w.e.f. 1-4-2017).
6. Ins. by Act 28 of 2016, s. 55 (w.e.f. 1-4-2001).
7. Ins. by Act 13 of 2018, s. 37 (w.e.f. 1-4-2001).
8. Ins. by Act 20 of 2015, s. 30 (w.e.f. 1-4-2016).
9. *Explanation* 4 renumbered as *Explanation* 5 thereof by Act 28 of 2016, s. 55 (w.e.f. 1-4-2001).
10. Ins. by Act 7 of 2017, s. 47 (w.e.f. 1-4-2018).

(*b*) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss;

(*c*) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(*d*) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10:

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—

(*i*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(*ii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:

Provided further that the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment.

(*2B*) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(*2C*) For a company referred to in sub-section (*2A*), the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one-fifth of the transition amount:

Provided that the book profit of the previous year in which the asset or investment referred to in sub-clauses (*B*) to (*E*) of clause (*iii*) of the *Explanation* is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such asset or investment:

Provided further that the book profit of the previous year in which the foreign operation referred to in sub-clause (*F*) of clause (*iii*) of the *Explanation* is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such foreign operations.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "year of convergence" means the previous year within which the convergence date falls;

(*ii*) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(*iii*) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date but not including the following:—

(*A*) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(*B*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(*C*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(*D*) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(*E*) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(*F*) adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.]

(*3*) Nothing contained in sub-section (*1*) shall affect the determination of the amounts in relation to the relevant previous year to be carried forward to the subsequent year or years under the provisions of sub-section (*2*) of section 32 or sub-section (*3*) of section 32A or clause (*ii*) of sub-section (*1*) of section 72 or section 73 or section 74 or sub-section (*3*) of section 74A.

(*4*) Every company to which this section applies, shall furnish a report in the prescribed form from an accountant as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the book profit has been computed in accordance with the provisions of this section along with the return of income filed under sub-section (*1*) of section 139 or along with the return of income furnished in response to a notice under clause (*i*) of sub-section (*1*) of section 142.

(*5*) Save as otherwise provided in this section, all other provisions of this Act shall apply to every assessee, being a company, mentioned in this section.]

[1][(*5A*) The provisions of this section shall not apply to any income accruing or arising to a company from life insurance business referred to in section 115B.]

[2][(*6*) The provisions of this section shall not apply to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be:]

[3][Provided that the provisions of this sub-section shall cease to have effect in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012.]

[4][(*7*) Notwithstanding anything contained in sub-section (*1*), where the assessee referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (*1*) shall have the effect as if for the words "eighteen and one-half per cent" wherever occurring in that sub-section, the words "nine per cent" had been substituted.

Explanation.—For the purposes of this sub-section,—

(*a*) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*b*) "unit" means a unit established in an International Financial Services Centre;

(*c*) "convertible foreign exchange" means a 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 the rules made thereunder.]

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1. Ins. by Act 23 of 2012, s. 48 (w.e.f. 1-4-2001).

2. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

3. Ins. by Act 8 of 2011, s. 18 (w.e.f. 1-4-2012).

4. Ins. by Act 28 of 2016, s. 55 (w.e.f. 1-4-2017).

[1][CHAPTER XIIBA

SPECIAL PROVISIONS RELATING TO CERTAIN [2][PERSONS OTHER THAN A COMPANY]

[3][**115JC. Special provisions for payment of tax by certain persons other than a company.**—(*1*) Notwithstanding anything contained in this Act, where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

(*2*) Adjusted total income referred to in sub-section (*1*) shall be the total income before giving effect to this Chapter as increased by—

(*i*) deductions claimed, if any, under any section (other than section 80P) included in Chapter VIA under the heading "C.—Deductions in respect of certain incomes"; [4]***

(*ii*) deduction claimed, if any, [5][under section 10AA; and]

[6][(*iii*) deduction claimed, if any, under section 35AD as reduced by the amount of depreciation allowable in accordance with the provisions of section 32 as if no deduction under section 35AD was allowed in respect of the assets on which the deduction under that section is claimed.]

(*3*) Every person to whom this section applies shall obtain a report, in such form as may be prescribed, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date of furnishing of return of income under sub-section (*1*) of section 139.]

[7][(*4*) Notwithstanding anything contained in sub-section (*1*), where the person referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section (*1*) shall have effect as if for the words "eighteen and one-half per cent.", the words "nine per cent." had been substituted.]

115JD. Tax credit for alternate minimum tax.—(*1*) The credit for tax paid by [8][a person under section 115JC shall be allowed to him] in accordance with the provisions of this section.

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

[9][Provided that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India under section 90 or section 90A or section 91, allowed against the alternate minimum tax payable, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.]

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

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1. Ins. by Act 8 of 2011, s. 19 (w.e.f. 1-4-2012).
2. Subs. by Act 23 of 2012, s. 49, for "LIMITED LIABILITY PARTERSHIPS" (w.e.f. 1-4-2013).
3. Subs. by s. 50, *ibid*., for section 115JC (w.e.f. 1-4-2013).
4. The "word" omitted by Act 25 of 2014, s. 39 (w.e.f. 1-4-2015).
5. Subs. by s. 39, *ibid*., for "under section 10AA" (w.e.f. 1-4-2015).
6. Ins. by s. 39, *ibid*. (w.e.f. 1-4-2015).
7. Ins. by Act 13 of 2018, s. 38 (w.e.f. 1-4-2019).
8. Subs. by Act 23 of 2012, s. 51, for "a limited liability partnership under section 115JC shall be allowed to it" (w.e.f. 1-4-2013).
9. Ins. by Act 7 of 2017, s. 48 (w.e.f. 1-4-2018).

(*4*) The amount of tax credit determined under sub-section (*2*) shall be carried forward and set off in accordance with the provisions of sub-sections (*5*) and (*6*) but such carry forward shall not be allowed beyond the [1][fifteenth assessment year] immediately succeeding the assessment year for which tax credit becomes allowable under sub-section (*1*).

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

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

115JE. Application of other provisions of this Act.—Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to a [2][person] referred to in this Chapter.

[3][**115JEE. Application of this Chapter to certain persons.**—(*1*) The provisions of this Chapter shall apply to a person who has claimed any deduction under—

(*a*) any section (other than section 80P) included in Chapter VI-A under the heading "C.—*Deductions in respect of certain incomes*"; or

[4][(*b*) section 10AA; or

(*c*) section 35AD.]

(*2*) The provisions of this Chapter shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2, if the adjusted total income of such person does not exceed twenty lakh rupees.]

[5][(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), the credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD.]

115JF. Interpretation in this Chapter. In this Chapter—

(*a*) "accountant" shall have the same meaning as in the *Explanation* below sub-section (*2*) of section 288;

[6][(*b*) "alternate minimum tax" means the amount of tax computed on adjusted total income,—

(*i*) in case of an assessee being a unit referred to in sub-section (*4*) of section 115JC, at a rate of nine per cent.;

(*ii*) in any other case, at a rate of eighteen and one-half per cent.;]

[7][(*ba*) "convertible foreign exchange" means a foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Management Act, 1999 and the rules made thereunder;

(*bb*) "International Financial Services Centre" shall have the meaning assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005;]

[8]* * * * *

1. Subs. by Act 7 of 2017, s. 48, for "tenth assessment year" (w.e.f. 1-4-2018).
2. Subs. by Act 23 of 2012, s. 52, for "a limited liability partnership" (w.e.f. 1-4-2013).
3. Ins. by s. 53, *ibid*. (w.e.f. 1-4-2013).
4. Subs. by Act 25 of 2014, s. 40, for clause (*b*) (w.e.f. 1-4-2015).
5. Ins. by s. 40, *ibid*. (w.e.f. 1-4-2015).
6. Subs. by Act 13 of 2018, s. 39, for clause (*b*) (w.e.f.1-4-2019).
7. Ins. by s. 39, *ibid*. (w.e.f. 1-4-2019).
8. Clause (*c*) omitted by Act 23 of 2012, s. 54 (w.e.f. 1-4-2013).

(*d*) "regular income-tax" means the income-tax payable for a previous year by [1][a person on his total income] in accordance with the provisions of this Act other than the provisions of this Chapter.]

[2][(*e*) "unit" means a unit established in an International Financial Services Centre.]

[3][CHAPTER XIIBB

SPECIAL PROVISIONS RELATING TO CONVERSION OF INDIAN BRANCH OF A FOREIGN BANK INTO A SUBSIDIARY COMPANY

115JG. Conversion of an Indian branch of foreign company into subsidiary Indian company.—(*1*) Where a foreign company is engaged in the business of banking in India through its branch situate in India and such branch is converted into a subsidiary company thereof, being an Indian company (hereafter referred to as an Indian subsidiary company) in accordance with the scheme framed by the Reserve Bank of India, then, notwithstanding anything contained in the Act and subject to the conditions as may be notified by the Central Government in this behalf,—

(*i*) the capital gains arising from such conversion shall not be chargeable to tax in the assessment year relevant to the previous year in which such conversion takes place;

(*ii*) the provisions of this Act relating to treatment of unabsorbed depreciation, set off or carry forward and set off of losses, tax credit in respect of tax paid on deemed income relating to certain companies and the computation of income in the case of the foreign company and Indian subsidiary company shall apply with such exceptions, modifications and adaptations as may be specified in that notification.

(*2*) In case of failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (*1*), all the provisions of this Act shall apply to the foreign company and the said Indian subsidiary company without any benefit, exemption or relief under sub-section (*1*).

(*3*) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company or the Indian subsidiary company in accordance with the provisions of sub-section (*1*) and, subsequently, there is failure to comply with any of the conditions specified in the scheme or in the notification issued under sub-section (*1*), then,—

(*i*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(*ii*) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment; and

(*iii*) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*7*) of that section being reckoned from the end of the previous year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(*4*) Every notification issued under this section shall be laid before each House of Parliament.]

[4][CHAPTER XIIBC

SPECIAL PROVISIONS RELATING TO FOREIGN COMPANY SAID TO BE RESIDENT IN INDIA

115JH. Foreign company said to be resident in India.—(*1*) Where a foreign company is said to be resident in India in any previ- ous year and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in this Act and subject to the conditions as may be notified by the Central Government in this behalf, the provisions of this Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations as may be specified in that notification for the said previous year:

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1. Subs. by Act 23 of 2012, s. 54, for "a limited liability partnership on its total income" (w.e.f. 1-4-2013).
2. Ins. by Act 13 of 2018, s. 39 (w.e.f. 1-4-2018).
3. Ins. by Act 23 of 2012, s. 55 (w.e.f. 1-4-2013).
4. Ins. by Act 28 of 2016, s. 56 (w.e.f. 1-4-2017).

Provided that where the determination regarding foreign company to be resident in India has been made in the assessment proceedings relevant to any previous year, then, the provisions of this sub-section shall also apply in respect of any other previous year, succeeding such previous year, if the foreign company is resident in India in that previous year and the previous year ends on or before the date on which such assessment proceeding is completed.

(*2*) Where, in a previous year, any benefit, exemption or relief has been claimed and granted to the foreign company in accordance with the provisions of sub-section (*1*), and, subsequently, there is failure to comply with any of the conditions specified in the notification issued under sub-section (*1*), then,—

(*i*) such benefit, exemption or relief shall be deemed to have been wrongly allowed;

(*ii*) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary amendment as if the exceptions, modifications and adaptations referred to in sub-section (*1*) did not apply; and

(*iii*) the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in sub-section (*7*) of that section being reckoned from the end of the previous year in which the failure to comply with the condition referred to in sub-section (*1*) takes place.

(*3*) Every notification issued under this section shall be laid before each House of Parliament.]

[1]* * * * *

115K. [**Special provision for computation of income in certain cases.**]—*Omitted by the Finance Act* 1997 (26 *of* 1997), *s*. 39 (*w.e.f.* 1-4-1998).

115L. [Return of income not to be filed in certain cases.]—*Omitted by the Finance Act*, 1997 (26 *of* 1997), *s*. 39 (*w.e.f.* 1-4-1998).

115M. [**Special provision for disallowance of deductions and rebate of income-tax.]**—*Omitted by the Finance Act*, 1997 (26 *of* 1997), *s*. 39, (*w.e.f.* 1-4-1998).

115N. [Bar of proceedings in certain cases.]—*Omitted by the Finance Act*, 1997 (26 *of* 1997), *s*. 39, (*w.e.f.* 1-4-1998).

[2][CHAPTER XIID

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES

115-O. Tax on distributed profits of domestic companies.—[3][(*1*) Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003, whether out of current or accumulated profits shall be charged to additional income-tax (hereafter referred to as tax on distributed profits) [4][at the rate of fifteen per cent.]]

[5][Provided that in respect of dividend referred to in sub-clause (*e*) of clause (*22*) of section 2, this sub-section shall have effect as if for the words "fifteen per cent.", the words "thirty per cent." had been substituted;]

1. Chapter XIIC consisting of sections 115K to 115N omitted by Act 26 of 1997, s. 39 (w.e.f. 1-4-1998). Earlier Chapter XIIC was inserted by the Act 18 of 1992, s. 58 (w.e.f. 1-4-1993).
2. Ins. by s. 40, ibid. (w.e.f. 1-6-1997).
3. Subs. by Act 32 of 2003, s. 55, for sub-section (*1*) (w.e.f. 1-4-2003). Earlier sub-section (*1*) was amended by Act 10 of 2000, s. 53 (w.e.f. 1-6-2000), Act 14 of 2001, s. 55 (w.e.f. 1-6-2001), and Act 20 of 2002, s. 53 (w.e.f. 1-4-2003).
4. Subs. by Act 22 of 2007, s. 35, for "at the rate of twelve and one-half per cent." (w.e.f. 1-4-2007).
5. Ins. by Act 13 of 2018, s. 40 (w.e.f. 1-4-2018).

[1][(*1A*) The amount referred to in sub-section (*1*) shall be reduced by,—

[2][(*i*) the amount of dividend, if any, received by the domestic company during the financial year, if such dividend is received from its subsidiary and,—

(*a*) where such subsidiary is a domestic company, the subsidiary has paid the tax which is payable under this section on such dividend; or

(*b*) where such subsidiary is a foreign company, the tax is payable by the domestic company under section 115BBD on such dividend:

Provided that the same amount of dividend shall not be taken into account for reduction more than once;]

(*ii*) the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (*44*) of section 10.

Explanation.—For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company, holds more than half in nominal value of the equity share capital of the company.]

[3][(*1B*) For the purposes of determining the tax on distributed profits payable in accordance with this section, any amount by way of dividends referred to in sub-section (*1*) as reduced by the amount referred to in sub-section (*1A*) [hereafter referred to as net distributed profits], shall be increased to such amount as would, after reduction of the tax on such increased amount at the rate specified in sub-section (*1*), be equal to the net distributed profits.]

[4][Provided that this sub-section shall not apply in respect of dividend referred to in sub-clause (e) of clause (22) of section 2.]

(*2*) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on distributed profits under sub-section (*1*) shall be payable by such company.

(*3*) The principal officer of the domestic company and the company shall be liable to pay the tax on distributed profits to the credit of the Central Government within fourteen days from the date of—

(*a*) declaration of any dividend; or

(*b*) distribution of any dividend; or

(*c*) payment of any dividend,

whichever is earliest.

(*4*) The tax on distributed profits so paid by the company shall be treated as the final payment of tax in respect of the amount declared, distributed or paid as dividends and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(*5*) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the amount which has been charged to tax under sub-section (*1*) or the tax thereon.

[5][(*6*) Notwithstanding anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2005 out of its current income either in the hands of the Developer or enterprise or the person receiving such dividend [6]***]:

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1. Subs. by Act 33 of 2009, s. 47, for sub-section (*1A*) (w.r.e.f. (1-4-2009). Earlier sub-section (*1A*) was inserted by Act 18 of 2008, s. 24 (w.e.f. 1-4-2008).
2. Subs. by Act 17 of 2013, s. 30, for clause (*i*) (w.e.f. 1-6-2013).
3. Ins. by Act 25 of 2014, s. 41 (w.e.f. 1-10-2014).
4. Ins. by Act 13 of 2018, s. 40 (w.e.f. 1-4-2018).
5. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).
6. The words "not falling under clause (*23G*)" omitted by Act 21 of 2006, s. 25 (w.e.f. 1-4-2007).

[1][Provided that the provisions of this sub-section shall cease to have effect from the 1st day of June, 2011.]

[2][(*7*) No tax on distributed profits shall be chargeable under this section in respect of any amount declared, distributed or paid by the specified domestic company by way of dividends (whether interim or otherwise) to a business trust out of its current income on or after the specified date:

Provided that nothing contained in this sub-section shall apply in respect of any amount declared, distributed or paid, at any time, by the specified domestic company by way of dividends (whether interim or otherwise) out of its accumulated profits and current profits up to the specified date.

Explanation.—For the purposes of this sub-section,—

(*a*) "specified domestic company" means a domestic company in which a business trust has become the holder of whole of the nominal value of equity share capital of the company (excluding the equity share capital required to be held mandatorily by any other person in accordance with any law for the time being in force or any directions of Government or any regulatory authority, or equity share capital held by any Government or Government body);

(*b*) "specified date" means the date of acquisition by the business trust of such holding as is referred to in clause (*a*).]

[3][(*8*) Notwithstanding anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income, either in the hands of the company or the person receiving such dividend.

Explanation.—For the purposes of this sub-section,—

(*a*) "International Financial Services Centre" shall have the same meaning as assigned to it in clause (*q*) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);

(*b*) "unit" means a unit established in an International Financial Services Centre, on or after the 1st day of April, 2016;

(*c*) "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 the rules made thereunder.]

115P. Interest payable for non-payment of tax by domestic companies.—Where the principal officer of a domestic company and the company fails to pay the whole or any part of the tax on distributed profits referred to in sub-section (*1*) of section 115-O, within the time allowed under sub-section (*3*) of that section, he or it shall be liable to pay simple interest at the rate of [4][one per cent.] for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115Q. When company is deemed to be in default.—If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of section 115O, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

[5]* * * * *]

1. Ins. by Act 8 of 2011, s. 20 (w.e.f. 1-6-2011).
2. Ins. by Act 28 of 2016, s. 57 (w.e.f. 1-6-2016).
3. Ins. by s. 57, *ibid.* (w.e.f. 1-4-2017).
4. Subs. by Act 54 of 2003, s. 4, for "one and one-fourth per cent." (w.e.f. 8-9-2003). Earlier the quoted words were amended by Act 10 of 2000, s. 54 (w.e.f. 1-6-2000).
5. The *Explanation* omitted by Act 13 of 2018, s. 41 (w.e.f. 1-4-2018).

[1][CHAPTER XIIDA

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME OF DOMESTIC COMPANY FOR BUY-BACK OF SHARES

115QA. Tax on distributed income to shareholders.—(*1*) Notwithstanding anything contained in any other provision of this Act, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount of distributed income by the company on buy-back of shares (not being shares listed on a recognised stock exchange) from a shareholder shall be charged to tax and such company shall be liable to pay additional income-tax at the rate of twenty per cent on the distributed income.

Explanation.—For the purposes of this section,—

(*i*) "buy-back" means purchase by a company of its own shares in accordance with the provisions of [2][any law for the time being in force relating to companies];

(*ii*) "distributed income" means the consideration paid by the company on buy-back of shares as reduced by [3][the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed].

(*2*) Notwithstanding that no income-tax is payable by a domestic company on its total income computed in accordance with the provisions of this Act, the tax on the distributed income under sub-section (*1*) shall be payable by such company.

(*3*) The principal officer of the domestic company and the company shall be liable to pay the tax to the credit of the Central Government within fourteen days from the date of payment of any consideration to the shareholder on buy-back of shares referred to in sub-section (*1*).

(*4*) The tax on the distributed income by the company shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the company or by any other person in respect of the amount of tax so paid.

(*5*) No deduction under any other provision of this Act shall be allowed to the company or a shareholder in respect of the income which has been charged to tax under sub-section (*1*) or the tax thereon.

115QB. Interest payable for non-payment of tax by company.—Where the principal officer of the domestic company and the company fails to pay the whole or any part of the tax on the distributed income referred to in sub-section (*1*) of section 115QA, within the time allowed under sub-section (*3*) of that section, he or it shall be liable to pay simple interest at the rate of one per cent for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

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1. Ins. by Act 17 of 2013, s. 31 (w.e.f. 1-6-2013).

2. Subs. by Act 28 of 2016, s. 58, for "section 77A of the Companies Act, 1956 (1 of1956)" (w.e.f. 1-6-2016).

3. Subs. by s. 58, *ibid*., for "the amount, which was received by the company for issue of such shares, determined in the manner as may be prescribed" (1-6-2016).

115QC. When company is deemed to be assessee in default.—If any principal officer of a domestic company and the company does not pay tax on distributed income in accordance with the provisions of section 115QA, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.]

[1][CHAPTER XIIE

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME

115R. Tax on distributed income to unit holders.—(*1*) Notwithstanding anything contained in any other provisions of this Act and section 32 of the Unit Trust of India Act, 1963 (52 of 1963), [2][any amount of income distributed on or before the 31st day of March, 2002 by the Unit Trust of India to its unit holders] shall be chargeable to tax and the Unit Trust of India shall be liable to pay additional income-tax on such distributed income at the rate of [3][ten per cent]:

Provided that nothing contained in this sub-section shall apply in respect of any income distributed to a unit holder of open-ended equity oriented funds in respect of any distribution made from such fund for a period of three years commencing from the 1st day of April, 1999.

[4][(*2*) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income [5][at the rate of—

[6][(*i*) twenty-five per cent. on income distributed to any person being an individual or a Hindu undivided family by a money market mutual fund or a liquid fund;

(*ii*) thirty per cent. on income distributed to any other person by a money market mutual fund or a liquid fund;

(*iii*) ten per cent. on income distributed to any person by an equity oriented fund;

(*iv*) twenty-five per cent. on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund; and

(*v*) thirty per cent. on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund:]

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1. Ins. by Act 27 of 1999, s. 61 (w.e.f. 1-6-1999).
2. Subs. by Act 20 of 2002, s. 54, for "any amount of income distributed on or before the 31st day of March, 2002 by the Unit Trust of India to its unit holders" (w.e.f. 1-4-2003).
3. Subs. by Act 14 of 2001, s. 57, for "twenty per cent." (w.e.f. 1-6-2001), earlier substituted by Act 10 of 2000, s. 55 (w.e.f. 1-6-2001).
4. Subs. by Act 32 of 2003, s. 56, for sub-section (*2*) (w.e.f. 1-4-2003), Earlier amended by 20 of 2002, s. 54 (w.e.f. 1-4-2003).
5. Subs. by Act 23 of 2004, s. 29, for "at the rate of twelve and one-half per cent." (w.e.f. 9-7-2004).
6. Subs. by Act 13 of 2018, s. 42, for clause (*i*) to clause (*iii*) (w.e.f. 1-4-2018). Earlier it was amended by Act 17 of 2013, s. 32 (w.e.f. 1-6-2013), Act 8 of 2011, s. 21 (w.e.f. 1-6-2011) and Act 22 of 2007, s. 36 (w.e.f. 1-4-2007).

[1][Provided that where any income is distributed by a mutual fund under an infrastructure debt fund scheme to a non-resident (not being a company) or a foreign company, the mutual fund shall be liable to pay additional income-tax at the rate of five per cent on income so distributed:]

[2][Provided further that] nothing contained in this sub-section shall apply in respect of any income distributed,—

(*a*) by the Administrator of the specified undertaking, to the unit holders; or

[3]* * * * *

[4][*Explanation.*—For the purposes of this sub-section,—

(*i*) "administrator" and "specified company" shall have the meanings respectively assigned to them in the *Explanation* to clause (*35*) of section 10;

(*ii*) "infrastructure debt fund scheme" shall have the same meaning as assigned to it in clause (*1*) of regulation 49L of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).]

[5][(*2A*) For the purposes of determining the additional income-tax payable in accordance with sub-section (*2*), the amount of distributed income referred therein shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified in sub-section (*2*), be equal to the amount of income distributed by the Mutual Fund.]

(*3*) The person responsible for making payment of the income distributed by the Unit Trust of India or a Mutual Fund and the Unit Trust of India or the Mutual Fund, as the case may be, shall be liable to pay tax to the credit of the Central Government within fourteen days from the date of distribution or payment of such income, whichever is earlier.

[6]* * * *

(*4*) No deduction under any other provision of this Act shall be allowed to the Unit Trust of India or to a Mutual Fund in respect of the income which has been charged to tax under sub-section (*1*) or sub-section (*2*).

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1. Ins. by Act 17 of 2013, s. 32 (w.e.f. 1-6-2013).

2. Subs. by s. 32, *ibid*., for "Provided that" (w.e.f. 1-6-2013).

3. Clause (*b*) omitted by Act 13 of 2018, s. 42 (w.e.f. 1-4-2018). Earlier it was amended by Act 21 of 2006, s. 26 (w.e.f. 1-6-2006).

4. Subs. by Act 17 of 2013, s. 32, for the *Explanation* (w.e.f. 1-6-2013).

5. Ins. by Act 25 of 2014, s. 42 (w.e.f. 1-10-2014).

6. Sub-section (*3A*) omitted by s. 42, *ibid*. (w.e.f. 1-4-2015).Earlier inserted by Act 10 of 2000, s. 55 (w.e.f. 1-6-2000).

115S. Interest payable for non-payment of tax.—Where the person responsible for making payment of the income distributed by the [1][specified 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) or a Mutual Fund and the specified company] or the Mutual Fund, as the case may be, fails to pay the whole or any part of the tax referred to in sub-section (*1*) or sub-section (*2*) of section 115R, within the time allowed under sub-section (*3*) of that section, he or it shall be liable to pay simple interest at the rate of [2][one per cent.] every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115T. Unit Trust of India or Mutual Fund to be an assessee in default.—If any person responsible for making payment of the income distributed by the [1][specified 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) or a Mutual Fund and the specified company] or the Mutual Fund, as the case may be, does not pay tax, as is referred to in sub-section (*1*) or sub-section (*2*) of section 115R, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

Explanation.—For the purposes of this Chapter,—

(*a*) "Mutual Fund" means a Mutual Fund specified under clause (*23D*) of section 10;

[3][(*b*) "equity oriented fund" means a fund referred to in clause (*a*) of the *Explanation* to section 112A and the Unit Scheme, 1964 made by the Unit Trust of India;']

(*c*) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

[4][(*d*) "money market mutual fund" means a money market mutual fund as defined in sub-clause (*p*) of clause (*2*) of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996;

(*e*) "liquid fund" means a scheme or plan of a mutual fund which is classified by the Securities and Exchange Board of India as a liquid fund in accordance with the guidelines issued by it in this behalf under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulations made thereunder.]

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1. Subs. by Act 32 of 2003, s. 57, for "Unit Trust of India or a Mutual Fund and the Unit Trust of India" (w.e.f. 1-4-2003).

2. Subs. by Act 54 of 2003, s. 5, for "one and one-fourth per cent." (w.e.f. 8-9-2003).

3. Subs. by Act 13 of 2018, s. 43, for clause (*b*) (w.e.f. 1-4-2018). Earlier it was amended by Act 21 of 2006, s. 27 (w.e.f. 1-6-2006).

4. Ins. by Act 22 of 2007, s. 37 (w.e.f. 1-4-2007).

[1][CHAPTER XIIEA

SPECIAL PROVISIONS RELATING TO TAX ON DISTRIBUTED INCOME BY SECURITISATION TRUSTS

115TA. Tax on distributed income to investors.—(*1*) Notwithstanding anything contained in any other provisions of the Act, any amount of income distributed by the securitisation trust to its investors shall be chargeable to tax and such securitisation trust shall be liable to pay additional income-tax on such distributed income at the rate of—

(*i*) twenty-five per cent. on income distributed to any person being an individual or a Hindu undivided family;

(*ii*) thirty per cent. on income distributed to any other person:

Provided that nothing contained in this sub-section shall apply in respect of any income distributed by the securitisation trust to any person in whose case income, irrespective of its nature and source, is not chargeable to tax under the Act.

(*2*) The person responsible for making payment of the income distributed by the securitisation trust shall be liable to pay tax to the credit of the Central Government within fourteen days from the date of distribution or payment of such income, whichever is earlier.

[2]* * * * *

(*4*) No deduction under any other provisions of this Act shall be allowed to the securitisation trust in respect of the income which has been charged to tax under sub-section (*1*).

[3]**[**(*5*) Nothing contained in this section shall apply in respect of any income distributed by a securitisation trust to its investors on or after the 1st day of June, 2016.**]**

115TB. Interest payable for non-payment of tax.—Where the person responsible for making payment of the income distributed by the securitisation trust and the securitisation trust fails to pay the whole or any part of the tax referred to in sub-section (*1*) of section 115TA, within the time allowed under sub-section (*2*) of that section, he or it shall be liable to pay simple interest at the rate of one per cent. every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115TC. Securitisation trust to be assessee in default.—If any person responsible for making payment of the income distributed by the securitisation trust and the securitisation trust does not pay tax, as referred to in sub-section (*1*) of section 115TA, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

[4][**115TCA. Tax on income from securitisation trusts.**—(*1*) Notwithstanding anything contained in this Act, any income accruing or arising to, or received by, a person, being an investor of a securitisation trust, out of investments made in the securitisation trust, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person, had the investments by the securitisation trust been made directly by him.

1. Ins. by Act 17 of 2013, s. 33 (w.e.f. 1-6-2013).

2. Sub-section (*3*) omitted by Act 25 of 2014, s. 43 (w.e.f. 1-4-2015).

3. Ins. by Act 28 of 2016, s. 59 (w.e.f. 1-6-2016).

4. Ins. by s. 61, *ibid.* (w.e.f. 1-4-2017).

(*2*) The income paid or credited by the securitisation trust shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the securitisation trust during the previous year.

(*3*) The income accruing or arising to, or received by, the securitisation trust, during a previous year, if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(*4*) The person responsible for crediting or making payment of the income on behalf of securitisation trust and the securitisation trust shall furnish, within such period, as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in such form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

(*5*) Any income which has been included in the total income of the person referred to in sub-section (*1*), in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the securitisation trust.

Explanation.—For the purposes of this Chapter,—

(*a*) "investor" means a person who is holder of any securitised debt instrument or securities [1][or security receipt] issued by the securitisation trust;

(*b*) "securities" means debt securities issued by a Special Purpose Vehicle as referred to in the guidelines on securitisation of standard assets issued by the Reserve Bank of India;

(*c*) "securitised debt instrument" shall have the same meaning as assigned to it in clause (*s*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*d*) "securitisation trust" means a trust, being a—

(*i*) "special purpose distinct entity" as defined in clause (*u*) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) and the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and regulated under the said regulations; or

(*ii*) "Special Purpose Vehicle" as defined in, and regulated by, the guidelines on securitisation of standard assets issued by the Reserve Bank of India; [1][or]

[1][(*iii*) trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India,]

which fulfils such conditions, as may be prescribed.]

[1][(*e*) "security receipt" shall have the same meaning as assigned to it in clause (*zg*) of sub-section (*1*) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).]

1. Ins. by Act 28 of 2016, s. 60 (w.e.f. 1-6-2016).

[1][CHAPTER XIIEB

SPECIAL PROVISIONS RELATING TO TAX ON ACCRETED INCOME OF CERTAIN TRUSTS AND INSTITUTIONS

115TD.Tax on accreted income.—(*1*) Notwithstanding anything contained in this Act, where in any previous year, a trust or institution registered under section 12AA has—

(*a*) converted into any form which is not eligible for grant of registration under section 12AA;

(*b*) merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA; or

(*c*) failed to transfer upon dissolution all its assets to any other 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, within a period of twelve months from the end of the month in which the dissolution takes place,

then, in addition to the income-tax chargeable in respect of the total income of such trust or institution, the accreted income of the trust or the institution as on the specified date shall be charged to tax and such trust or institution, as the case may be, shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

(*2*) The accreted income for the purposes of sub-section (*1*) means the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed:

Provided that so much of the accreted income as is attributable to the following asset and liability, if any, related to such asset shall be ignored for the purposes of sub-section (*1*), namely:—

(*i*) any asset which is established to have been directly acquired by the trust or institution out of its income of the nature referred to in clause (*1*) of section 10;

(*ii*) any asset acquired by the trust or institution during the period beginning from the date of its creation or establishment and ending on the date from which the registration under section 12AA became effective, if the trust or institution has not been allowed any benefit of section 11 and 12 during the said period:

Provided further that where due to the first proviso to sub-section (*2*) of section 12A, the benefit of section 11 and 12 have been allowed to the trust or the institution in respect of any previous year or years beginning prior to the date from which the registration under section 12AA is effective, then, for the purposes of clause (*ii*) of the first proviso, the registration shall be deemed to have become effective from the first day of the earliest previous year:

Provided also that while computing the accreted income in respect of a case referred to in clause (*c*) of sub-section (*1*), assets and liabilities, if any, related to such asset, which have been transferred to any other 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, within the period specified in the said clause, shall be ignored.

1. Ins. by Act 28 of 2016, s. 62 (w.e.f. 1-6-2016).

(*3*) For the purposes of sub-section (*1*), a trust or an institution shall be deemed to have been converted into any form not eligible for registration under section 12AA in a previous year, if,—

(*i*) the registration granted to it under section 12AA has been cancelled; or

(*ii*) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it,—

(*a*) has not applied for fresh registration under section 12AA in the said previous year; or

(*b*) has filed application for fresh registration under section 12AA but the said application has been rejected.

(*4*) Notwithstanding that no income-tax is payable by a trust or the institution on its total income computed in accordance with the provisions of this Act, the tax on the accreted income under sub-section (*1*) shall be payable by such trust or the institution.

(*5*) The principal officer or the trustee of the trust or the institution, as the case may be, and the trust or the institution shall also be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from,—

(*i*) the date on which,—

(*a*) the period for filing appeal under section 253 against the order cancelling the registration expires and no appeal has been filed by the trust or the institution; or

(*b*) the order in any appeal, confirming the cancellation of the registration, is received by the trust or institution,

in a case referred to in clause (*i*) of sub-section (*3*);

(*ii*) the end of the previous year in a case referred to in sub-clause (*a*) of clause (*ii*) of sub-section (*3*);

(*iii*) the date on which,—

(*a*) the period for filing appeal under section 253 against the order rejecting the application expires and no appeal has been filed by the trust or the institution; or

(*b*) the order in any appeal, confirming the cancellation of the application, is received by the trust or institution,

in a case referred to in sub-clause (*b*) of clause (*ii*) of sub-section (*3*);

(*iv*) the date of merger in a case referred to in clause (*b*) of sub-section (*1*);

(*v*) the date on which the period of twelve months referred to in clause (*c*) of sub-section (*1*) expires.

(*6*) The tax on the accreted income by the trust or the institution shall be treated as the final payment of tax in respect of the said income and no further credit therefor shall be claimed by the trust or the institution or by any other person in respect of the amount of tax so paid.

(*7*) No deduction under any other provision of this Act shall be allowed to the trust or the institution or any other person in respect of the income which has been charged to tax under sub-section (*1*) or the tax thereon.

Explanation.—For the purposes of this section,—

(*i*) "date of conversion" means,—

(*a*) the date of the order cancelling the registration under section 12AA, in a case referred to in clause (*i*) of sub-section (*3*); or

(*b*) the date of adoption or modification of any object, in a case referred to in clause (*ii*) of sub-section (*3*);

(*ii*) "specified date" means,—

(*a*) the date of conversion in a case falling under clause (*a*) of sub-section (*1*);

(*b*) the date of merger in a case falling under clause (*b*) of sub-section (*1*); and

(*c*) the date of dissolution in a case falling under clause (*c*) of sub-section (*1*);

(*iii*) registration under section 12AA shall include any registration obtained under section 12A as it stood before its amendment by the Finance (No. 2) Act, 1996 (33 of 1996).

115TE. Interest payable for non-payment of tax by trust or institution.—Where the principal officer or the trustee of the trust or the institution and the trust or the institution fails to pay the whole or any part of the tax on the accreted income referred to in sub-section (*1*) of section 115TD, within the time allowed under sub-section (*5*) of that section, he or it shall be liable to pay simple interest at the rate of one per cent for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

115TF.When trust or institution is deemed to be assessee in default.—(*1*) If any principal officer or the trustee of the trust or the institution and the trust or the institution does not pay tax on accreted income in accordance with the provisions of section 115TD, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.

(*2*) Notwithstanding anything contained in sub-section (*1*), in a case where the tax on accreted income is payable under the circumstances referred to in clause (*c*) of sub-section (*1*) of section 115TD, the person to whom any asset forming part of the computation of accreted income under sub-section (*2*) thereof has been transferred, shall be deemed to be an assessee in default in respect of such tax and interest thereon and all the provisions of this Act for the collection and recovery of income-tax shall apply:

Provided that the liability of the person referred to in this sub-section shall be limited to the extent to which the asset received by him is capable of meeting the liability.]

[1][CHAPTER XIIF

SPECIAL PROVISIONS RELATING TO TAX ON INCOME RECEIVED FROM VENTURE CAPITAL COMPANIES AND VENTURE CAPITAL FUNDS

115U. Tax on income in certain cases.—(*1*) Notwithstanding anything contained in any other provisions of this Act,any [2][income accruing or arising to or received] by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income-tax in the same manner as if it were the [2][income accruing or arising to or received] by such person had he made investments directly in the venture capital undertaking.

(*2*) [3][The person responsible for crediting or making] payment of the income on behalf of a venture capital company or a venture capital fund and the venture capital company or venture capital fund shall furnish, within such time as may be prescribed, [4][to the person who is liable to tax in respect of such income] and to the prescribed income-tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the [5][income paid or credited] during the previous year and such other relevant details as may be prescribed.

(*3*) [5][The income paid or credited] by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of [6][the person referred to in sub-section (*1*) as it had been] received by, or [7][had accrued or arisen] to, the venture capital company or the venture capital fund, as the case may be, during the previous year.

(*4*) The provisions of Chapter XII-D or Chapter XII-E or Chapter XVIIB shall not apply to the income paid by a venture capital company or venture capital fund under this Chapter.

[8][(*5*) The income accruing or arising to or received by the venture capital company or venture capital fund, during a previous year, from investments made in venture capital undertaking if not paid or credited to the person referred to in sub-section (*1*), shall be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.]

[9][(*6*) Nothing contained in this Chapter shall apply in respect of any income, of a previous year relevant to the assessment year beginning on or after the 1st day of April, 2016, accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in clause (*a*) of the *Explanation* 1 to section 115UB.]

Explanation [10][*1*].—For the purposes of this Chapter, "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (*23FB*) of section 10.

[11][*Explanation 2.*—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (*1*) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the venture capital company or the venture capital fund.]

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1. Ins. by 10 of 2000, s. 57 (w.e.f. 1-4-2001).
2. Subs. by Act 23 of 2012, s. 57, for "income received" (w.e.f. 1-4-2013).
3. Subs. by s. 57, *ibid*., for "The person responsible for making" (w.e.f. 1-4-2013).
4. Subs. by s. 57, *ibid*., for "to the person receiving such income" (w.e.f. 1-4-2013).
5. Subs. by s. 57, *ibid.,* for "income paid" (w.e.f. 1-4-2013).
6. Subs. by s. 57, *ibid*., for "the person receiving such income as it had been" (w.e.f. 1-4-2013).
7. Subs. by s. 57, *ibid*., for "had accrued" (w.e.f. 1-4-2013).
8. Ins. by s. 57, *ibid.* (w.e.f. 1-4-2013).
9. Ins. by Act 20 of 2015, s. 31 (w.e.f. 1-4-2016).
10. The *Explanation* renumbered as *Explanation* 1 thereof by Act 23 of 2012, s. 57 (w.e.f. 1-7-2012).
11. Ins. by s. 57, *ibid.* (w.e.f. 1-7-2012).

[1][CHAPTER XIIFA

SPECIAL PROVISIONS RELATING TO BUSINESS TRUSTS

115UA. Tax on income of unit holder and business trust.—(*1*) Notwithstanding anything contained in any other provisions of this Act, any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or accrued to, the business trust.

(*2*) Subject to the provisions of section 111A and section 112, the total income of a business trust shall be charged to tax at the maximum marginal rate.

(*3*) If in any previous year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to [2][in sub-clause (*a*) of clause (*23FC*)] [3][or clause (*23FCA*)] of section 10, then, such distributed income or part thereof shall be deemed to be income of such unit holder and shall be charged to tax as income of the previous year.

(*4*) Any person responsible for making payment of the income distributed on behalf of a business trust to a unit holder shall furnish a statement to the unit holder and the prescribed authority, within such time and in such form and manner as may be prescribed, giving the details of the nature of the income paid during the previous year and such other details as may be prescribed.]

[4][CHAPTER XIIFB

SPECIAL PROVISIONS RELATING TO TAX ON INCOME OF INVESTMENT FUNDS AND INCOME RECEIVED FROM SUCH FUNDS

115UB. Tax on income of investment fund and its unit holders.—(*1*) Notwithstanding anything contained in any other provisions of this Act and subject to the provisions of this Chapter, any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.

(*2*) Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (*23FBA*) of section 10] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other head of income of the said previous year, then,—

(*i*) such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI; and

(*ii*) such loss shall be ignored for the purposes of sub-section (*1*).

(*3*) The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (*1*), as if it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (*2*).

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1. Ins. by Act 25 of 2014, s. 44 (w.e.f. 1-4-2015).

2. Subs. by Act 28 of 2016, s. 63, for "in clause (23FC)" (w.e.f. 1-4-2017).

3. Ins. by Act 20 of 2015, s. 32 (w.e.f. 1-4-2016).

4. Ins. by s. 33, *ibid.* (w.e.f. 1-4-2016).

(*4*) The total income of the investment fund shall be charged to tax—

(*i*) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or

(*ii*) at maximum marginal rate in any other case.

(*5*) The provisions of Chapter XIID or Chapter XIIE shall not apply to the income paid by an investment fund under this Chapter.

(*6*) The income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the person referred to in sub-section (*1*), shall subject to the provisions of sub-section (*2*), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

(*7*) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time as may be prescribed[2], to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.

Explanation 1.—For the purposes of this Chapter,—

(*a*) "investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*b*) "trust" means a trust established under the Indian Trusts Act, 1882 (2 of 1882) or under any other law for the time being in force;

(*c*) "unit" means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests.

Explanation 2.—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (*1*) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.]

[1][CHAPTER XIIG

SPECIAL PROVISIONS RELATING TO INCOME OF SHIPPING COMPANIES

A.—Meaning of certain expressions

115V. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "bareboat charter" means hiring of a ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew;

(*b*) "bareboat charter-*cum*-demise" means a bareboat charter where the ownership of the ship is intended to be transferred after a specified period to the company to whom it has been chartered;

(*c*) "Director-General of Shipping" means the Director-General of Shipping appointed by the Central Government under sub-section (*1*) of section 7 of the Merchant Shipping Act, 1958 (44 of 1958);

1. Ins. by Act 23 of 2004, s. 30 (w.e.f. 1-4-2005).

(*d*) "factory ship" includes a vessel providing processing services in respect of processing of the fishing produce;

(*e*) "fishing vessel" shall have the meaning assigned to it in clause (*12*) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958);

(*f*) "pleasure craft" means a ship of a kind whose primary use is for the purposes of sport or recreation;

(*g*) "qualifying company" means a company referred to in section 115VC;

(*h*) "qualifying ship" means a ship referred to in section 115VD;

(*i*) "seagoing ship" means a ship if it is certified as such by the competent authority of any country;

(*j*) "tonnage income" means the income of a tonnage tax company computed in accordance with the provisions of this Chapter;

(*k*) "tonnage tax activities" means the activities referred to in sub-sections (*2*) and (*5*) of section 115V-I;

(*l*) "tonnage tax company" means a qualifying company in relation to which tonnage tax option is in force;

(*m*) "tonnage tax scheme" means a scheme for computation of profits and gains of business of operating qualifying ships under the provisions of this Chapter.

B.—Computation of tonnage income from business of operating qualifying ships

115VA. Computation of profits and gains from the business of operating qualifying ships.—Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of a company, the income from the business of operating qualifying ships, may, at its option, be computed in accordance with the provisions of this Chapter and such income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

115VB. Operating ships.—For the purposes of this Chapter, a company shall be regarded as operating a ship if it operates any ship whether owned or chartered by it and includes a case where even a part of the ship has been chartered in by it in an arrangement such as slot charter, space charter or joint charter:

Provided that a company shall not be regarded as the operator of a ship which has been chartered out by it on bareboat charter-*cum*-demise terms or on bareboat charter terms for a period exceeding three years.

115VC. Qualifying company.—For the purposes of this Chapter, a company is a qualifying company if—

(*a*) it is an Indian company;

(*b*) the place of effective management of the company is in India;

(*c*) it owns at least one qualifying ship; and

(*d*) the main object of the company is to carry on the business of operating ships.

Explanation.—For the purposes of this section, "place of effective management of the company" means—

(*A*) the place where the board of directors of the company or its executive directors, as the case may be, make their decisions; or

(*B*) in a case where the board of directors routinely approve the commercial and strategic decisions made by the executive directors or officers of the company, the place where such executive directors or officers of the company perform their functions.

115VD. Qualifying ship.—For the purposes of this Chapter, a ship is a qualifying ship if—

(*a*) it is a sea going ship or vessel of fifteen net tonnage or more;

(*b*) it is a ship registered under the Merchant Shipping Act, 1958 (44 of 1958), or a ship registered outside India in respect of which a licence has been issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958 (44 of 1958); and

(*c*) a valid certificate in respect of such ship indicating its net tonnage is in force,

but does not include—

(*i*) a sea going ship or vessel if the main purpose for which it is used is the provision of goods or services of a kind normally provided on land;

(*ii*) fishing vessels;

(*iii*) factory ships;

(*iv*) pleasure crafts;

(*v*) harbour and river ferries;

(*vi*) offshore installations;

[1]* * * *

(*viii*) a qualifying ship which is used as a fishing vessel for a period of more than thirty days during a previous year.

115VE. Manner of computation of income under tonnage tax scheme.—(*1*) A tonnage tax company engaged in the business of operating qualifying ships shall compute the profits from such business under the tonnage tax scheme.

(*2*) The business of operating qualifying ships giving rise to income referred to in sub-section (*1*) of section 115V-I shall be considered as a separate business (hereafter in this Chapter referred to as the tonnage tax business) distinct from all other activities or business carried on by the company.

(*3*) The profits referred to in sub-section (*1*) shall be computed separately from the profits and gains from any other business.

(*4*) The tonnage tax scheme shall apply only if an option to that effect is made in accordance with the provisions of section 115VP.

(*5*) Where a company engaged in the business of operating qualifying ships is not covered under the tonnage tax scheme or, has not made an option to that effect, as the case may be, the profits and gains of such company from such business shall be computed in accordance with the other provisions of this Act.

115VF. Tonnage income.—Subject to the other provisions of this Chapter, the tonnage income shall be computed in accordance with section 115VG and the income so computed shall be deemed to be the profits chargeable under the head "Profits and gains of business or profession" and the relevant shipping income referred to in sub-section (*1*) of section 115V-I shall not be chargeable to tax.

1. Clause (*vii*) omitted by Act 18 of 2005, s. 36 (w.e.f 1-4-2006).

115VG. Computation of tonnage income.—(*1*) The tonnage income of a tonnage tax company for a previous year shall be the aggregate of the tonnage income of each qualifying ship computed in accordance with the provisions of sub-sections (*2*) and (*3*).

(*2*) For the purposes of sub-section (*1*), the tonnage income of each qualifying ship shall be the daily tonnage income of each such ship multiplied by—

(*a*) the number of days in the previous year; or

(*b*) the number of days in part of the previous year in case the ship is operated by the company as a qualifying ship for only part of the previous year, as the case may be.

(*3*) For the purposes of sub-section (*2*), the daily tonnage income of a qualifying ship having tonnage referred to in column (1) of the Table below shall be the amount specified in the corresponding entry in column (2) of the Table:

[1][TABLE

Qualifying ship having net tonnage	*Amount of daily tonnage income*
(1)	(2)
up to 1,000	Rs. 70 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs. 700 *plus* Rs. 53 for each 100 tons exceeding 1,000 tons
exceeding 10,000 but not more than 25,000	Rs. 5,470 *plus* Rs. 42 for each 100 tons exceeding 10,000 tons
exceeding 25,000	Rs. 11,770 *plus* Rs. 29 for each 100 tons exceeding 25,000 tons.]

(*4*) For the purposes of this Chapter, the tonnage shall mean the tonnage of a ship indicated in the certificate referred to in section 115VX and includes the deemed tonnage computed in the prescribed manner.

Explanation.—For the purposes of this sub-section, "deemed tonnage" shall be the tonnage in respect of an arrangement of purchase of slots, slot charter and an arrangement of sharing of break-bulk vessel.

(*5*) The tonnage shall be rounded off to the nearest multiple of hundred tons and for this purpose any tonnage consisting of kilograms shall be ignored and thereafter if such tonnage is not a multiple of hundred, then, if the last figure in that amount is fifty tons or more, the tonnage shall be increased to the next higher tonnage which is a multiple of hundred and if the last figure is less than fifty tons, the tonnage shall be reduced to the next lower tonnage which is a multiple of hundred; and the tonnage so rounded off shall be the tonnage of the ship for the purposes of this section.

(*6*) Notwithstanding anything contained in any other provision of this Act, no deduction or set off shall be allowed in computing the tonnage income under this Chapter.

115VH. Calculation in case of joint operation, etc.—(*1*) Where a qualifying ship is operated by two or more companies by way of joint interest in the ship or by way of an agreement for the use of the ship and their respective shares are definite and ascertainable, the tonnage income of each such company shall be an amount equal to a share of income proportionate to its share of that interest.

1. Subs. by Act 23 of 2012, s. 58, for the Table (w.e.f. 1-4-2013).

(*2*) Subject to the provisions of sub-section (*1*), where two or more companies are operators of a qualifying ship, the tonnage income of each company shall be computed as if each had been the only operator.

115VI. Relevant shipping income.—(*1*) For the purposes of this Chapter, the relevant shipping income of a tonnage tax company means—

(*i*) its profits from core activities referred to in sub-section (*2*);

(*ii*) its profits from incidental activities referred to in sub-section (*5*):

Provided that where the aggregate of all such incomes specified in clause (*ii*) exceeds one-fourth per cent of the turnover from core activities referred to in sub-section (*2*), such excess shall not form part of the relevant shipping income for the purposes of this Chapter and shall be taxable under the other provisions of this Act.

(*2*) The core activities of a tonnage tax company shall be—

(*i*) its activities from operating qualifying ships; and

(*ii*) other ship-related activities mentioned as under:—

(*A*) shipping contracts in respect of—

(*i*) earning from pooling arrangements;

(*ii*) contracts of affreightment.

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

(*a*) "pooling arrangement" means an agreement between two or more persons for providing services through a pool or operating one or more ships and sharing earnings or operating profits on the basis of mutually agreed terms;

(*b*) "contract of affreightment" means a service contract under which a tonnage tax company agrees to transport a specified quantity of specified products at a specified rate, between designated loading and discharging ports over a specified period;

(*B*) specific shipping trades, being—

(*i*) on-board or on-shore activities of passenger ships comprising of fares and food and beverages consumed on board;

(*ii*) slot charters, space charters, joint charters, feeder services, container box leasing of container shipping.

(*3*) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, exclude any activity referred to in clause (*ii*) of sub-section (*2*) or prescribe the limit up to which such activities shall be included in the core activities for the purposes of this section.

(*4*) Every notification issued under this Chapter shall be laid, as soon as may be after it is issued, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification, or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

(*5*) The incidental activities shall be the activities which are incidental to the core activities and which may be prescribed for the purpose.

(*6*) Where a tonnage tax company operates any ship, which is not a qualifying ship, the income attributable to operating such non-qualifying ship shall be computed in accordance with the other provisions of this Act.

(*7*) Where any goods or services held for the purposes of tonnage tax business are transferred to any other business carried on by a tonnage tax company, or where any goods or services held for the purposes of any other business carried on by such tonnage tax company are transferred to the tonnage tax business and, in either case, the consideration, if any, for such transfer as recorded in the accounts of the tonnage tax business does not correspond to the market value of such goods or services as on the date of the transfer, then, the relevant shipping income under this section shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date:

Provided that where, in the opinion of the Assessing Officer, the computation of the relevant shipping income in the manner hereinbefore specified presents exceptional difficulties, the Assessing Officer may compute such income on such reasonable basis as he may deem fit.

Explanation.—For the purposes of this sub-section, "market value", in relation to any goods or services, means the price that such goods or services would ordinarily fetch on sale in the open market.

(*8*) Where it appears to the Assessing Officer that, owing to the close connection between the tonnage tax company and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the tonnage tax company more than the ordinary profits which might be expected to arise in the tonnage tax business, the Assessing Officer shall, in computing the relevant shipping income of the tonnage tax company for the purposes of this Chapter, take the amount of income as may reasonably be deemed to have been derived therefrom.

Explanation.—For the purposes of this Chapter, in case the relevant shipping income of a tonnage tax company is a loss, then, such loss shall be ignored for the purposes of computing tonnage income.

115VJ. Treatment of common costs.—(*1*) Where a tonnage tax company also carries on any business or activity other than the tonnage tax business, common costs attributable to the tonnage tax business shall be determined on a reasonable basis.

(*2*) Where any asset, other than a qualifying ship, is not exclusively used for the tonnage tax business by the tonnage tax company, depreciation on such asset shall be allocated between its tonnage tax business and other business on a fair proportion to be determined by the Assessing Officer, having regard to the use of such asset for the purpose of the tonnage tax business and for the other business.

115VK. Depreciation.—(*1*) For the purposes of computing depreciation under clause (*iv*) of section 115VL, the depreciation for the first previous year of the tonnage tax scheme (hereafter in this section referred to as the first previous year) shall be computed on the written down value of the qualifying ships as specified under sub-section (*2*).

(*2*) The written down value of the block of assets, being ships, as on the first day of the first previous year, shall be divided in the ratio of the book written down value of the qualifying ships (hereafter in this section referred to as the qualifying assets) and the book written down value of the non-qualifying ships (hereafter in this section referred to as the other assets).

(*3*) The block of qualifying assets as determined under sub-section (*2*) shall constitute a separate block of assets for the purposes of this Chapter.

(*4*) For the purposes of sub-section (*2*), the book written down value of the block of qualifying assets and the block of other assets shall be computed in the following manner, namely:—

(*a*) the book written down value of each qualifying asset and each other asset as on the first day of the previous year and which form part of the block of assets to be divided shall be determined by taking the book written down value of each asset appearing in the books of account as on the last day of the preceding previous year:

Provided that any change in the value of the assets consequent to their revaluation after the date on which the Finance (No. 2) Act, 2004 receives the assent of the President shall be ignored;

(*b*) the book written down value of all the qualifying assets and other assets shall be aggregated; and

(*c*) the ratio of the aggregate book written down value of the qualifying assets to the aggregate book written down value of the other assets shall be determined.

(*5*) Where an asset forming part of a block of qualifying assets begins to be used for purposes other than the tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of that block and shall be added to the block of other assets.

Explanation.—For the purposes of this sub-section, appropriate portion of the written down value allocable to the asset, which begins to be used for purposes other than the tonnage tax business, shall be an amount which bears the same proportion to the written down value of the block of qualifying assets as on the first day of the previous year as the book written down value of the asset beginning to be used for purposes other than tonnage tax business bears to the book written down value of all the assets forming the block of qualifying asset.

(*6*) Where an asset forming part of a block of other assets begins to be used for tonnage tax business, an appropriate portion of the written down value allocable to such asset shall be reduced from the written down value of the block of other assets and shall be added to the block of qualifying asset.

Explanation.—For the purposes of this sub-section, appropriate portion of written down value allocable to the asset which begins to be used for the tonnage tax business shall be an amount which bears the same proportion to the written down value of the block of other assets as on the first day of the previous year as the book written down value of the asset beginning to be used for tonnage tax business bears to the total book written down value of all the assets forming the block of other assets.

(*7*) For the purposes of computing depreciation under clause (*iv*) of section 115VL in respect of an asset mentioned in sub-sections (*5*) and (*6*), depreciation computed for the previous year shall be allocated in the ratio of the number of days for which the asset was used for the tonnage tax business and for purposes other than tonnage tax business.

Explanation 1.—For the removal of doubts, it is hereby declared that for the purposes of this Act, depreciation on the block of qualifying assets and block of other assets so created shall be allowed as if such written down value referred to in sub-section (*2*) had been brought forward from the preceding previous year.

Explanation 2.—For the purposes of this section, "book written down value" means the written down value as appearing in the books of account.

115VL. General exclusion of deduction and set off, etc.—Notwithstanding anything contained in any other provision of this Act, in computing the tonnage income of a tonnage tax company for any previous year (hereafter in this section referred to as the "relevant previous year") in which it is chargeable to tax in accordance with this Chapter—

(*i*) sections 30 to 43B shall apply as if every loss, allowance or deduction referred to therein and relating to or allowable for any of the relevant previous years, had been given full effect to for that previous year itself;

(*ii*) no loss referred to in sub-sections (*1*) and (*3*) of section 70 or sub-sections (*1*) and (*2*) of section 71 or sub-section (*1*) of section 72 or sub-section (*1*) of section 72A, in so far as such loss relates to the business of operating qualifying ships of the company, shall be carried forward or set off where such loss relates to any of the previous years when the company is under the tonnage tax scheme;

(*iii*) no deduction shall be allowed under Chapter VIA in relation to the profits and gains from the business of operating qualifying ships; and

(*iv*) in computing the depreciation allowance under section 32, the written down value of any asset used for the purposes of the tonnage tax business shall be computed as if the company has claimed and has been actually allowed the deduction in respect of depreciation for the relevant previous years.

115VM. Exclusion of loss.—(*1*) Section 72 shall apply in respect of any losses that have accrued to a company before its option for tonnage tax scheme and which are attributable to its tonnage tax business, as if such losses had been set off against the relevant shipping income in any of the previous years when the company is under the tonnage tax scheme.

(*2*) The losses referred to in sub-section (*1*) shall not be available for set off against any income other than relevant shipping income in any previous year beginning on or after the company exercises its option under section 115VP.

(*3*) Any apportionment necessary to determine the losses referred to in sub-section (*1*) shall be made on a reasonable basis.

115VN. Chargeable gains from transfer of tonnage tax assets.—Any profits or gains arising from the transfer of a capital asset being an asset forming part of the block of qualifying assets shall be chargeable to income-tax in accordance with the provisions of section 45, read with section 50, and the capital gains so arising shall be computed in accordance with the provisions of sections 45 to 51:

Provided that for the purpose of computing such profits or gains, the provisions of section 50 shall have effect as if for the words "written down value of the block of assets", the words "written down value of the block of qualifying assets" had been substituted.

Explanation.—For the purposes of this Chapter, "written down value of the block of qualifying assets" means the written down value computed in accordance with the provisions of sub-section (*2*) of section 115VK.

115V-O. Exclusion from provisions of section 115JB.—The book profit or loss derived from the activities of a tonnage tax company, referred to in sub-section (*1*) of section 115V-I, shall be excluded from the book profit of the company for the purposes of section 115JB.

C.—Procedure for option of tonnage tax scheme

115VP. Method and time of opting for tonnage tax scheme.—(*1*) A qualifying company may opt for the tonnage tax scheme by making an application to the Joint Commissioner having jurisdiction over the company in the form and manner as may be prescribed, for such scheme.

(*2*) The application under sub-section (*1*) may be made by any existing qualifying company at any time after the 30th day of September, 2004 but before the 1st day of January, 2005 (hereafter referred to as the "initial period"):

Provided that—

(*i*) a company incorporated after the initial period; or

(*ii*) a qualifying company incorporated before the initial period but which becomes a qualifying company for the first time after the initial period,

may make an application within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be.

(*3*) On receipt of an application for option for tonnage tax scheme under sub-section (*1*), the Joint Commissioner may call for such information or documents from the company as he thinks necessary in order to satisfy himself about the eligibility of the company and after satisfying himself about such eligibility of the company to make such option for tonnage tax scheme, he—

(*i*) shall pass an order in writing approving the option for tonnage tax scheme; or

(*ii*) shall, if he is not so satisfied, pass an order in writing refusing to approve the option for tonnage tax scheme,

and a copy of such order shall be sent to the applicant:

Provided that no order under clause (*ii*) shall be passed unless the applicant has been given a reasonable opportunity of being heard.

(*4*) Every order granting or refusing the approval of the option for tonnage tax scheme under clause (*i*) or clause (*ii*), as the case may be, of sub-section (*3*) shall be passed before the expiry of one month from the end of the month in which the application was received under sub-section (*1*).

(*5*) Where an order granting approval is passed under sub-section (*3*), the provisions of this Chapter shall apply from the assessment year relevant to the previous year in which the option for tonnage tax scheme is exercised.

115VQ. Period for which tonnage tax option to remain in force.—(*1*) An option for tonnage tax scheme, after it has been approved under sub-section (*3*) of section 115VP, shall remain in force for a period of ten years from the date on which such option has been exercised and shall be taken into account from the assessment year relevant to the previous year in which such option is exercised.

(*2*) An option for tonnage tax scheme shall cease to have effect from the assessment year relevant to the previous year in which—

(*a*) the qualifying company ceases to be a qualifying company;

(*b*) a default is made in complying with the provisions contained in section 115VT or section 115VU or section 115VV;

(*c*) the tonnage tax company is excluded from the tonnage tax scheme under section 115VZC;

(*d*) the qualifying company furnishes to the Assessing Officer, a declaration in writing to the effect that the provisions of this Chapter may not be made applicable to it,

and the profits and gains of the company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

115VR. Renewal of tonnage tax scheme.—(*1*) An option for tonnage tax scheme approved under sub-section (*3*) of section 115VP may be renewed within one year from the end of the previous year in which the option ceases to have effect.

(*2*) The provisions of sections 115VP and 115VQ shall apply in relation to a renewal of the option for tonnage tax scheme in the same manner as they apply in relation to the approval of option for tonnage tax scheme.

115VS. Prohibition to opt for tonnage tax scheme in certain cases.—A qualifying company, which, on its own, opts out of the tonnage tax scheme or makes a default in complying with the provisions of section 115VT or section 115VU or section 115VV or whose option has been excluded from tonnage tax scheme in pursuance of an order made under sub-section (*1*) of section 115VZC, shall not be eligible to opt for tonnage tax scheme for a period of ten years from the date of opting out or default or order, as the case may be.

D.—Conditions for applicability of tonnage tax scheme

115VT. Transfer of profits to Tonnage Tax Reserve Account.—(*1*) A tonnage tax company shall, subject to and in accordance with the provisions of this section, be required to credit to a reserve account (hereafter in this section referred to as the Tonnage Tax Reserve Account) an amount not less than twenty per cent of the book profit derived from the activities referred to in clauses (*i*) and (*ii*) of sub-section (*1*) of section 115V-I in each previous year to be utilised in the manner laid down in sub-section (*3*):

Provided that a tonnage tax company may transfer a sum in excess of twenty per cent of the book profit and such excess sum transferred shall also be utilised in the manner laid down in sub-section (*3*).

Explanation.—For the purposes of this section, "book profit" shall have the same meaning as in the *Explanation* to sub-section (*2*) of section 115JB so far as it relates to the income derived from the activities referred to in clauses (*i*) and (*ii*) of sub-section (*1*) of section 115V-I.

(*2*) Where the company has book profit from the business of operating qualifying ships and book loss from any other sources, and consequently, the company is not in a position to create the full or any part of the reserves under sub-section (*1*), the company shall create the reserves to the extent possible in that previous year and the shortfall, if any, shall be added to the amount of the reserves required to be created for the following previous year and such shortfall shall be deemed to be part of the reserve requirement of that following previous year:

Provided that to the extent the shortfall in creation of reserves during a particular previous year is carried forward to the following previous year under this sub-section, the company shall be considered as having created sufficient reserves for the first mentioned previous year:

Provided further that nothing contained in the first proviso shall apply in respect of the second year in case the shortfall in creation of reserves continues for two consecutive previous years.

(*3*) The amount credited to the Tonnage Tax Reserve Account under sub-section (*1*) shall be utilised by the company before the expiry of a period of eight years next following the previous year in which the amount was credited—

(*a*) for acquiring a new ship for the purposes of the business of the company; and

(*b*) until the acquisition of a new ship, for the purposes of the business of operating qualifying ships 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.

(*4*) Where any amount credited to the Tonnage Tax Reserve Account under sub-section (*1*),—

(*a*) has been utilised for any purpose other than that referred to in clause (*a*) or clause (*b*) of sub-section (*3*); or

(*b*) has not been utilised for the purpose specified in clause (*a*) of sub-section (*3*); or

(*c*) has been utilised for the purpose of acquiring a new ship as specified in clause (*a*) of sub-section (*3*), but such ship is sold or otherwise transferred, other than in any scheme of demerger by the company to any person at any time before the expiry of three years from the end of the previous year in which it was acquired,

an amount which bears the same proportion to the total relevant shipping income of the year in which such reserve was created, as the amount out of such reserve so utilised or not utilised bears to the total reserve created during that year under sub-section (*1*) shall be taxable under the other provisions of this Act—

(*i*) in a case referred to in clause (*a*), in the year in which the amount was so utilised; or

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of eight years specified in sub-section (*3*); or

(*iii*) in a case referred to in clause (*c*), in the year in which the sale or transfer took place:

Provided that the income so taxable under the other provisions of this Act shall be reduced by the proportionate tonnage income charged to tax in the year of creation of such reserves.

(*5*) Notwithstanding anything contained in any other provision of this Chapter, where the amount credited to the Tonnage Tax Reserve Account in accordance with sub-section (*1*) is less than the minimum amount required to be credited under sub-section (*1*), an amount which bears the same proportion to the total relevant shipping income, as the shortfall in credit to the reserves bears to the minimum reserve required to be credited under sub-section (*1*) shall not be taxable under the tonnage tax scheme and shall be taxable under the other provisions of this Act.

(*6*) If the reserve required to be created under sub-section (*1*) is not created for any two consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the failure to create the reserve under sub-section (*1*) had occurred.

Explanation.—For the purposes of this section, "new ship" includes a qualifying ship which, before the date of acquisition by the qualifying company was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India.

115VU. Minimum training requirement for tonnage tax company.—(*1*) A tonnage tax company, after its option has been approved under sub-section (*3*) of section 115VP, shall comply with the minimum training requirement in respect of trainee officers in accordance with the guidelines framed by the Director-General of Shipping and notified in the Official Gazette by the Central Government.

(*2*) The tonnage tax company shall be required to furnish a copy of the certificate issued by the Director-General of Shipping along with the return of income under section 139 to the effect that such company has complied with the minimum training requirement in accordance with the guidelines referred to in sub-section (*1*) for the previous year.

(*3*) If the minimum training requirement is not complied with for any five consecutive previous years, the option of the company for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the fifth consecutive previous year in which the failure to comply with the minimum training requirement under sub-section (*1*) had occurred.

115VV. Limit for charter in of tonnage.—(*1*) In the case of every company which has opted for tonnage tax scheme, not more than forty-nine per cent of the net tonnage of the qualifying ships operated by it during any previous year shall be chartered in.

(*2*) The proportion of net tonnage referred to in sub-section (*1*) in respect of a previous year shall be calculated based on the average of net tonnage during that previous year.

(*3*) For the purposes of sub-section (*2*), the average of net tonnage shall be computed in such manner as may be prescribed in consultation with the Director-General of Shipping.

(*4*) Where the net tonnage of ships chartered in exceeds the limit under sub-section (*1*) during any previous year, the total income of such company in relation to that previous year shall be computed as if the option for tonnage tax scheme does not have effect for that previous year.

(*5*) Where the limit under sub-section (*1*) had exceeded in any two consecutive previous years, the option for tonnage tax scheme shall cease to have effect from the beginning of the previous year following the second consecutive previous year in which the limit had exceeded.

Explanation.—For the purposes of this section, the term "chartered in" shall exclude a ship chartered in by the company on bareboat charter-*cum*-demise terms.

115VW. Maintenance and audit of accounts.—An option for tonnage tax scheme by a tonnage tax company shall not have effect in relation to a previous year unless such company—

(*i*) maintains separate books of account in respect of the business of operating qualifying ships; and

(*ii*) furnishes, along with the return of income for that previous year, the report of an accountant, in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section, "accountant" shall have the same meaning as in the *Explanation* below sub-section (*2*) of section 288.

115VX. Determination of tonnage.—(*1*) For the purposes of this Chapter,—

(*a*) the tonnage of a ship shall be determined in accordance with the valid certificate indicating its tonnage;

(*b*) "valid certificate" means,—

(*i*) in case of ships registered in India—

(*a*) having a length of less than twenty-four metres, a certificate issued under the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958 (44 of 1958);

(*b*) having a length of twenty-four metres or more, an international tonnage certificate issued under the provisions of the Convention on Tonnage Measurement of Ships, 1969, as specified in the Merchant Shipping (Tonnage Measurement of Ship) Rules, 1987 made under the Merchant Shipping Act, 1958 (44 of 1958);

(*ii*) in case of ships registered outside India, a licence issued by the Director-General of Shipping under section 406 or section 407 of the Merchant Shipping Act, 1958 (44 of 1958) specifying the net tonnage on the basis of Tonnage Certificate issued by the Flag State Administration where the ship is registered or any other evidence acceptable to the Director-General of Shipping produced by the ship owner while seeking permission for chartering in the ship.

E.—Amalgamation and demerger of shipping companies

115VY. Amalgamation.—Where there has been an amalgamation of a company with another company or companies, then, subject to the other provisions of this section, the provisions relating to the tonnage tax scheme shall, as far as may be, apply to the amalgamated company if it is a qualifying company:

Provided that where the amalgamated company is not a tonnage tax company, it shall exercise an option for tonnage tax scheme under sub-section (*1*) of section 115VP within three months from the date of the approval of the scheme of amalgamation:

Provided further that where the amalgamating companies are tonnage tax companies, the provisions of this Chapter shall, as far as may be, apply to the amalgamated company for such period as the option for tonnage tax scheme which has the longest unexpired period continues to be in force:

Provided also that where one of the amalgamating companies is a qualifying company as on the 1st day of October, 2004 and which has not exercised the option for tonnage tax scheme within the initial period, the provisions of this Chapter shall not apply to the amalgamated company and the income of the amalgamated company from the business of operating qualifying ships shall be computed in accordance with the other provisions of this Act.

115VZ. Demerger.—Where in a scheme of demerger, the demerged company transfers its business to the resulting company before the expiry of the option for tonnage tax scheme, then, subject to the other provisions of this Chapter, the tonnage tax scheme shall, as far as may be, apply to the resulting company for the unexpired period if it is a qualifying company:

Provided that the option for tonnage tax scheme in respect of the demerged company shall remain in force for the unexpired period of the tonnage tax scheme if it continues to be a qualifying company.

F.—Miscellaneous

115VZA.Effect of temporarily ceasing to operate qualifying ships.—(*1*) A temporary cessation (as against permanent cessation) of operating any qualifying ship by a company shall not be considered as a cessation of operating of such qualifying ship and the company shall be deemed to be operating such qualifying ship for the purposes of this Chapter.

(*2*) Where a qualifying company continues to operate a ship, which temporarily ceases to be a qualifying ship, such ship shall not be considered as a qualifying ship for the purposes of this Chapter.

G.—Provisions of this Chapter not to apply in certain cases

115VZB. Avoidance of tax.—(*1*) Subject to the provisions of this Chapter, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(*2*) For the purposes of sub-section (*1*), a transaction or arrangement shall be considered an abuse if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(*i*) a person other than a tonnage tax company; or

(*ii*) a tonnage tax company in respect of its non-tonnage tax activities.

Explanation.—For the purposes of this section, "tax advantage" include,—

(*i*) the determination of the allowance for any expense or interest, or the determination of any cost or expense allocated or apportioned, or, as the case may be, which has the effect of reducing the income or increasing the loss, as the case may be, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the previous year in which the transaction was entered into; or

(*ii*) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

115VZC. Exclusion from tonnage tax scheme.—(*1*) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (*1*) of section 115VZB, the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme:

Provided that an opportunity shall be given by the Assessing Officer by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme:

Provided further that no order under this sub-section shall be passed without the previous approval of the [1][Principal Chief Commissioner or Chief Commissioner].

(*2*) The provisions of this section shall not apply where the company shows to the satisfaction of the Assessing Officer that the transaction or arrangement was a *bona fide* commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Chapter.

(*3*) Where an order has been passed under sub-section (*1*) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the previous year in which the transaction or arrangement was entered into.]

1. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

[1][CHAPTER XIIH

INCOME-TAX ON FRINGE BENEFITS

A.—Meaning of certain expressions

115W. Definitions.—In this Chapter, unless the context otherwise requires,—

(*a*) "employer" means,—

(*i*) a company;

(*ii*) a firm;

[2][(*iii*) an association of persons or a body of individuals, whether incorporated or not;]

(*iv*) a local authority; and

(*v*) every artificial juridical person, not falling within any of the preceding sub-clauses:

[3][Provided that any person eligible for exemption under clause (*23C*) of section 10 or registered under section 12AA or a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) shall not be deemed to be an employer for the purposes of this Chapter;]

(*b*) "fringe benefit tax" or "tax" means the tax chargeable under section 115WA.

B.—Basis of charge

115WA. Charge of fringe benefit tax.—(*1*) In addition to the income-tax charged under this Act, there shall be charged for every assessment year commencing on or after the 1st day of April, 2006, additional income-tax (in this Act referred to as fringe benefit tax) in respect of the fringe benefits provided or deemed to have been provided by an employer to his employees during the previous year at the rate of thirty per cent on the value of such fringe benefits.

(*2*) Notwithstanding that no income-tax is payable by an employer on his total income computed in accordance with the provisions of this Act, the tax on fringe benefits shall be payable by such employer.

115WB. Fringe benefits.—(*1*) For the purposes of this Chapter, "fringe benefits" means any consideration for employment provided by way of—

(*a*) any privilege, service, facility or amenity, directly or indirectly, provided by an employer, whether by way of reimbursement or otherwise, to his employees (including former employee or employees);

(*b*) any free or concessional ticket provided by the employer for private journeys of his employees or their family members; [4]***

(*c*) any contribution by the employer to an approved superannuation fund for [5][employees; and]

[5][(*d*) anyspecified 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).

1. Ins. by Act 18 of 2005, s. 37 (w.e.f. 1-4-2006).
2. Subs. by Act 55 of 2005, s. 6, for Clause (*iii*) (w.e.f. 1-4-2006).Earlier substituted by Act 18 of 2005, s. 37 (w.e.f. 1-4-2006).
3. Ins. by s. 6, *ibid*. (w.e.f. 1-4-2006).
4. The word "and" omitted by Act 22 of 2007, s. 38 (w.e.f. 1-4-2008).
5. Ins. by s. 38, *ibid*. (w.e.f. 1-4-2008).

Explanation.—For the purposes of this clause,—

(*i*) "specified security" means the securities as defined in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) [1][and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme];

(*ii*) "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.]

(*2*) The fringe benefits shall be deemed to have been provided by the employer to his employees, if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred any expense on, or made any payment for, the following purposes, namely:—

(*A*) entertainment;

(*B*) provision of hospitality of every kind by the employer to any person, whether by way of provision of food or beverages or in any other manner whatsoever and whether or not such provision is made by reason of any express or implied contract or custom or usage of trade but does not include—

(*i*) any expenditure on, or payment for, food or beverages provided by the employer to his employees in office or factory;

(*ii*) any expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlets;

[2][(*iii*) any expenditure on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils such other conditions as may be prescribed;]

(*C*) conference (other than fee for participation by the employees in any conference).

Explanation.—For the purposes of this clause, any expenditure on conveyance, tour and travel (including foreign travel), on hotel, or boarding and lodging in connection with any conference shall be deemed to be expenditure incurred for the purposes of conference;

(*D*) sales promotion including publicity:

Provided that any expenditure on advertisement,—

(*i*) being the expenditure (including rental) on advertisement of any form in any print (including journals, catalogues or price lists) or electronic media or transport system;

(*ii*) being the expenditure on the holding of, or the participation in, any press conference or business convention, fair or exhibition;

(*iii*) being the expenditure on sponsorship of any sports event or any other event organised by any Government agency or trade association or body;

(*iv*) being the expenditure on the publication in any print or electronic media of any notice required to be published by or under any law or by an order of a court or tribunal;

(*v*) being the expenditure on advertisement by way of signs, art work, painting, banners, awnings, direct mail, electric spectaculars, kiosks, hoardings,[3][bill boards, display of products] or by way of such other medium of advertisement; [4]***

1. Subs. by Act 18 of 2008, s. 25, for "and includes employees' stock option" (w.e.f. 1-4-2008).
2. Ins. by s. 25, *ibid*. (w.e.f. 1-4-2009).
3. Subs. by Act 22 of 2007, s. 38, for "bill boards" (w.e.f. 1-4-2008).
4. The word "and" omitted by Act 21 of 2006, s. 28 (w.e.f. 1-4-2007).

(*vi*) being the expenditure by way of payment to any advertising agency for the purposes of clauses (*i*) to (*v*) above;

[1][[2][(*vii*) being the expenditure on distribution of samples either free of cost or at concessional rate; and]

(*viii*) being the expenditure by way of payment to any person of repute for promoting the sale of goods or services of the business of the employer,]

shall not be considered as expenditure on sales promotion including publicity;

(*E*) employees' welfare.

[3][*Explanation.*—For the purposes of this clause, any expenditure incurred or payment made to—

(*i*) fulfil any statutory obligation; or

(*ii*) mitigate occupational hazards; or

(*iii*) provide first aid facilities in the hospital or dispensary run by the employer; or

(*iv*) provide creche facility for the children of the employee; or

(*v*) sponsor a sportsman, being an employee; or

(*vi*) organise sports events for employees,

shall not be considered as expenditure for employees' welfare;]

(*F*) conveyance;[4]***

(*G*) use of hotel, boarding and lodging facilities;

(*H*) repair, running (including fuel), maintenance of motor cars and the amount of depreciation thereon;

(*I*) repair, running (including fuel) and maintenance of aircrafts and the amount of depreciation thereon;

(*J*) use of telephone (including mobile phone) other than expenditure on leased telephone lines;

[5]* * * *

(*L*) festival celebrations;

(*M*) use of health club and similar facilities;

(*N*) use of any other club facilities;

(*O*) gifts; and

(*P*) scholarships;

[6][(*Q*) tour and travel (including foreign travel).]

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1. Ins. by Act 21 of 2006, s. 28 (w.e.f. 1-4-2007).
2. Subs. by Act 22 of 2007, s. 38, for clause (vii) (w.e.f. 1-4-2008).
3. Subs. by Act 18 of 2008, s. 25, for the *Explanation* (w.e.f. 1-4-2009).
4. The words and brackets ", tour and travel (including foreign travel)" omitted by Act 21 of 2006, s. 28 (w.e.f. 1-4-2007).
5. Clause (k) omitted by Act 18 of 2008, s. 25 (w.e.f. 1-4-2009).
6. Ins. by Act 21 of 2006, s. 28 (w.e.f. 1-4-2007).

(*3*) For the purposes of sub-section (*1*), the privilege, service, facility or amenity does not include perquisites in respect of which tax is paid or payable by the employee [1][or any benefit or amenity in the nature of free or subsidised transport or any such allowance provided by the employer to his employees for journeys by the employees from their residence to the place of work or such place of work to the place of residence.]

115WC. Value of fringe benefits.—(*1*) For the purposes of this Chapter, the value of fringe benefits shall be the aggregate of the following, namely:—

(*a*) cost at which the benefits referred to in clause (*b*) of sub-section (*1*) of section 115WB, is provided by the employer to the general public as reduced by the amount, if any, paid by, or recovered from, his employee or employees:

Provided that in a case where the expenses of the nature referred to in clause (*b*) of sub-section (*1*) of section 115WB are included in any other clause of sub-section (*2*) of the said section, the total expenses included under such other clause shall be reduced by the amount of expenditure referred to in the said clause (*b*) for computing the value of fringe benefits;

[2][(*b*) the amount of contribution, referred to in clause (*c*) of sub-section (*1*) of section 115WB, which exceeds one lakh rupees in respect of each employee;]

[3][(*ba*) the fair market value of the specified security or sweat equity shares referred to in clause (*d*) of sub-section (*1*) of section 115WB, on the date on which the option vests with the employee as reduced by the amount actually paid by, or recovered from, the employee in respect of such security or shares.

Explanation.—For the purposes of this clause,—

(*i*) "fair market value" means the value determined in accordance with the method as may be prescribed by the Board;

(*ii*) "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;]

(*c*) twenty per cent of the expenses referred to in [4][clauses (*A*) to (*L*)] of sub-section (*2*) of section 115WB;

(*d*) fifty per cent of the expenses referred to in [5][clauses (*M*) to (*P*)] of sub-section (*2*) of section 115WB;

[6][(*e*) five per cent. of the expenses referred to in clause (*Q*) of sub-section (*2*) of section 115WB.]

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) in the case of an employer engaged in the business of hotel, the value of fringe benefits for the purposes referred to in clause (*B*) of sub-section (*2*) of section 115WB shall be "five per cent." instead of "twenty per cent." referred to in clause (*c*) of sub-section (*1*);

[6][(*aa*) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (*B*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);

1. Ins. by Act 21 of 2006, s. 28. (w.e.f. 1-4-2007).
2. Subs. by s. 29, *ibid.*, for clause (*b*) (w.e.f. 1-4-2007).
3. Ins. by Act 22 of 2007, s. 39 (w.e.f. 1-4-2008).
4. Subs. by Act 18 of 2008, s. 26, for "clauses (A) to (K)" (w.e.f. 1-4-2009).
5. Subs. by s. 26, *ibid.*, for "clauses (L) to (P)" (w.e.f. 1-4-2009).
6. Ins. by Act 21 of 2006, s. 29 (w.e.f. 1-4-2007).

(*ab*) in the case of an employer engaged in the business of carriage of passengers or goods by ship, the value of fringe benefits for the purposes referred to in clause (*B*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent." referred to in clause (*c*) of sub-section (*1*);]

(*b*) in the case of an employer engaged in the business of construction, the value of fringe benefits for the purposes referred to in clause (*F*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);

(*c*) in the case of an employer engaged in the business of manufacture or production of pharmaceuticals, the value of fringe benefits for the purposes referred to in clauses (*F*) and (*G*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);

(*d*) in the case of an employer engaged in the business of manufacture or production of computer software, the value of fringe benefits for the purposes referred to in clauses (*F*) and (*G*) of sub-section (2) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (1);

[1][(*da*) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (*G*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);

(*db*) in the case of an employer engaged in the business of carriage of passengers or goods by ship, the value of fringe benefits for the purposes referred to in clause (*G*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);]

(*e*) in the case of an employer engaged in the business of carriage of passengers or goods by motor car, the value of fringe benefits for the purposes referred to in clause (*H*) of sub-section (*2*) of section 115WB shall be "five per cent" instead of "twenty per cent" referred to in clause (*c*) of sub-section (*1*);

(*f*) in the case of an employer engaged in the business of carriage of passengers or goods by aircraft, the value of fringe benefits for the purposes referred to in clause (*1*) of sub-section (*2*) of section 115WB shall be taken as *Nil*.

C.—Procedure for filing of return in respect of fringe benefits, assessment and payment of tax in respect thereof

115WD. Return of fringe benefits.—(*1*) Without prejudice to the provisions contained in section 139, every employer who during a previous year has paid or made provision for payment of fringe benefits to his employees, shall, on or before the due date, furnish or cause to be furnished a return of fringe benefits to the Assessing Officer in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, in respect of the previous year.

Explanation.—In this sub-section, "due date" means,—

(*a*) where the employer is—

(*i*) a company; or

(*ii*) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force,

the [2][30th day of September] of the assessment year;

1. Ins. by Act 21 of 2006, s. 29 (w.e.f. 1-4-2007).
2. Subs. by Act 18 of 2008, s. 27, for "31st day of October" (w.e.f. 1-4-2008).

(*b*) in the case of any other employer, the 31st day of July of the assessment year.

(*2*) In the case of any employer who, in the opinion of the Assessing Officer, is responsible for paying fringe benefit tax under this Act and who has not furnished a return under sub-section (*1*), the Assessing Officer may, after the due date, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice, the return in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

(*3*) Any employer responsible for paying fringe benefit tax who has not furnished a return within the time allowed under sub-section (*1*) or within the time allowed under a notice issued under sub-section (*2*), may furnish the return for any previous year, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

(*4*) If any employer, having furnished a return under sub-section (*1*), or in pursuance of a notice issued under sub-section (*2*), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

115WE. Assessment.—[1][(*1*) Where a return has been made under section 115WD, such return shall be processed in the following manner, namely:—

(*a*) the value of fringe benefits shall be computed after making the following adjustments, namely:—

(*i*) any arithmetical error in the return; or

(*ii*) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(*b*) the tax and interest, if any, shall be computed on the basis of the value of fringe benefits computed under clause (*a*);

(*c*) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (*b*) by any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(*d*) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (*c*); and

(*e*) the amount of refund due to the assessee in pursuance of the determination under clause (*c*) shall be granted to the assessee:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

Explanation.—For the purposes of this sub-section,—

(*a*) "an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—

(*i*) of an item, which is inconsistent with another entry of the same or some other item in such return;

(*ii*) in respect of which the information required to be furnished to substantiate such entry has not been so furnished under this Act; or

(*iii*) in respect of a deduction or value of fringe benefits, where such deduction or value exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

1. Subs. by Act 18 of 2008, s. 28, for sub-section (1) (w.e.f. 1-4-2008).

(*b*) the acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (*c*), and where no adjustment has been made under clause (*a*).

(*1A*) For the purposes of processing of returns under sub-section (*1*), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under that sub-section.

(*1B*) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (*1A*), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued [1][after the 31st day of March, 2011].

(*1C*) Every notification issued under sub-section (*1B*), along with the scheme made under sub-section (*1A*), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]

(*2*) Where a return has been furnished under section 115WD, the Assessing Officer shall, if he considers it necessary or expedient to ensure that the assessee has not understated the value of fringe benefits or has not underpaid the tax in any manner, serve on the assessee a notice requiring him on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of [2][six months from the end of the financial year] in which the return is furnished.

(*3*) On the day specified in the notice issued under sub-section (*2*), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the value of the fringe benefits paid or payable by the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(*4*) Where a regular assessment under sub-section (*3*) or section 115WF is made,—

(*a*) any tax or interest paid by the assessee under sub-section (*1*) shall be deemed to have been paid towards such regular assessment;

(*b*) if no refund is due on regular assessment or the amount refunded under sub-section (*1*) exceeds the amount refundable on regular assessment, the whole or the excess amount so refunded shall be deemed to be tax payable by the assessee and the provisions of this Act shall apply accordingly.

115WF. Best judgment assessment.—If any person, being an employer—

(*a*) fails to make the return required under sub-section (*1*) of section 115WD and has not made a return under sub-section (*3*) or a revised return under sub-section (*4*) of that section, or

(*b*) fails to comply with all the terms of a notice issued under sub-section (*2*) of section 115WD or fails to comply with a direction issued under sub-section (*2A*) of section 142, or

(*c*) having made a return, fails to comply with all the terms of a notice issued under sub-section (*2*) of section 115WE,

the Assessing Officer, after taking into account all relevant material which the Assessing Officer has gathered, shall, after giving the assessee an opportunity of being heard, make the assessment of the fringe benefits to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment:

1. Subs. by Act 14 of 2010, s. 31, for "after the 31st day of March, 2010" (w.e.f. 1-4-2010). Earlier substituted by Act 33 of 2009, s. 48 (w.e.f. 1-4-2009).
2. Subs. by Act 18 of 2008, s. 28, for "twelve months from the end of the month" (w.e.f. 1-4-2008).

Provided that such opportunity shall be given by the Assessing Officer by serving a notice calling upon the assessee to show cause, on a date and time to be specified in the notice as to why the assessment should not be completed to the best of his judgment:

Provided further that it shall not be necessary to give such opportunity in a case where a notice under sub-section (*2*) of section 115WD has been issued prior to the making of an assessment under this section.

115WG. Fringe benefits escaping assessment.—If the Assessing Officer has reason to believe that any fringe benefits chargeable to tax have escaped assessment for any assessment year, he may, subject to the provisions of section 115WH, 150 and 153, assess or reassess such fringe benefits and also any other fringe benefits chargeable to tax which have escaped assessment and which come to his notice subsequently in the course of the proceedings under this section, for the assessment year concerned (hereafter referred to as the relevant assessment year).

Explanation.—For the purposes of this section, the following shall also be deemed to be cases where fringe benefits chargeable to tax have escaped assessment, namely:—

(*a*) where no return of fringe benefits has been furnished by the assessee;

(*b*) where a return of fringe benefits has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the value of fringe benefits in the return;

(*c*) where an assessment has been made, but the fringe benefits chargeable to tax have been under-assessed.

115WH. Issue of notice where fringe benefits have escaped assessment.—(*1*) Before making the assessment or reassessment under section 115WG, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period as may be specified in the notice, a return of the fringe benefits in respect of which he is assessable under this Chapter during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Chapter shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 115WD.

(*2*) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

(*3*) No notice under sub-section (*1*) shall be issued for the relevant assessment year after the expiry of six years from the end of the relevant assessment year.

Explanation.—In determining fringe benefits chargeable to tax which have escaped assessment for the purposes of this sub-section, the provisions of the *Explanation* to section 115WG shall apply as they apply for the purposes of that section.

(*4*) In a case where an assessment under sub-section (*3*) of section 115WE or section 115WG has been made for the relevant assessment year, no notice shall be issued under sub-section (*1*) by an Assessing Officer, after the expiry of four years from the end of the relevant assessment year, unless the [1][Principal Chief Commissioner or Chief Commissioner] or [2][Principal Commissioner or Commissioner] is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

115WI. Payment of fringe benefit tax.—Notwithstanding that the regular assessment in respect of any fringe benefits is to be made in a later assessment year, the tax on such fringe benefits shall be payable in advance during any financial year, in accordance with the provisions of section 115WJ, in respect of the fringe benefits which would be chargeable to tax for the assessment year immediately following that financial year, such fringe benefits being hereafter in this Chapter referred to as the "current fringe benefits".

1. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).
2. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).

115WJ. Advance tax in respect of fringe benefits.—(*1*) Every assessee who is liable to pay advance tax under section 115WI, shall on his own accord, pay advance tax on his current fringe benefits calculated in the manner laid down in sub-section (*2*).

[1][(*2*) Advance tax on the current fringe benefits shall be payable by—

(*a*) all the companies, who are liable to pay the same in four instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table I below:

TABLE I

Due date of instalment	*Amount payable*
On or before the 15th June	Not less than fifteen per cent of such advance tax.
On or before the 15th September	Not less than forty-five per cent of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th December	Not less than seventy-five per cent of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments;

(*b*) all the assessees (other than companies), who are liable to pay the same in three instalments during each financial year and the due date of each instalment and the amount of such instalment shall be as specified in Table II below:

TABLE II

Due date of instalment	*Amount payable*
On or before the 15th September	Not less than thirty per cent of such advance tax.
On or before the 15th December	Not less than sixty per cent of such advance tax as reduced by the amount, if any, paid in the earlier instalment.
On or before the 15th March	The whole amount of such advance tax as reduced by the amount or amounts, if any, paid in the earlier instalment or instalments.

(*3*) Where an assessee, being a company, has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, he shall be liable to pay simple interest calculated at the rate of—

(*i*) one per cent per month, for three months on an amount by which the advance tax paid on or before the 15th June of the financial year falls short of fifteen per cent of the advance tax payable;

(*ii*) one per cent per month, for three months on an amount by which the advance tax paid on or before the 15th September of the financial year falls short of forty-five per cent of the advance tax payable;

1. Subs. by Act 22 of 2007, s. 40, for sub-sections (*2*) and (*3*) (w.e.f. 1-6-2007).

(*iii*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th December of the financial year falls short of seventy-five per cent. of the advance tax payable; and

(*iv*) one per cent. on an amount by which the advance tax paid on or before the 15th March of the financial year falls short of hundred per cent. of the advance tax payable.

(*4*) Where an assessee, being a person other than a company, has failed to pay the advance tax payable by him on or before the due date for any instalment or where the advance tax paid by him is less than the amount payable by the due date, he shall be liable to pay simple interest calculated at the rate of—

(*i*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th September of the financial year falls short of thirty per cent. of the advance tax payable;

(*ii*) one per cent. per month, for three months on an amount by which the advance tax paid on or before the 15th December of the financial year falls short of sixty per cent of the advance tax payable; and

(*iii*) one per cent. on an amount by which the advance tax paid on or before the 15th March of the financial year falls short of hundred per cent. of the advance tax payable.

(*5*) Where an assessee has failed to pay the advance tax payable by him during a financial year or where the advance tax paid by him is less than ninety per cent. of the tax assessed under section 115WE or section 115WF or section 115WG, the assessee shall be liable to pay simple interest at the rate of one per cent. per month, for every month or part of a month comprised in the period from the 1st day of April next following such financial year to the date of assessment of tax under section 115WE or section 115WF or section 115WG.]

115WK. Interest for default in furnishing return of fringe benefits.—(*1*) Where the return of fringe benefits for any assessment year under sub-section (*1*) or sub-section (*3*) of section 115WD or in response to a notice under sub-section (*2*) of that section, is furnished after the due date, or is not furnished, the employer shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the date immediately following the due date, and,—

(*a*) where the return is furnished after the due date, ending on the date of furnishing of the return; or

(*b*) where no return has been furnished, ending on the date of completion of the assessment under section 115WF,

on the amount of the tax on the value of fringe benefits as determined under sub-section (*1*) of section 115WE or regular assessment as reduced by the advance tax paid under section 115WJ.

Explanation 1.—In this section, "due date" means the date specified in the *Explanation* to sub-section (*1*) of section 115WD as applicable in the case of the employer.

Explanation 2.—Where, in relation to an assessment year, an assessment is made for the first time under section 115WG, the assessment so made shall be regarded as a regular assessment for the purposes of this section.

(*2*) The provisions contained in sub-sections (*2*) to (*4*) of section 234A shall, so far as may be, apply to this section.

[1][**115WKA. Recovery of fringe benefit tax by the employer from the employee**.—Notwithstanding anything contained in any agreement or scheme under which any specified security or sweat equity shares referred to in clause (*d*) of sub-section (*1*) of section 115WB has been allotted or transferred, directly or indirectly, by the employer on or after the 1st day of April, 2007, it shall be lawful for the employer to vary the agreement or scheme under which such specified security or sweat equity shares has been allotted or transferred so as to recover from the employee the fringe benefit tax to the extent to which such employer is liable to pay the fringe benefit tax in relation to the value of fringe benefits provided to the employee and determined under clause (*ba*) of sub-section (*1*) of section 115WC.]

[2][**115WKB. Deemed payment of tax by employee**.—(*1*) Where an employer has paid any fringe benefit tax with respect to allotment or transfer of specified security or sweat equity shares, referred to in clause (*d*) of sub-section (*1*) of section 115WB, and has recovered such tax subsequently from an employee, it shall be deemed that the fringe benefit tax so recovered is the tax paid by such employee in relation to the value of the fringe benefit provided to him only to the extent to which the amount thereof relates to the value of the fringe benefit provided to such employee, as determined under clause (*ba*) of sub-section (*1*) of section 115WC.

(*2*) Notwithstanding anything contained in any other provisions of this Act, where the fringe benefit tax recovered from the employee is deemed to be the tax paid by such employee under sub-section (*1*), such employee shall, under this Act, not be entitled to claim—

(*i*) any refund out of such payment of tax; or

(*ii*) any credit of such payment of tax against tax liability on other income or against any other tax liability.]

115WL. Application of other provisions of this Act.—Save as otherwise provided in this Chapter, all other provisions of this Act shall, as far as may be, apply in relation to fringe benefits also.

[3][**115WM. Chapter XII-H not to apply after a certain date**.—Nothing contained in this Chapter shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year.]

CHAPTER XIII

INCOME-TAX AUTHORITIES

A.—Appointment and control

[4][**116. Income-tax authorities.**—There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(*a*) the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963),

[5][(*aa*) Principal Directors General of Income-tax or Principal Chief Commissioners of Income-tax,]

(*b*) Directors-General of Income-tax or Chief Commissioners of Income-tax,

[5][(*ba*) Principal Directors of Income-tax or Principal Commissioners of Income-tax,]

1. Ins. by Act 22 of 2007, s. 41 (w.e.f. 1-4-2007).
2. Ins. by Act 18 of 2008, s. 29 (w.e.f. 1-4-2008).
3. Ins. by Act 33 of 2009, s. 49 (w.e.f. 1-4-2009).
4. Subs. by Act 4 of 1988, s. 30, for sections 116, 117 and 118 (w.e.f. 1-4-1988).
5. Ins. by Act 25 of 2014, s. 45 (w.e.f. 1-6-2013).

(*c*) Directors of Income-tax or Commissioners of Income-tax or Commissioners of Income-tax (Appeals),

[1](*cc*) Additional Directors of Income-tax or Additional Commissioners of Income-tax or Additional Commissioners of Income-tax (Appeals),

[2][(*cca*) Joint Directors of Income-tax or Joint Commissioners of Income-tax,]

(*d*) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals),

(*e*) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax,

(*f*) Income-tax Officers,

(*g*) Tax Recovery Officers,

(*h*) Inspectors of Income-tax.

117. Appointment of income-tax authorities.—(*1*) The Central Government may appoint such persons as it thinks fit to be income-tax authorities.

(*2*) Without prejudice to the provisions of sub-section (*1*), and subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, the Central Government may authorise the Board, or a [3][Principal Director General or Director-General], a [4][Principal Chief Commissioner or Chief Commissioner] or a [5][Principal Director or Director] or a [6][Principal Commissioner or Commissioner] to appoint income-tax authorities below the rank of an [7][Assistant Commissioner or Deputy Commissioner].

(*3*) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, an income-tax authority authorised in this behalf by the Board may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions.

118. Control of income-tax authorities.—The Board may, by notification in the Official Gazette, direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities as may be specified in such notification.]

[8]**[119. Instructions to subordinate authorities.**—(*1*) The Board may, from time to time, issue such orders, instructions and directions to other income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(*a*) so as to require any income-tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

1. Ins. by Act 32 of 1994, s. 35 (w.e.f. 1-6-1994).
2. Ins. by Act 21 of 1998, s. 39 (w.e.f. 1-10-1998).
3. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.e.f. 1-6-2013).
4. Subs. by s. 4, *ibid*., for "Chief Commissioner" (w.e.f. 1-6-2013).
5. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).
6. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).
7. Subs. by Act 21 of 1998, s. 3, for "Assistant Commissioner" (w.e.f. 1-10-1998).
8. Subs. by Act 42 of 1970, s. 25, for section 119 (w.e.f. 1-4-1971).

(*b*) so as to interfere with the discretion of the [1]*** [2][Commissioner (Appeals)] in the exercise of his appellate functions.

(*2*) Without prejudice to the generality of the foregoing power,—

(*a*) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections [3][115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK,] [4][139,] 143, 144, 147, 148, 154, 155 [5][, 158BFA], [6][sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C [7][, 234E]], [8][270A,] 271 [9][, 271C, 271CA] and 273 or otherwise), general or special orders in respect of [10][any class of incomes or fringe benefits] or class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information;

(*b*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise [11][any income-tax authority, not being a [12]*** Commissioner (Appeals)] to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim and deal with the same on merits in accordance with law;

[13][(*c*) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order for reasons to be specified therein, relax any requirement contained in any of the provisions of Chapter IV or Chapter VI-A, where the assessee has failed to comply with any requirement specified in such provision for claiming deduction thereunder, subject to the following conditions, namely:—

(*i*) the default in complying with such requirement was due to circumstances beyond the control of the assessee; and

(*ii*) the assessee has complied with such requirement before the completion of assessment in relation to the previous year in which such deduction is claimed:

Provided that the Central Government shall cause every order issued under this clause to be laid before each House of Parliament.]

[14]* * * * *

1. The words and brackets "Deputy Commissioner (Appeals) or the" omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier amended by Act 29 of 1977, s. 39 and The Fifth Schedule (w.e.f. 10-7-1978) and 4 of 1988, s. 65 (w.e.f. 1-4-1988).
2. Ins. by Act 29 of 1977, s. 39 and The Fifth Schedule (w.e.f. 10-7-1978).
3. Subs. by Act 18 of 2005, s. 38, for "sections 115P, 115S" (w.e.f. 1-4-2006).
4. Ins. by Act 12 of 1990, s. 33 (w.e.f. 1-4-1990).
5. Ins. by Act 20 of 2002, s. 55 (w.e.f. 1-6-2002).
6. Subs. by Act 49 of 1991, s. 42, for "210, 234A, 234B" (w.e.f. 1-4-1991).
7. Ins. by Act 25 of 2014, s. 46 (w.e.f. 1-10-2014).
8. Ins. by Act 28 of 2016, s. 64 (w.e.f. 1-4-2017).
9. Ins. by Act 7 of 2017, s. 49 (w.e.f. 1-4-2017).
10. Subs. by Act 18 of 2005, s. 38, for "any class of incomes" (w.e.f. 1-4-2006).
11. Subs. by Act 4 of 1988, s. 31, for "the Commissioner or the Income-tax Officer" (w.e.f. 1-4-1988).
12. The words and brackets "Deputy Commissioner (Appeals) or the" omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998).
13. Ins. by Act 49 of 1991, s. 42 (w.e.f. 1-10-1991).
14. Sub-section (*3*) omitted by Act 4 of 1988, s. 31 (w.e.f. 1-4-1988).

[1][**120. Jurisdiction of income-tax authorities.**—(*1*) Income-tax authorities shall exercise all or any of the powers and perform all or any of the functions conferred on, or, as the case may be, assigned to such authorities by or under this Act in accordance with such directions as the Board may issue for the exercise of the powers and performance of the functions by all or any of those authorities.

[2][*Explanation.*—For the removal of doubts, it is hereby declared that any income-tax authority, being an authority higher in rank, may, if so directed by the Board, exercise the powers and perform the functions of the income-tax authority lower in rank and any such direction issued by the Board shall be deemed to be a direction issued under sub-section (*1*).]

(*2*) The directions of the Board under sub-section (*1*) may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the other income-tax authorities who are subordinate to it.

(*3*) In issuing the directions or orders referred to in sub-sections (*1*) and (*2*), the Board or other income-tax authority authorised by it may have regard to any one or more of the following criteria, namely :—

(*a*) territorial area;

(*b*) persons or classes of persons;

(*c*) incomes or classes of income; and

(*d*) cases or classes of cases.

(*4*) Without prejudice to the provisions of sub-sections (*1*) and (*2*), the Board may, by general or special order, and subject to such conditions, restrictions or limitations as may be specified therein,—

(*a*) authorise any [3][Principal Director General or Director General] or [4][Principal Director or Director] to perform such functions of any other income-tax authority as may be assigned to him by the Board;

(*b*) empower the [3][Principal Director General or Director General] or [5][Principal Chief Commissioner or Chief Commissioner] or [6][Principal Commissioner or Commissioner] to issue orders in writing that the powers and functions conferred on, or as the case may be, assigned to, the Assessing Officer by or under this Act in respect of any specified area or persons or classes of persons or incomes or classes of income or cases or classes of cases, shall be exercised or performed by [7][an Additional Commissioner or] [8][an Additional Director or] a [9][Joint Commissioner] or a [10][Joint Director]] and, where any order is made under this clause, references in any other provision of this Act, or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such [11][an Additional Commissioner or] [12][Additional Director or] a [9][Joint Commissioner] or [10][Joint Director] by whom the powers and functions are to be exercised or performed under such order, and any provision of this Act requiring approval or sanction of the [9][Joint Commissioner] shall not apply.

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1. Subs. by Act 4 of 1988, s. 32, for section 120 (w.e.f. 1-4-1988).
2. Ins. by Act 21 of 2006, s. 30 (w.r.e.f. 1-4-1988)
3. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).
4. Subs. by s. 4, *ibid*., for "Director" (w.r.e.f. 1-6-2013).
5. Subs. by s. 4, *ibid*., for "Chief Commissioner" (w.r.e.f. 1-6-2013).
6. Subs. by s. 4, *ibid*., for "Commissioner" (w.r.e.f. 1-6-2013).
7. Ins. by Act 22 of 2007, s. 42 (w.r.e.f. 1-6-1994).
8. Ins. by s. 42, *ibid*. (w.r.e.f. 1-10-1996).
9. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.r.e.f 1-10-1998).
10. Subs. by s. 3, *ibid*., for "Deputy Director" (w.e.f. 1-10-1998).
11. Ins. by Act 22 of 2007, s. 42 (w.r.e.f. 1-6-1994).
12. Ins. by s. 42, *ibid*. (w.r.e.f. 1-10-1996).

(*5*) The directions and orders referred to in sub-sections (*1*) and (*2*) may, wherever considered necessary or appropriate for the proper management of the work, require two or more Assessing Officers (whether or not of the same class) to exercise and perform, concurrently, the powers and functions in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases; and, where such powers and functions are exercised and performed concurrently by the Assessing Officers of different classes, any authority lower in rank amongst them shall exercise the powers and perform the functions as any higher authority amongst them may direct, and, further, references in any other provision of this Act or in any rule made thereunder to the Assessing Officer shall be deemed to be references to such higher authority and any provision of this Act requiring approval or sanction of any such authority shall not apply.

(*6*) Notwithstanding anything contained in any direction or order issued under this section, or in section 124, the Board may, by notification in the Official Gazette, direct that for the purpose of furnishing of the return of income or the doing of any other act or thing under this Act or any rule made thereunder by any person or class of persons, the income-tax authority exercising and performing the powers and functions in relation to the said person or class of persons shall be such authority as may be specified in the notification.]

[**121. Jurisdiction of Commissioners.**] *Omitted by the Direct Tax Laws* (*Amendment*) *Act* 1987 (4 *of* 1987), *s*. 33 (*w.e.f*. 1-4-1988).]

[**121A. Jurisdiction of Commissioners (Appeals).**] *Omitted by s.* 33, *ibid* (*w.e.f.* 1-4-1988). *Original section was inserted by the Financ*e (*No*. 2) *Act*, 1977 (29 *of* 1977), *s*. 39 *and the Fifth Schedule* (*w.e.f.* 10-7-1978).

[**122. Jurisdiction of Appellate Assistant Commissioners.**] *Omitted by s.* 33, *ibid. (w.e.f.* 1-4-1988).

[**123. Jurisdiction of Inspecting Assistant Commissioners.**] *Omitted by s*. 33, *ibid*. (*w.e.f*. 1-4-1988).

[1][**124. Jurisdiction of Assessing Officers.**—(*1*) Where by virtue of any direction or order issued under sub-section (*1*) or sub-section (*2*) of section 120, the Assessing Officer has been vested with jurisdiction over any area, within the limits of such area, he shall have jurisdiction—

(*a*) in respect of any person carrying on a business or profession, if the place at which he carries on his business or profession is situate within the area, or where his business or profession is carried on in more places than one, if the principal place of his business or profession is situate within the area, and

(*b*) in respect of any other person residing within the area.

(*2*) Where a question arises under this section as to whether an Assessing Officer has jurisdiction to assess any person, the question shall be determined by the [2][Principal Director General or Director General] or the [3][Principal Chief Commissioner or Chief Commissioner] or the [4][Principal Commissioner or Commissioner]; or where the question is one relating to areas within the jurisdiction of different [2][Principal Director General or Director General] or [3][Principal Chief Commissioner or Chief Commissioner] or [4][Principal Commissioner or Commissioner], by the [2][Principal Director General or Director General] or [3][Principal Chief Commissioners or Chief Commissioners] or [4][Principal Commissioner or Commissioner] concerned or, if they are not in agreement, by the Board or by such [2][Principal Director General or Director General] or [3][Principal Chief Commissioner or Chief Commissioner] or [4][Principal Commissioner or Commissioner] as the Board may, by notification in the Official Gazette, specify.

1. Subs. by Act 4 of 1988, s. 34, for section 124 (w.e.f. 1-4-1988).
2. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).
3. Subs. by s. 4, *ibid*., for "Chief Commissioner" (w.r.e.f. 1-6-2013).
4. Subs. by s. 4, *ibid*., for "Commissioner" (w.r.e.f. 1-6-2013).

(*3*) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

(*a*) where he has made a return [1][under sub-section (*1*) of section 115WD or under sub-section (*1*) of section 139], after the expiry of one month from the date on which he was served with a notice under sub-section (*1*) of section 142 or [2][sub-section (*2*) of section 115WE or sub-section (*2*) of section 143] or after the completion of the assessment, whichever is earlier;

(*b*) where he has made no such return, after the expiry of the time allowed by the notice under [3][sub-section (*2*) of section 115WD or sub-section (*1*) of section 142 or under sub-section (*1*) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144] to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;

[4][(*c*) where an action has been taken under section 132 or section 132A, after the expiry of one month from the date on which he was served with a notice under sub-section (*1*) of section 153A or sub-section (*2*) of section 153C or after the completion of the assessment, whichever is earlier.**]**

(*4*) Subject to the provisions of sub-section (*3*), where an assessee calls in question the jurisdiction of an Assessing Officer, then the Assessing Officer shall, if not satisfied with the correctness of the claim, refer the matter for determination under sub-section (*2*) before the assessment is made.

(*5*) Notwithstanding anything contained in this section or in any direction or order issued under section 120, every Assessing Officer shall have all the powers conferred by or under this Act on an Assessing Officer in respect of the income accruing or arising or received within the area, if any, over which he has been vested with jurisdiction by virtue of the directions or orders issued under sub-section (*1*) or sub-section (*2*) of section 120.

[125. Powers of Commissioner respecting specified areas, cases, persons, etc.] *Omitted by the Direct Tax Laws* (*Amendment*) *Act*, 1987 (4 *of* 1988), *s*. 33 (*w.e.f.* 1-4-1988).

[125A. Concurrent jurisdiction of Inspecting Assistant Commissioner and Income-tax Officer.]*Omitted by the Direct Tax Laws* (*Amendment*) *Act*, 1987 (4 *of* 1988), *s*. 33 (*w.e.f*. 1-4-1988). *Original section was inserted by the Taxation Laws* (*Amendment*) *Act*, 1975, (*w.e.f.* 1-10-1975).]

[126. Powers of Board respecting specified area, classes of persons or incomes.]*Omitted by the Direct Tax Laws* (*Amendment*) *Act*, 1987 (4 *of* 1988), *s*. 33 (*w.e.f.* 1-4-1988).

127.Power to transfer cases.—(*1*) The [5][Principal Director General or Director General] or [6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner] may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, transfer any case from one or more Assessing Officers subordinate to him (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) also subordinate to him.

(*2*) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same [5][Principal Director General or Director General] or [6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner],—

(*a*) where the [5][Principal Director General or Director General] or [6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner] to whom such

1. Subs. by Act 18 of 2005, s. 39, for "under sub-section (*1*) of section 139" (w.e.f. 1-4-2006).
2. Subs. by s. 39, *ibid.*, for "sub-section (*2*) of section 143" (w.e.f. 1-4-2006).
3. Subs. by s. 39, *ibid*., for "sub-section (*1*) of section 142 or under section 148 for the making of the return or by the notice under the first proviso to section 144" (w.e.f. 1-4-2006).
4. Ins. by Act 28 of 2016, s. 65 (w.e.f. 1-6-2016).
5. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).
6. Subs. by s. 4, *ibid.*, for "Chief Commissioner" (w.r.e.f. 1-6-2013).
7. Subs. by s. 4, *ibid*., for "Commissioner" (w.r.e.f. 1-6-2013).

Assessing Officers are subordinate are in agreement, then the [1][Principal Director General or Director General] or [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner] from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;

(*b*) where the [1][Principal Directors General or Directors General] or [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner] aforesaid are not in agreement, the order transferring the case may, similarly, be passed by the Board or any such [1][Principal Director General or Director General] or [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner] as the Board may, by notification in the Official Gazette, authorise in this behalf.

(*3*) Nothing in sub-section (*1*) or sub-section (*2*) shall be deemed to require any such opportunity to be given where the transfer is from any Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) to any other Assessing Officer or Assessing Officers (whether with or without concurrent jurisdiction) and the offices of all such officers are situated in the same city, locality or place.

(*4*) The transfer of a case under sub-section (*1*) or sub-section (*2*) may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Assessing Officer or Assessing Officers from whom the case is transferred.]

Explanation.—In section 120 and this section, the word "case", in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

[128. Functions of Inspectors of Income-tax.] *Omitted by the Direct Tax Laws* (*Amendment*) *Act,* 1987 (4 *of* 1988), *s.* 33 (*w.e.f.* 1-4-1988).

129. Change of incumbent of an office.—Whenever in respect of any proceeding under this Act an income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he be reheard.

[130. Commissioner competent to perform any function or functions.]*Omitted by the Direct Tax Laws* (*Amendment*) *Act,* 1987 (4 *of* 1988), *s.* 33 (*w.e.f.* 1-4-1988).

[130A. Income-tax Officer competent to perform any function or functions.]*Omitted by the Direct Tax Laws* (*Amendment*) *Act,* 1987 (4 *of* 1988), *s.* 33 (*w.e.f.* 1-4-1988). *Original section was inserted by the Finance* (*No.* 2) *Act,* 1967 (20 *of* 1967), *s.* 27 (*w.e.f.* 1-4-1967).

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1. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).

2. Subs. by s. 4, *ibid.,* for "Chief Commissioner" (w.r.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid*., for "Commissioner" (w.r.e.f. 1-6-2013).

131. Power regarding discovery, production of evidence, etc.—(*1*) The [1][Assessing Officer], [2][Deputy Commissioner (Appeals)], [3][,Commissioner (Appeals) [4][, [5][Principal Chief Commissioner or Chief Commissioner or [6][Principal Commissioner or Commissioner] and Dispute Resolution Panel referred to in clause (*a*) of sub-section (15) of section 144C]] shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:—

(*a*) discovery and inspection;

(*b*) enforcing the attendance of any person, including any officer of a banking company and examining him on oath;

(*c*) compelling the production of books of account and other documents; and

(*d*) issuing commissions.

[7][(*1A*) [8][If the [9][Principal Director General or Director General] or [10][Principal Director or Director] or [11][Joint Director] or [12][Assistant Director or Deputy Director], or the authorised officer referred to in sub-section (*1*) of section 132 before he takes action under clauses (*i*) to (*v*) of that sub-section,] has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, then, for the purposes of making any enquiry or investigation relating thereto, it shall be competent for him to exercise the powers conferred under sub-section (*1*) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before him or any other income-tax authority.

[13][(*2*) For the purpose of making an inquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority not below the rank of Assistant Commissioner of Income-tax, as may be notified by the Board in this behalf, to exercise the powers conferred under sub-section (*1*) on the income-tax authorities referred to in that sub-section, notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.]

(*3*) Subject to any rules made in this behalf, any authority referred to in sub-section (*1*) [7][or sub-section (*1A*)] [13][or sub-section (*2*)] may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act:

Provided that [14][an [15][Assessing Officer] or an [16][Assistant Director or Deputy Director]] shall not—

(*a*) impound any books of account or other documents without recording his reasons for so doing, or

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1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Subs. by s. 2, *ibid*., for "Appellate Assistant Commissioner" (w.e.f. 1-4-1988).
3. Subs. by Act 29 of 1977, s. 3 and the Fifth Schedule, for "and Commissioner" (w.e.f. 10-7-1978).
4. Subs. by Act 33 of 2009, s. 50, for "and Chief Commissioner or Commissioner" (w.e.f. 1-10-2009).
5. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).
6. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).
7. Ins. by Act 41 of 1975, s. 34 (w.e.f. 1-10-1975).
8. Subs. by Act 26 of 1988, s. 33, for "If the Assistant Director of Inspection" (w.e.f. 1-6-1988).
9. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.e.f. 1-6-2013).
10. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).
11. Subs. by Act 21 of 1998, s. 3, for "Deputy Director" (w.e.f. 1-10-1998).
12. Subs. by s. 3, *ibid*., for "Assistant Director" (w.e.f. 1-10-1998).
13. Ins. by Act 8 of 2011, s. 22 (w.e.f. 1-6-2011).
14. Subs. by Act 41 of 1975, s. 34, for "an Income-tax Officer" (w.e.f. 1-10-1975).
15. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
16. Subs. by Act 21 of 1998, s. 3, for "Assistant Director" (w.e.f. 1-10-1998). Earlier substituted as "Assistant Director" by Act 4 of 1988, s. 2, for "Assistant Director of Inspection" (w.e.f. 1-4-1988).

(*b*) retain in his custody any such books or documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of [1][the [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Director General or Director General] or [4][Principal Commissioner or Commissioner]or [5][Principal Director or Director] therefor, as the case may be.]

[6]**[132. Search and seizure**.—(*1*) Where the [7][[3][Principal Director General or Director General] or [5][Principal Director or Director]] or the [8][[2][Principal Chief Commissioner or Chief Commissioner] or [4][Principal Commissioner or Commissioner]] [9][or Additional Director or Additional Commissioner] [10][or Joint Director or Joint Commissioner] in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (*1*) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (*1*) of section 131 of this Act, or a notice under sub-section (*4*) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (*1*) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, or

(*b*) any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books of account or other documents which will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act, or

(*c*) any person is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property [11][which has not been, or would not be, disclosed] for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act (hereinafter in this section referred to as the undisclosed income or property),

[12][then,—

(*A*) the [7][[3][Principal Director General or Director General] or [5][Principal Director or Director] or the [8][[2][Principal Chief Commissioner or Chief Commissioner] or [4][Principal Commissioner or Commissioner], as the case may be, may authorise any [13][Additional Director or Additional

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1. Subs. by Act 26 of 1988, s. 33, for "the Chief Commissioner or Commissioner therefor" (w.e.f. 1-6-1988). Earlier substituted as "Chief Commissioner or Commissioner" for "Commissioner" by 4 of 1988, s. 2 (w.e.f. 1-4-1988).

2. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

3. Subs. by s. 4, *ibid*., for "Director General" (w.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).

5. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).

6. Subs. by Act 1 of 1965, s. 2, for section 132 (w.e.f. 12-3-1965).

7. Subs. by Act 4 of 1988, s. 2, for "Director of Inspection" (w.e.f. 1-4-1988).

8. Subs. by Act s. 2, *ibid*., for "Commissioner" (w.e.f. 1-4-1988).

9. Subs. by Act 33 of 2009, s. 51, for "or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board," (w.e.f. 1-6-1994). Earlier amended by Act 41 of 1975, s. 35 (w.e.f. 1-10-1975), 21 of 1998, s. 3 (w.e.f. 1-10-1998) and 4 of 1988, s. 2 (w.e.f. 1-4-1988).

10. Ins. by s. 51, *ibid*. (w.e.f. 1-10-1998).

11. Subs. by Act 41 of 1975, s. 35, for "which has not been disclosed" (w.e.f. 1-10-1975).

12. Subs. by s. 35, *ibid*., for "he may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer (hereinafter referred to as the authorized officer) to—" (w.e.f. 1-10-1975).

13. Ins. by Act 33 of 2009, s. 51 (w.e.f. 1-6-1994).

Commissioner or] [1][Joint Director], [2][Joint Commissioner], [3][Assistant Director or Deputy Director], [4][Assistant Commissioner or Deputy Commissioner] or Income-tax Officer, or

(*B*) such [5][Additional Director or Additional Commissioner or] [1][Joint Director], or [2][Joint Commissioner], as the case may be, may authorise any [3][Assistant Director or Deputy Director], [4][Assistant Commissioner or Deputy Commissioner]or Income-tax Officer,

(the officer so authorised in all cases being hereinafter referred to as the authorised officer) to—]

(*i*) enter and search any [6][building, place, vessel, vehicle or aircraft] where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

(*ii*) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (*i*) where the keys thereof are not available;

[7][(*iia*) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;]

[8][(*iib*) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (*t*) of sub-section (*1*) of section 2 of the Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;]

(*iii*) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search:

[9][Provided that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;]

(*iv*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(*v*) make a note or an inventory of any such money, bullion, jewellery or other valuable article or thing:

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1. Subs. by Act 21 of 1998, s. 3, for "Deputy Director" (w.e.f. 1-10-1998). Earlier substituted as "Deputy Director" for "Deputy Director of Inspection" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
2. Subs. by s. 3, *ibid*., for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier substituted as "Deputy Commissioner" for "Inspecting Assistant Commissioner" by s. 2, *ibid*. (w.e.f. 1-4-1988).
3. Subs. by s. 3, *ibid*., for "Assistant Director" (w.e.f. 1-10-1998). Earlier substituted as "Assistant Director" for "Assistant Director of Inspection" by s. 2, *ibid*. (w.e.f. 1-4-1988).
4. Subs. by s. 3, *ibid*., "Assistant Commissioner" (w.e.f. 1-10-1998). Earlier substituted as "Assistant Commissioner" for "or Income tax officer" by s. 37, *ibid*. (w.e.f. 1-4-1988).
5. Ins. by Act 33 of 2009, s. 51 (w.e.f. 1-6-1994).
6. Subs. by Act 41 of 1975, s. 35, for "building or place" (w.e.f. 1-10-1975).
7. Ins. by s. 35, *ibid*. (w.e.f. 1-10-1975).
8. Ins. by Act 20 of 2002, s. 56 (w.e.f. 1-6-2002).
9. Ins. by Act 32 of 2003, s. 59 (w.e.f. 1-6-2003).

[1][Provided that where any building, place, vessel, vehicle or aircraft referred to in clause (*i*) is within the area of jurisdiction of any [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner], but such [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner] has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*), then, notwithstanding anything contained in [4][section 120], it shall be competent for him to exercise the powers under this sub-section in all cases where he has reason to believe that any delay in getting the authorisation from the [5][Principal Chief Commissioner or Chief Commissioner] or [6][Principal Commissioner or Commissioner] having jurisdiction over such person may be prejudicial to the interests of the revenue:]

[7][Provided further that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the authorised officer may serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it, except with the previous permission of such authorised officer and such action of the authorised officer shall be deemed to be seizure of such valuable article or thing under clause (*iii*):]

[8][Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business:]

[9][Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.]

[10][*Explanation*.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.]

[11][(*1A*) Where any [5][Principal Chief Commissioner or Chief Commissioner] or [6][Principal Commissioner or Commissioner], in consequence of information in his possession, has reason to suspect that any books of account, other documents, money, bullion, jewellery or other valuable article or thing in respect of which an officer has been authorised by the [12][Principal Director General or Director General] or [13][Principal Director or Director] or any other [5][Principal Chief Commissioner or Chief Commissioner] or [6][Principal Commissioner or Commissioner] or [14][Additional Director or Additional Commissioner]

1. Ins. by Act 41 of 1975, s. 35(w.e.f. 1-10-1975).
2. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013). Earlier substituted as "Chief Commissioner or Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
3. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013). Earlier substituted as "Chief Commissioner or Commissioner" by s. 2, *ibid*. (w.e.f. 1-4-1988).
4. Subs. by Act 4 of 1988, s. 37, for "section 121" (w.e.f. 1-4-1988).
5. Subs. by Act 25 of 2014, s. 4, "Chief Commissioner or Commissioner" (w.e.f. 1-6-2013). Earlier substituted as "Chief Commissioner or Commissioner" for "Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
6. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).
7. Ins. by Act 26 of 1988, s. 34 (w.e.f. 1-4-1989).
8. Ins. by Act 32 of 2003, s. 59 (w.e.f. 1-6-2003).
9. Ins. by Act 33 of 2009, s. 51 (w.e.f. 1-4-2009).
10. Ins. by Act 7 of 2017, s. 50 (w.e.f. 1-4-1962).
11. Ins. by Act 41 of 1975, s. 35 (w.e.f. 1-10-1975).
12. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.e.f. 1-6-2013). Earlier substituted as "Director General or Director" for "Director of Inspection" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
13. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).
14. Subs. by Act 33 of 2009, s. 51, for "any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board" (w.e.f. 1-6-1994).

[1][or Joint Director or Joint Commissioner] to take action under clauses (*i*) to (*v*) of sub-section (*1*) are or is kept in any building, place, vessel, vehicle or aircraft not mentioned in the authorisation under sub-section (*1*), such [2][Principal Chief Commissioner or Chief Commissioner] or [3][Principal Commissioner or Commissioner] may, notwithstanding anything contained in [4][section 120], authorise the said officer to take action under any of the clauses aforesaid in respect of such building, place, vessel, vehicle or aircraft.]

[5][*Explanation*.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.]

(*2*) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (*1*) [6][or sub-section (*1A*)] and it shall be the duty of every such officer to comply with such requisition.

(*3*) The authorised officer may, where it is not practicable to seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing, [7][for reasons other than those mentioned in the second proviso to sub-section (*1*),] serve an order on the owner or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

[8][*Explanation*.—For the removal of doubts, it is hereby declared that serving of an order as aforesaid under this sub-section shall not be deemed to be seizure of such books of account, other documents, money, bullion, jewellery or other valuable article or thing under clause (*iii*) of sub-section (*1*).]

(*4*) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books of account, documents, money, bullion, jewellery or other valuable article or thing and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.

[8][*Explanation*.—For the removal of doubts, it is hereby declared that the examination of any person under this sub-section may be not merely in respect of any books of account, other documents or assets found as a result of the search, but also in respect of all matters relevant for the purposes of any investigation connected with any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act.]

[6][(*4A*) Where any books of account, other documents, money, bullion, jewellery or other valuable article or thing are or is found in the possession or control of any person in the course of a search, it may be presumed—

(*i*) that such books of account, other documents, money, bullion, jewellery or other valuable article or thing belong or belongs to such person;

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1. Ins. by Act 33 of 2009, s. 51, (w.e.f. 1-10-1998).
2. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013). Earlier substituted as "Chief Commissioner or Commissioner" for "Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
3. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).
4. Subs. by Act 4 of 1988, s. 37, for "section 121" (w.e.f. 1-4-1988).
5. Ins. by Act 7 of 2017, s. 50 (w.e.f. 1-10-1975).
6. Ins. by Act 41 of 1975, s. 35 (w.e.f. 1-10-1975).
7. Ins. by Act 26 of 1988, s. 34 (w.e.f. 1-4-1989).
8. Ins. by Act 4 of 1988, s. 37 (w.e.f. 1-4-1989).

(*ii*) that the contents of such books of account and other documents are true; and

(*iii*) that the signature and every other part of such books of account and other documents which purport to be in the handwriting of any particular person or which may reasonably be assumed to have been signed by, or to be in the handwriting of, any particular person, are in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested.]

[1]* * * * *

(*8*) The books of account or other documents seized under sub-section (*1*) [2][or sub-section (*1A*)] shall not be retained by the authorised officer for a period exceeding [3][thirty days from the date of the order of assessment under [4][section 153A or clause (*c*) of section 158BC]] unless the reasons for retaining the same are recorded by him in writing and the approval of the [5][[6][Principal Chief Commissioner or Chief Commissioner], [7][Principal Commissioner or Commissioner], [8][Principal Director General or Director General] or [9][Principal Director or Director]] for such retention is obtained:

Provided that the [5][[6][Principal Chief Commissioner or Chief Commissioner], [7][Principal Commissioner or Commissioner], [8][Principal Director General or Director General] or [9][Principal Director or Director]] shall not authorise the retention of the books of account and other documents for a period exceeding thirty days after all the proceedings under the Indian Income-tax Act, 1922 (11 of 1922), or this Act in respect of the years for which the books of account or other documents are relevant are completed.

[10][(*8A*) An order under sub-section (*3*) shall not be in force for a period exceeding sixty days from the date of the order.]

(*9*) The person from whose custody any books of account or other documents are seized under sub-section (*1*) [2][or sub-section (*1A*)] may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf, at such place and time as the authorised officer may appoint in this behalf.

[11][(*9A*) Where the authorised officer has no jurisdiction over the person referred to in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*), the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing (hereafter in this section and in sections 132A and 132B referred to as the assets) seized under that sub-section shall be handed over by the authorised officer to the Assessing Officer having jurisdiction over such person within a period of sixty days from the date on which the last of the authorisations for search was executed and thereupon the powers exercisable by the authorised officer under sub-section (*8*) or sub-section (*9*) shall be exercisable by such Assessing Officer.]

[12][(*9B*) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to

1. Sub-sections (*5*) to (*7*) omitted by Act 20 of 2002, s. 56 (w.e.f. 1-6-2002).
2. Ins. by Act 41 of 1975, s. 35 (w.e.f. 1-10-1975).
3. Subs. by Act 20 of 2002, s. 56, for "one hundred and eighty days from the date of the seizure" (w.e.f. 1-6-2002).
4. Subs. by Act 32 of 2003, s. 59, for "under clause (*c*) of section 158BC" (w.e.f. 1-6-2003).
5. Subs. by Act 26 of 1997, s. 41, for "Chief Commissioner or Commissioner" (w.e.f. 1-10-1996).
6. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).
7. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).
8. Subs. by s. 4, *ibid*., for "Director General" (w.e.f. 1-6-2013).
9. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).
10. Subs. by Act 20 of 2002, s. 56, for sub-section (*8A*) (w.e.f. 1-6-2002).
11. Subs. by s. 56, *ibid*., for sub-section (*9A*) (w.e.f. 1-6-2002).
12. Ins. by Act 7 of 2017, s. 50 (w.e.f. 1-4-2017).

be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purpose, the provisions of the Second Schedule shall, *mutatis mutandis*, apply.

(*9C*) Every provisional attachment made under sub-section (*9B*) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (*9B*).

(*9D*) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of sixty days from the date of receipt of such reference.]

(*10*) If a person legally entitled to the books of account or other documents seized under sub-section (*1*) [1][or sub-section (1A)] objects for any reason to the approval given by the [2][[3][Principal Chief Commissioner or Chief Commissioner], [4][Principal Commissioner or Commissioner], [5][Principal Director General or Director General] or [6][Principal Director or Director]] under sub-section (*8*), he may make an application to the Board stating therein the reasons for such objection and requesting for the return of the books of account or other documents [7][and the Board may, after giving the applicant an opportunity of being heard, pass such orders as it thinks fit].

[8]* * * * *

[9][(*13*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under sub-section (*1*) or sub-section (*1A*).]

(*14*) The Board may make rules in relation to any search or seizure under this section; in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer—

(*i*) for obtaining ingress into [10][any building, place, vessel, vehicle or aircraft] to be searched where free ingress thereto is not available;

(*ii*) for ensuring safe custody of any books of account or other documents or assets seized.

[11][*Explanation* 1.—For the purposes of sub-sections (*9A*), (*9B*) and (*9D*), with respect to "execution of an authorisation for search", the provisions of sub-section (2) of section 153B shall apply.]

Explanation 2.—In this section, the word "proceeding" means any proceeding in respect of any year, whether under the Indian Income-tax Act, 1922 (11 of 1922), or this Act, which may be pending on the date on which a search is authorised under this section or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.]

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1. Ins. by Act 41 of 1975, s. 35 (w.e.f. 1-10-1975).
2. Subs. by Act 26 of 1997, s. 41, for "Chief Commissioner or Commissioner" (w.e.f. 1-10-1996).
3. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).
4. Subs. by s. 4, *ibid*., for "Commissioner" (w.e.f. 1-6-2013).
5. Subs. by s. 4, *ibid*., for "Director General" (w.e.f. 1-6-2013).
6. Subs. by s. 4, *ibid*., for "Director" (w.e.f. 1-6-2013).
7. Ins. by Act 20 of 2002, s. 56 (w.e.f. 1-6-2002).
8. Sub-sections (*11*), (*11A*) and (*12*) omitted by Act 20 of 2002, s. 56 (w.e.f. 1-6-2002).
9. Subs. by Act 41 of 1975, s. 35, for sub-section (*13*) (w.e.f. 1-10-1975).
10. Subs. by s. 35, *ibid*., for "such building or place" (w.e.f. 1-10-1975).
11. Subs. by Act 7 of 2017, s. 50, for *Explanation* 1 (w.e.f. 1-4-2017).

[1][**132A. Powers to requisition books of account, etc.**—(*1*) Where the [2][[3][Principal Director General or Director General] or [4][Principal Director or Director]] or the [5][[6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner]], in consequence of information in his possession, has reason to believe that—

(*a*) any person to whom a summons under sub-section (*1*) of section 37 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (*1*) of section 131 of this Act, or a notice under sub-section (4) of section 22 of the Indian Income-tax Act, 1922, or under sub-section (1) of section 142 of this Act was issued to produce, or cause to be produced, any books of account or other documents has omitted or failed to produce, or cause to be produced, such books of account or other documents, as required by such summons or notice and the said books of account or other documents have been taken into custody by any officer or authority under any other law for the time being in force, or

(*b*) any books of account or other documents will be useful for, or relevant to, any proceeding under the Indian Income-tax Act, 1922 (11 of 1922), or under this Act and any person to whom a summons or notice as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, such books of account or other documents on the return of such books of account or other documents by any officer or authority by whom or which such books of account or other documents have been taken into custody under any other law for the time being in force, or

(*c*) any assets represent either wholly or partly income or property which has not been, or would not have been, disclosed for the purposes of the Indian Income-tax Act, 1922 (11 of 1922), or this Act by any person from whose possession or control such assets have been taken into custody by any officer or authority under any other law for the time being in force,

then, the [2][[3][Principal Director General or Director General] or [8][Principal Director or Director]] or the [5][[6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner]] may authorise any [9][Additional Director, Additional Commissioner,] [10][Joint Director], [11][Joint Commissioner], [12][Assistant Director or Deputy Director] or [13][Assessing Officer] [hereafter in this section and in sub-section (*2*) of section 278D referred to as the requisitioning officer] to require the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, to deliver such books of account, other documents or assets to the requisitioning officer.

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1. Ins. by Act 41 of 1975, s. 36 (w.e.f. 1-10-1975).

2. Subs. by Act 4 of 1988, s. 2, for "Director of Inspection" (w.e.f. 1-4-1988).

3. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).

4. Subs. by s. 4, *ibid*., for "Director" (w.r.e.f. 1-6-2013).

5. Subs. by Act 4 of 1988, s. 2, for "Commissioner" (w.e.f. 1-4-1988).

6. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.*, for "Commissioner" (w.r.e.f. 1-6-2013).

8. Subs. by s. 4, *ibid.*, for "Director" (w.r.e.f. 1-6-2013).

9. Ins. by Act 33 of 2009, s. 52 (w.e.f. 1-6-1994).

10. Subs. by Act 21 of 1998, s. 3, for "Deputy Director" (w.e.f. 1-10-1998). Earlier substituted as "Deputy Director" by Act 4 of 1988, s. 2, for "Deputy Director of Inspection" (w.e.f. 1-4-1988).

11. Subs. by s. 3, *ibid*., for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier substituted as "Deputy Commissioner" by Act 4 of 1988, s. 2, for "Inspecting Assistant Commissioner" (w.e.f. 1-4-1988).

12. Subs. by s. 3, *ibid*., for "Assistant Director" (w.e.f. 1-10-1998). Earlier substituted as "Assistant Director" by Act 4 of 1988, s. 2 for "Assistant Director of Inspection" (w.e.f. 1-4-1988).

13. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).

[1][*Explanation*:—For the removal of doubts, it is hereby declared that the reason to believe, as recorded y the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.]

(*2*) On a requisition being made under sub-section (*1*), the officer or authority referred to in clause (*a*) or clause (*b*) or clause (*c*), as the case may be, of that sub-section shall deliver the books of account, other documents or assets to the requisitioning officer either forthwith or when such officer or authority is of the opinion that it is no longer necessary to retain the same in his or its custody.

(*3*) Where any books of account, other documents or assets have been delivered to the requisitioning officer, the provisions of sub-sections (*4A*) to (*14*) (both inclusive) of section 132 and section 132B shall, so far as may be, apply as if such books of account, other documents or assets had been seized under sub-section (*1*) of section 132 by the requisitioning officer from the custody of the person referred to in clause (*a*) or clause (b) or clause (*c*), as the case may be, of sub-section (*1*) of this section and as if for the words "the authorised officer" occurring in any of the aforesaid sub-sections (*4A*) to (*14*), the words "the requisitioning officer" were substituted.]

[2][[3]**[132B]. Application of seized or requisitioned assets.**—(*1*) The assets seized under section 132 or requisitioned under section 132A may be dealt with in the following manner, namely:—

(*i*) the amount of any existing liability under this Act, the Wealth-tax Act, 1957 (27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift-tax Act, 1958 (18 of 1958) and the Interest-tax Act, 1974 (45 of 1974), and the amount of the liability determined on completion of the assessment [4][under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be] (including any penalty levied or interest payable in connection with such assessment) and in respect of which such person is in default or is [5][deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (*1*) of section 245C, may be recovered out of such assets]:

[6][Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained] to the satisfaction of the Assessing Officer, the amount of any existing liability referred to in this clause may be recovered out of such asset and the remaining portion, if any, of the asset may be released, with the prior approval of the [7][Principal Chief Commissioner or Chief Commissioner] or [8][Principal Commissioner or Commissioner], to the person from whose custody the assets were seized:

Provided further that such asset or any portion thereof as is referred to in the first proviso shall be released within a period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed:

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1. Ins. by Act 7 of 2017, s. 51 (w.e.f. 1-10-1975).

2. Section 132A renumbered as section 132B thereof by Act 41 of 1975, s. 36 (w.e.f. 1-10-1975).

3. Subs. by Act 20 of 2002, s. 57, for section 132B (w.e.f. 1-6-2002).

4. Subs. by Act 32 of 2003, s. 60, for "under Chapter XIVB for the block period" (w.e.f. 1-6-2003).

5. Subs. by Act 20 of 2015, s. 34, for "deemed to be in default, may be recovered out of such assets" (w.e.f. 1-6-2015).

6. Subs. by Act 32 of 2003, s. 60, for "Provided that where the nature and source of acquisition of any such asset is explained" (w.e.f. 1-6-2003).

7. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).

8. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).

(*ii*) if the assets consist solely of money, or partly of money and partly of other assets, the Assessing Officer may apply such money in the discharge of the liabilities referred to in clause (*i*) and the assessee shall be discharged of such liability to the extent of the money so applied;

(*iii*) the assets other than money may also be applied for the discharge of any such liability referred to in clause (*i*) as remains undischarged and for this purpose such assets shall be deemed to be under distraint as if such distraint was effected by the Assessing Officer or, as the case may be, the Tax Recovery Officer under authorisation from the [1][Principal Chief Commissioner or Chief Commissioner] or [2][Principal Commissioner or Commissioner] under sub-section (*5*) of section 226 and the Assessing Officer or, as the case may be, the Tax Recovery Officer may recover the amount of such liabilities by the sale of such assets and such sale shall be effected in the manner laid down in the Third Schedule.

(*2*) Nothing contained in sub-section (*1*) shall preclude the recovery of the amount of liabilities aforesaid by any other mode laid down in this Act.

(*3*) Any assets or proceeds thereof which remain after the liabilities referred to in clause (*i*) of sub-section (*1*) are discharged shall be forthwith made over or paid to the persons from whose custody the assets were seized.

(*4*) (*a*) The Central Government shall pay simple interest at the rate of [3][one-half per cent. for every month or part of a month] on the amount by which the aggregate amount of money seized under section 132 or requisitioned under section 132A, as reduced by the amount of money, if any, released under the first proviso to clause (*i*) of sub-section (*1*), and of the proceeds, if any, of the assets sold towards the discharge of the existing liability referred to in clause (*i*) of sub-section (*1*), exceeds the aggregate of the amount required to meet the liabilities referred to in clause (*i*) of sub-section (*1*) of this section.

(*b*) Such interest shall run from the date immediately following the expiry of the period of one hundred and twenty days from the date on which the last of the authorisations for search under section 132 or requisition under section 132A was executed to the date of completion of the assessment [4][under section 153A or under Chapter XIVB].

[5][*Explanation 1*.]—In this section,—

(*i*) "block period" shall have the meaning assigned to it in clause (a) of section 158B;

(*ii*) "execution of an authorisation for search or requisition" shall have the same meaning as assigned to it in Explanation 2 to section 158BE.]

[6][*Explanation 2*.—For the removal of doubts, it is hereby declared that the "existing liability" does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII.]

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1. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.e.f. 1-6-2013).
2. Subs. by s. 4, *ibid.*, for "Commissioner" (w.e.f. 1-6-2013).
3. Subs. by Act 22 of 2007, s. 43, for "six per cent. per annum" (w.e.f. 1-4-2008). Earlier "six" was substituted for "eight" by Act 54 of 2003, s. 6 (w.e.f. 8-9-2003).
4. Subs. by Act 32 of 2003, s. 60, for "under Chapter XIV-B" (w.e.f. 1-6-2003).
5. The *Explanation* renumbered as *Explanation* 1 thereof by Act 17 of 2013, s. 34 (w.e.f. 1-6-2013).
6. Ins. by s. 34, *ibid.* (w.e.f. 1-6-2013).

133. Power to call for information.—The [1][Assessing Officer], the [2][Deputy Commissioner (Appeals)], [3][the [4][Joint Commissioner] or the Commissioner (Appeals)] may, for the purposes of this Act,—

(*1*) require any firm to furnish him with a return of the names and addresses of the partners of the firm and their respective shares;

(*2*) require any Hindu undivided family to furnish him with a return of the names and addresses of the manager and the members of the family;

(*3*) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian or agent, and of their addresses;

(*4*) require any assessee to furnish a statement of the names and addresses of all persons to whom he has paid in any previous year rent, interest, commission, royalty or brokerage, or any annuity, not being any annuity taxable under the head "Salaries" amounting to more than [5][one thousand rupees, or such higher amount as may be prescribed], together with particulars of all such payments made;

(*5*) require any dealer, broker or agent or any person concerned in the management of a stock or commodity exchange to furnish a statement of the names and addresses of all persons to whom he or the exchange has paid any sum in connection with the transfer, whether by way of sale, exchange or otherwise, of assets, or on whose behalf or from whom he or the exchange has received any such sum, together with particulars of all such payments and receipts;

(*6*) require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified by the [1][Assessing Officer], the [6][Deputy Commissioner (Appeals)], [3][the [7][Joint Commissioner] or the Commissioner (Appeals)], giving information in relation to such points or matters as, in the opinion of the [1][Assessing Officer], the [6][Deputy Commissioner (Appeals)], [3][the [7][Joint Commissioner] or the Commissioner (Appeals)], will be useful for, or relevant to, any [8][enquiry or] proceeding under this Act:

[9][Provided that the powers referred to in clause (*6*), may also be exercised by the [10][Principal Director General or Director General], the [11][Principal Chief Commissioner or Chief Commissioner], the [12][Principal Director or Director] [13][or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director]:

[8][Provided further that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of [12][Principal Director or Director] or [13][Principal Commissioner or Commissioner [14][, other than the Joint Director or Deputy Director or Assistant Director,]] without the prior approval of the [12][Principal Director or Director] or, as the case may be, the [13][Principal Commissioner or Commissioner]:]

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1. Subs. by Act 4 of 1988, s. 2, for "Income-tax" (w.e.f. 1-4-1988).
2. Subs. by s. 2, *ibid.*, for "Appellate Assistant Commissioner" (w.e.f. 1-4-1988)
3. Subs. by Act 29 of 1977, s. 39 and the Fifth Schedule, for "or the Inspecting Assistant Commissioner" (w.e.f. 10-7-1978).
4. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier Substituted by 4 of 1988, s. 2 (w.e.f. 1-4-1988).
5. Subs. by Act 4 of 1988, s. 39, for "four hundred rupees" (w.e.f. 1-4-1988).
6. Subs. by s. 2, *ibid*., for "Appellate Assistant Commissioner" (w.e.f. 1-4-1988).
7. Subs. by 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier Substituted as "Deputy Commissioner" for "Inspecting Assistant Commissioner" by 4 of 1988, s. 2 (w.e.f. 1-4-1988).
8. Ins. by Act 22 of 1995, s. 27 (w.e.f. 1-7-1995).
9. Ins. by Act 4 of 1988, s. 39 (w.e.f. 1-4-1989).
10. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).
11. Subs. by s. 4, *ibid*., for "Chief Commissioner" (w.r.e.f. 1-6-2013).
12. Subs. by s. 4, *ibid*., for "Director" (w.r.e.f. 1-6-2013).
13. Subs. by Act 7 of 2017, s. 52, for "and the Principal Commissioner or Commissioner" (w.e.f. 1-4-2017).
14. Ins. by s. 52, *ibid*. (w.e.f. 1-4-2017).

[1][Provided also that for the purposes of an agreement referred to in section 90 or section 90A, an income-tax authority notified under sub-section (*2*) of section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority.]

[2][**133A. Power of survey.**—(*1*) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may enter—

(*a*) any place within the limits of the area assigned to him, or

(*b*) any place occupied by any person in respect of whom he exercises jurisdiction, [3][or]

[3][(*c*) any place in respect of which he is authorised for the purposes of this section by such income-tax authority, who is assigned the area within which such place is situated or who exercises jurisdiction in respect of any person occupying such place,]

[4][at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—]

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place,

(*ii*) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(*iii*) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act.

Explanation.—For the purposes of this sub-section, a place where a business or profession [5][or activity for charitable purpose] is carried on shall also include any other place, whether any business or profession [5][or activity for charitable purpose] is carried on therein or not, in which the person carrying on the business or profession [5][or activity for charitable purpose] states that any of his books of account or other documents or any part of his cash or stock or other valuable article or thing relating to his business or profession [5][or activity for charitable purpose] are or is kept.

(*2*) An income-tax authority may enter any place of business or profession referred to in sub-section (*1*) only during the hours at which such place is open for the conduct of business or profession and, in the case of any other place, only after sunrise and before sunset.

[6][(*2A*) Without prejudice to the provisions of sub-section (*1*), an income-tax authority acting under this sub-section may for the purpose of verifying that tax has been deducted or collected at source in accordance with the provisions under sub-heading B of Chapter XVII or under sub-heading BB of Chapter XVII, as the case may be, enter, after sunrise and before sunset, any office, or any other place where business or profession is carried on, within the limits of the area assigned to him, or any place in respect of which he is authorised for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated, where books of account or documents are kept and

1. Ins. by Act 8 of 2011, s. 23 (w.e.f. 1-6-2011).
2. Subs. by Act 41 of 1975, s. 37, for section 133A (w.e.f. 1-10-1975).
3. Ins. by Act 22 of 1995, s. 28 (w.e.f. 1-7-1995).
4. Subs. by Act 7 of 2017, s. 53, for certain words (w.e.f. 1-4-2017).
5. Ins. by s. 53, *ibid*. (w.e.f. 1-4-2017).
6. Ins. by Act 25 of 2014, s. 47 (w.e.f. 1-10-2014).

require the deductor or the collector or any other person who may at that time and place be attending in any manner to such work,—

(*i*) to afford him the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place, and

(*ii*) to furnish such information as he may require in relation to such matter.]

(*3*) An income-tax authority acting under this section may,—

(*i*) if he so deems necessary, place marks of identification on the books of account or other documents inspected by him and make or cause to be made extracts or copies therefrom,

[1][(*ia*) impound and retain in his custody for such period as he thinks fit any books of account or other documents inspected by him:

Provided that such income-tax authority shall not—

(*a*) impound any books of account or other documents except after recording his reasons for so doing; or

[2][(*b*) retain in his custody any such books of account or other documents for a period exceeding fifteen days (exclusive of holidays) without obtaining the approval of the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or the Director General or the Principal Commissioner or the Commissioner or the Principal Director or the Director therefor, as the case may be,]]

(*ii*) make an inventory of any cash, stock or other valuable article or thing checked or verified by him,

(*iii*) record the statement of any person which may be useful for, or relevant to, any proceeding under this Act :

[3][Provided that no action under clause (*ia*) or clause (*ii*) shall be taken by an income-tax authority acting under sub-section (*2A*).]

(*4*) An income-tax authority acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, [4]*** any cash, stock or other valuable article or thing.

(*5*) Where, having regard to the nature and scale of expenditure incurred by an assessee, in connection with any function, ceremony or event, the income-tax authority is of the opinion that it is necessary or expedient so to do, he may, at any time after such function, ceremony or event, require the assessee by whom such expenditure has been incurred or any person who, in the opinion of the income-tax authority, is likely to possess information as respects the expenditure incurred, to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceeding under this Act and may have the statements of the assessee or any other person recorded and any statement so recorded may thereafter be used in evidence in any proceeding under this Act.

(*6*) If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers under [5][sub-section (*1*) of section 131] for enforcing compliance with the requirement made:

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1. Ins. by Act 20 of 2002, s. 58 (w.e.f. 1-6-2002).
2. Subs. by Act 25 of 2014, s. 47, *ibid*., for clause (*ia*) (w.e.f. 1-10-2014).
3. Ins. by s. 47, *ibid*. (w.e.f. 1-10-2014).
4. The words "any books of account or other documents or" omitted by Act 20 of 2002, s. 58 (w.e.f. 1-6-2002).
5. Subs. by Act 4 of 1988, s. 126, for "sub-sections (*1*) and (*2*) of section 131 (w.e.f. 1-4-1989).

[1][Provided that no action under sub-section (*1*) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.]

Explanation.—In this section,—

[2][(*a*) "income-tax authority" means a [3][Principal Commissioner or Commissioner], a Joint Commissioner, a [4][Principal Director or Director], a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (i) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax;]

(*b*) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

[5][**133B.Power to collect certain information.**—(*1*) Notwithstanding anything contained in any other provision of this Act, an income-tax authority may, for the purpose of collecting any information which may be useful for, or relevant to, the purposes of this Act, enter—

(*a*) any building or place within the limits of the area assigned to such authority ; or

(*b*) any building or place occupied by any person in respect of whom he exercises jurisdiction,

at which a business or profession is carried on, whether such place be the principal place or not of such business or profession, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession to furnish such information as may be prescribed.

(*2*) An income-tax authority may enter any place of business or profession referred to in sub-section (*1*) only during the hours at which such place is open for the conduct of business or profession.

(*3*) For the removal of doubts, it is hereby declared that an income-tax authority acting under this section shall, on no account, remove or cause to be removed from the building or place wherein he has entered, any books of account or other documents or any cash, stock or other valuable article or thing.

Explanation.—In this section, "income-tax authority" means a [6][Joint Commissioner], an [7][Assistant Director]or [8][Deputy Director] or an [9][Assessing Officer], and includes an Inspector of Income-tax who has been authorised by the [9][Assessing Officer] to exercise the powers conferred under this section in relation to the area in respect of which the [9][Assessing Officer] exercises jurisdiction or part thereof.]

[10][**133C.Power to call for information by prescribed income-tax authority.**—[11]**[**(*1*)**]** The prescribed income-tax authority may, for the purposes of verification of information in its possession relating to any person, issue a notice to such person requiring him, on or before a date to be specified therein, to furnish information or documents verified in the manner specified therein, which may be useful for, or relevant to, any inquiry or proceeding under this Act.

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1. Ins. by Act 32 of 2003, s. 61 (w.e.f. 1-6-2003).
2. Subs.by s. 61, *ibid.*, for clause (*a*) (w.e.f. 1-6-2003).
3. Subs. by Act 25 of 2014, s. 4, for "Commissioner" (w.r.e.f. 1-6-2013).
4. Subs. by s. 4, *ibid*., for "Director" (w.r.e.f. 1-6-2013).
5. Ins. by Act 23 of 1986, s. 27 (w.e.f. 13-5-1986).
6. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
7. Subs. by Act 4 of 1988, s. 2, for "Assistant Director of Inspection" (w.e.f. 1-4-1988).
8. Subs. by s. 2, *ibid*., for "Deputy Director of Inspection" (w.e.f. 1-4-1988).
9. Subs. by s. 2, *ibid*., for "Income-tax Officer" (w.e.f. 1-4-1988).
10. Ins. by Act 25 of 2014, s. 48 (w.e.f. 1-10-2014).
11. Section 133C renumbered as sub-section (*1*) thereof by Act 28 of 2016, s. 66 (w.e.f. 1-6-2016).

[1]**[**(*2*) Where any information or document has been received in response to a notice issued under sub-section (*1*), the prescribed income-tax authority may process such information or document and make available the outcome of such processing to the Assessing Officer.**]**

[2][(*3*) The Board may make a scheme for centralized issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.]

Explanation.—In this section, the term "proceeding" shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 133A.]

134. Power to inspect registers of companies.—The [3][Assessing Officer], the [4][Deputy Commissioner (Appeals)], [5][the [6][Joint Commissioner] or the Commissioner (Appeals)], or any person subordinate to him authorised in writing in this behalf by the [3][Assessing Officer], the [4][Deputy Commissioner (Appeals)], [5][the [6][Joint Commissioner] or the Commissioner (Appeals)], may inspect, and if necessary, take copies, or cause copies to be taken, of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

135. Power of [7][[8][**Principal Director General or Director General]] or** [9][Principal **Director orDirector],** [10][[11][Principal Chief **Commissioner or Chief Commissioner]] or** [12][Principal Commissioner **or Commissioner] and** [13][Joint Commissioner].—The [8][Principal Director General or Director General] or [9][Principal Director or Director], the [10][[11][Principal Chief Commissioner or Chief Commissioner]] or [12][Principal Commissioner or Commissioner] and the [13][Joint Commissioner] shall be competent to make any enquiry under this Act, and for this purpose shall have all the powers that an[3][Assessing Officer] has under this Act in relation to the making of enquiries.

136. Proceedings before income-tax authorities to be judicial proceedings.—Any proceeding under this Act before an income-tax authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860) [14][and every income-tax authority shall be deemed to be a Civil Court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).]

D. Disclosure of information

[137. Disclosure of information prohibited.]*Omitted by the Finance Act,* 1964 (5 *of* 1964), *s.* 32 (*w.e.f.* 1-4-1964).

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1. Ins. by Act 28 of 2016, s. 66 (w.e.f. 1-6-2016).
2. Ins. by Act 7 of 2017, s. 54 (w.e.f. 1-4-2017).
3. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
4. Subs. by s. 2, *ibid*., for "Appellate Assistant Commissioner" (w.e.f. 1-4-1988).
5. Subs. by Act 29 of 1977, s. 10, for "or the Inspecting Assistant Commissioner" (w.e.f. 10-7-1978).Earlier Subs. by Act 21 of 1998, s. 3, for "Deputy commissioner" (w.e.f. 1-10-1998). Which was earlier subs. by 4 of 1988, s. 2, for "Inspecting Assistant Commissioner" (w.e.f. 1-4-1988).
6. Subs. by Act 21 of 1998, s. 3, for "Deputy commissioner" (w.e.f. 1-10-1998). Earlier "Deputy commissioner" was substituted for "Inspecting Assistant Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
7. Subs. by Act 4 of 1988, s. 2, for "Director of Inspection" (w.e.f. 1-4-1988).
8. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.r.e.f. 1-6-2013).
9. Subs. by s. 4, *ibid*., for "Director" (w.r.e.f. 1-6-2013)
10. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998). Earlier "Deputy Commissioner" was substituted for "Inspecting Assistant Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988).
11. Subs. by Act 25 of 2014,s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).
12. Subs. by s. 4, *ibid.,* for "Commissioner" (w.r.e.f. 1-6-2013).
13. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998).
14. Ins. by Act 32 of 1985, s. 28 (w.e.f. 1-4-1974).

[1][**138. Disclosure of information respecting assessees.**—[2][(*1*)(*a*) The Board or any other income-tax authority specified by it by a general or special order in this behalf may furnish or cause to be furnished to—

(*i*) any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty or cess, or to dealings in foreign exchange as defined in [3][clause (*n*) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999)]; or

(*ii*) such officer, authority or body performing functions under any other law as the Central Government may, if in its opinion it is necessary so to do in the public interest, specify by notification in the Official Gazette in this behalf,

any such information [4][received or obtained by any income-tax authority in the performance of his functions under this Act], as may, in the opinion of the Board or other income-tax authority, be necessary for the purpose of enabling the officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the [5][[6][PrincipalChief Commissioner or Chief Commissioner] or [7][PrincipalCommissioner or Commissioner]] in the prescribed form for any information relating to any assessee[8][received or obtained by any income-tax authority in the performance of his functions under this Act], the [5][[6][Principal Chief Commissioner or Chief Commissioner] or [7][Principal Commissioner or Commissioner]] may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for [9]*** and his decision in this behalf shall be final and shall not be called in question in any court of law.]

(*2*) Notwithstanding anything contained in sub-section (*1*) or any other law for the time being in force, the Central Government may, having regard to the practices and usages customary or any other relevant factors, by order notified in the Official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such class of assessees or except to such authorities as may be specified in the order.]

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1. Subs. by Act 5 of 1964, s. 33, for section 138 (w.e.f. 1-4-1964).

2. Subs. by Act 20 of 1967, s. 28, for sub-section (*1*) (w.e.f. 1-4-1967).

3. Subs. by Act 17 of 2013, s. 35, for "section 2 (*d*) of the Foreign Exchange Regulation Act, 1947 (7 of 1947)" (w.e.f. 1-4-2013).

4. Subs. by Act 4 of 1988, s. 41, for "relating to any assessee in respect of any assessment made under this Act or under the Indian Income-tax Act, 1922 (11 of 1922)" (w.e.f. 1-4-1989).

5. Subs. by s. 2, *ibid*., for "Commissioner" (w.e.f. 1-4-1988).

6. Subs. by Act 25 of 2014, s. 4, for "Chief Commissioner" (w.r.e.f. 1-6-2013).

7. Subs. by s. 4, *ibid.,* for "Commissioner" (w.r.e.f. 1-6-2013).

8. Subs. by Act 4 of 1988, s. 41, for "in respect of any assessment made under this Act or the Indian Income-tax Act, 1922 (11 of 1922), on or after the 1st day of April, 1960" (w.e.f. 1-4-1989).

9. The words "in respect of that assessment only" omitted by s. 41, *ibid*. (w.e.f. 1-4-1989).

CHAPTER XIV

PROCEDURE FOR ASSESSMENT

139. Return of income.—[1][(*1*) Every person,—

(*a*) being a [2][company or a firm]; or

(*b*) being a person [3][other than a company or a firm], if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax,

shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided that a person referred to in clause (*b*), who is not required to furnish a return under this sub-section and residing in such area as may be specified by the Board in this behalf by notification in the Official Gazette, and who [4][during the previous year incurs an expenditure of fifty thousand rupees or more towards consumption of electricity or at any time during the previous year]fulfils any one of the following conditions, namely:—

(*i*) is in occupation of an immovable property exceeding a specified floor area, whether by way of ownership, tenancy or otherwise, as may be specified by the Board in this behalf; or

(*ii*) is the owner or the lessee of a motor vehicle other than a two-wheeled motor vehicle, whether having any detachable side car having extra wheel attached to such two-wheeled motor vehicle or not; or

[5]* * * * *

(*iv*) has incurred expenditure for himself or any other person on travel to any foreign country; or

(*v*) is the holder of a credit card, not being an "add-on" card, issued by any bank or institution; or

(*vi*) is a member of a club where entrance fee charged is twenty-five thousand rupees or more,

shall furnish a return, of his income [6][during any previous year ending before the 1st day of April, 2005], on or before the due date in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply:

Providedalso that every [2][company or a firm] shall furnish on or before the due date the return in respect of its income or loss in every previous year:

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1. Subs. by Act 14 of 2001, s. 59, for sub-section (*1*) (w.e.f. 1-4-2001). Earlier substituted by 13 of 1963, s. 8 (w.r.e.f. 1-4-1962). As amended by Act 27 of 1967, s. 4 (w.e.f. 1-10-1967). As so amended by Act 42 of 1970, s. 26 (w.e.f. 1-4-1970). As amended by Act 16 of 1972, s. 26 (w.e.f. 1-4-1972). Amended by Act 4 of 1988, s. 42 (w.e.f. 1-4-1988). As so amended by Act 3 of 1989, s. 20 (w.e.f. 1-4-1989).Earlier amended by Act 12 of 1990, s. 34 (w.e.f. 1-4-1991). Amended by Act 18 of 1992, s. 59 (w.e.f. 1-4-1993).
2. Subs. by Act 18 of 2005, s. 40, for "company" (w.e.f. 1-4-2006).
3. Subs. by s. 40, *ibid*., for "other than a company" (w.e.f. 1-4-2006).
4. Subs. by s. 40, *ibid.*,for "at any time during the previous year" (w.e.f. 1-4-2006).
5. Clause (*iii*) omitted by s. 40, *ibid*. (w.e.f. 1-4-2006).
6. Subs. by Act 21 of 2006, s. 31, for "during the previous year" (w.e.f. 1-4-2006).

[1][Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (*6*) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year,—

(*a*) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or

(*b*) is a beneficiary of any asset (including any financial interest in any entity) located outside India,

shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed:

Provided also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of any asset (including any financial interest in any entity) located outside India where, income, if any, arising from such asset is includible in the income of the person referred to in clause (*a*) of that proviso in accordance with the provisions of this Act:]

[2][Provided alsothat every person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, whether incorporated or not, or an artificial juridical person, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to the [3][provisions of clause (*38*) of section 10 or section 10 or section 10B or section 10BA] or Chapter VIA exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.]

Explanation 1.—For the purposes of this sub-section, the expression "motor vehicle" shall have the meaning assigned to it in clause (*28*) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).

Explanation 2.—In this sub-section, "due date" means,—

(*a*) where the assessee[4][other than an assessee referred to in clause (*aa*)] is—

(*i*) a company[5]***; or

(*ii*) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or

(*iii*) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,

The [6][30th day of September] of the assessment year;

[7][(*aa*) in the case of an assessee[8][who] is required to furnish a report referred to in section 92E, the 30th day of November of the assessment year;

(*b*) in the case of a person other than a company, referred to in the first proviso to this sub-section, the 31st day of October of the assessment year;

(*c*) in the case of any other assessee, the 31st day of July of the assessment year.

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1. Subs. by Act 20 of 2015, s. 35, for the proviso (w.e.f. 1-4-2016). Earlier Substituted by Act 23 of 2012, s. 59 (w.e.f. 1-4-2012).
2. Ins. by Act 18 of 2005, s. 40 (w.e.f. 1-4-2006).
3. Subs. by Act 28 of 2016, s. 67, for "provisions of section 10A" (w.e.f. 1-4-2017).
4. Ins. by Act 23 of 2012, s. 59 (w.e.f. 1-4-2012).
5. The words, brackets and letter "other than a company referred to in clause (*aa*)" omitted by s. 59, *ibid.* (w.e.f. 1-4-2012). Earlier the words were inserted by Act 8 of 2011, s. 24 (w.e.f. 1-4-2011).
6. Subs. by Act 18 of 2008, s. 30, for "30th day of October" (w.e.f. 1-4-2008).
7. Ins. by Act 8 of 2011, s. 24 (w.e.f. -4-2011).
8. Subs. by Act 23 of 2012, s. 59, for "being a company, which" (w.e.f. 1-4-2012).

Explanation 3.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.]

[1][*Explanation* 4.—For the purposes of this section "beneficial owner" in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

Explanation 5.—For the purposes of this section "beneficiary" in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.]

[2][(*1A*) Without prejudice to the provisions of sub-section (*1*), any person, being an individual who is in receipt of income chargeable under the head "Salaries" may, at his option, furnish a return of his income for any previous year to his employer, in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, and such employer shall furnish all returns of income received by him on or before the due date, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and manner as may be specified in that scheme, and in such case, any employee who has filed a return of his income to his employer shall be deemed to have furnisheda return of income under sub-section (*1*), and the provisions of this Act shall apply accordingly.]

[3]* * * * *

[4][(*1B*) Without prejudice to the provisions of sub-section (*1*), any person, being a company or being a person other than a company, required to furnish a return of income under sub-section (*1*), may, at his option, on or before the due date, furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (*1*), and the provisions of this Act shall apply accordingly.]

[5][(*1C*) Notwithstanding anything contained in sub-section (*1*), the Central Government may, by notification in the Official Gazette, exempt any class or classes of persons from the requirement of furnishing a return of income having regard to such conditions as may be specified in that notification.]

[6]* * * * *

(*3*) If any person who [7]*** has sustained a loss in any previous year under the head "Profits and gains of business or profession" or under the head "Capital gains" and claims that the loss or any part thereof should be carried forward under sub-section (*1*) of section 72, or sub-section (*2*) of section 73, [8][or sub-section (*2*) of section 73A] or [9][sub-section (*1*) or sub-section (*3*) of section 74], [10][or sub-section (*3*) of section 74A], he may furnish, within the time allowed under sub-section (*1*), [11]*** a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (*1*).

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1. Ins. by Act 20 of 2015, s. 35 (w.e.f. 1-4-2016).
2. Ins. by Act 20 of 2002, s. 59 (w.e.f. 1-4-2002).Earlier sub-section (*1A*) was amended by 13 of 1963, s. 8 (w.e.f. 14-1962). Earlier amended by 19 of 1970, s. 20 (w.e.f. 1-4-1971).
3. *Explanation* omitted by Act 67 of 1984, s. 25 (w.ef. 1-4-1985).
4. Ins. by Act 32 of 2003, s. 62 (w.e.f. 1-4-2003).
5. Ins. by Act 8 of 2011, s. 24 (w.e.f. 1-6-2011).
6. Sub-section (*2*) omittedby Act 4 of 1988, s. 42 (w.e.f. 1-4-1989).
7. The words "has not been served with a notice under sub-section (*2*)" omitted by Act 4 of 1988, s. 42 (w.e.f. 1-4-1989).
8. Ins. by Act 28 of 2016, s. 67 (w.e.f. 1-4-2016).
9. Subs. by Act 11 of 1987, s. 74, for "sub-section (*1*) of section 74" (w.e.f. 1-4-1988).
10. Ins. by Act 20 of 1974, s. 10 (w.e.f. 1-4-1975).
11. The words "or by the thirty-first day of July of the assessment year relevant to the previous year during which the loss was sustained" by Act 4 of 1988, s. 42 (w.e.f. 1-4-1989).

[1][[2][(*4*) Anyperson who has not furnished a return within the time allowed to him under sub-section (*1*), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.]

[3][(*4A*) Every person in receipt of income derived from property held under trust or other legal obligation wholly for charitable or religious purposes or in part only for such purposes, or of income being voluntary contributions referred to in sub-clause (*iia*) of clause (*24*) of section 2, shall, if the total income in respect of which he is assessable as a representative assessee (the total income for this purpose being computed under this Act without giving effect to the provisions of sections 11 and 12) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (*1*).]]

[4][(*4B*) The chief executive officer (whether such chief executive officer is known as Secretary or by any other designation) of every political party shall, if the total income in respect of which the political party is assessable (the total income for this purpose being computed under this Act without giving effect to the provisions of section 13A) exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income of the previous year in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and all the provisions of this Act, shall, so far as may be, apply as if it were a return required to be furnished under sub-section (*1*).]

[5][(*4C*) Every—

(*a*) [6][researchassociation] referred to in clause (*21*) of section 10;

(*b*) news agency referred to in clause (*22B*) of section 10;

(*c*) association or institution referred to in clause (*23A*) of section 10;

[7][(*ca*)person referred to in clause (*23AAA*) of section 10;]

(*d*) institution referred to in clause (*23B*) of section 10;

(*e*) fund or institution referred to in sub-clause (*iv*) or trust or institution referred to in sub-clause (*v*) or any university or other educational institution referred to in [8][sub-clause (*iiiab*) or] [9][sub-clause (*iiiad*) or sub-clause (*vi*)] or any hospital or other medical institution referred to in [8][sub-clause (*iiiac*) or] [10][sub-clause (*iiiae*) or sub-clause (*via*)] of clause (*23C*) of section 10;

[11][(*ea*) Mutual Fund referred to in clause (*23D*) of section 10;

(*eb*) securitisation trust referred to in clause (*23DA*) of section 10;

[7][(*eba*) InvestorProtection Fund referred to in clause (*23EC*) or clause (*23ED*) of section 10;

(*ebb*) Core Settlement Guarantee Fund referred to in clause (*23EE*) of section 10;]

(*ec*) venture capital company or venture capital fund referred to in clause (*23FB*) of section 10;]

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1. Subs. by Act 4 of 1988, s. 42, for sub-sections (*4*) and (*4a*) (w.e.f. 1-4-1989).
2. Subs. by Act 28 of 2016, s. 67, for sub-section (*4*) (w.e.f. 1-4-2017). Earlier sub-section (*4*) was substituted by Act 4 of 1988, s. 42 (w.e.f. 1-4-1989).
3. Subs. by Act 3 of 1989, s. 20, for sub-section (*4A*) (w.e.f. 1-4-1989). Original sub-section (*4A*) was inserted by Act 19 of 1970, s. 20 (w.e.f. 1-4-1971) and substituted by Act 16 of 1972, s. 26 (w.e.f. 1-4-1973).
4. Ins. by Act 29 of 1978, s. 2 (w.e.f. 1-4-1979).
5. Ins. by Act 20 of 2002, s. 59 (w.e.f. 1-4-2003).
6. Subs. by Act 14 of 2010, s. 32, for "scientific research association" (w.e.f. 1-4-2011).
7. Ins. by Act 7 of 2017, s. 55 (w.e.f. 1-4-2018).
8. Ins. by Act 20 of 2015, s. 35 (w.e.f. 1-4-2016).
9. Subs. by Act 29 of 2006, s. 12, for "sub-clause (*vi*)" (w.r.e.f. 1-4-2006).
10. Subs. by s. 12,*ibid*., for "sub-clause (*via*)" (w.e.f. 1-4-2006).
11. Ins. by Act 25 of 2014, s. 49 (w.e.f. 1-4-2015).