

THE INCOME-TAX ACT, 1961

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- 278B. Offences by companies.
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- 293. Bar of suits in civil courts.
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- 294. Act to have effect pending legislative provision for charge of tax.
- 294A. Power to make exemption, etc., in relation to certain Union territories.
- 295. Power to make rules.
- 296. Rules and certain notifications to be placed before Parliament.
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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE THIRD SCHEDULE.

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THE SEVENTH SCHEDULE.

THE EIGHTH SCHEDULE.

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THE TENTH SCHEDULE.

THE ELEVENTH SCHUDULE.

THE TWELFTH SCHUDELE.

THE THIRTEENTH SCHEDULE.

THE FOURTEENTH SCHEDULE.

THE INCOME-TAX ACT, 1961

ACT NO. 43 OF 1961

[13th September, 1961.]

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

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

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Income-tax Act, 1961.

(2) It extends to the whole of India.

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

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

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

²[(1A)] “agricultural income” means—

³[(a) any rent or revenue derived from land which is situated in India and is used for agricultural purposes;]

(b) any income derived from such land by—

(i) agriculture; or

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

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

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

⁴[Provided that—

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

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

* Subject to verification and confirmation by the Department.

1. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

2. Clause (1) renumbered as clause (1A), *ibid.*, s. 3 (w.e.f. 1-4-1989).

3. Subs. by Act 42 of 1970, s. 2, for sub-clause (a) (w.e.f. 1-4-1962).

4. Subs. by s. 2, *ibid.*, for the proviso (w.e.f. 1-4-1962).

(A) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment board and which has a population of not less than ten thousand^{1***}; or

²[(B) in any area within the distance, measured aerially,—

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

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

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

³[*Explanation* ⁴[1.]—For the removal of doubts, it is hereby declared that revenue derived from land shall not include and shall be deemed never to have included any income arising from the transfer of any land referred to in item (a) or item (b) of sub-clause (iii) of clause (14) of this section.]

⁵[*Explanation* 2.—For the removal of doubts, it is hereby declared that income derived from any building or land referred to in sub-clause (c) arising from the use of such building or land for any purpose (including letting for residential purpose or for the purpose of any business or profession) other than agriculture falling under sub-clause (a) or sub-clause (b) shall not be agricultural income.]

⁶[*Explanation* 3.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income.]

⁷[*Explanation* 4.—For the purposes of clause (ii) of the proviso to sub-clause (c), “population” means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;]

⁸[⁹[(1B)] “amalgamation”, in relation to companies, means the merger of one or more companies with another company or the merger of two or more companies to form one company (the company or companies which so merge being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger, as the amalgamated company) in such a manner that—

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

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

1. Certain words omitted by Act 17 of 2013, s. 3 (w.e.f. 1-4-2014).

2. Subs. by s. 3, *ibid.*, for item (B) (w.e.f. 1-4-2014).

3. Ins. by Act 13 of 1989, s. 3 (w.e.f. 1-4-1970).

4. *Explanation* renumbered as *Explanation* 1 thereof by Act 10 of 2000, s. 3 (w.e.f. 1-4-2001).

5. Ins. by s. 3, *ibid.* (w.e.f. 1-4-2001).

6. Ins. by Act 18 of 2008, s. 3 (w.e.f. 1-4-2009).

7. Ins. by Act 17 of 2013, s. 3 (w.e.f. 1-4-2014).

8. Ins. by Act 20 of 1967, s. 4 (w.e.f. 1-4-1967).

9. Clause (1A) renumbered as clause (1B) thereof by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

(iii) shareholders holding not less than ¹[three-fourths] in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the amalgamation by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company by virtue of the amalgamation,

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

²[(IC) “Additional Commissioner” means a person appointed to be an Additional Commissioner of Income-tax under sub-section (I) of section 117;

(ID) “Additional Director” means a person appointed to be an Additional Director of Income-tax under sub-section (I) of section 117;]

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

³* * * * *

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

(5) “approved gratuity fund” means a gratuity fund which has been and continues to be approved by the ⁴[⁵Principal Chief Commissioner or Chief Commissioner] or ⁶Principal Commissioner or Commissioner]] in accordance with the rules contained in Part C of the Fourth Schedule ;

(6) “approved superannuation fund” means a superannuation fund or any part of a superannuation fund which has been and continues to be approved by the ⁴[⁵Principal Chief Commissioner or Chief Commissioner] or ⁶Principal Commissioner or Commissioner]] in accordance with the rules contained in Part B of the Fourth Schedule;

(7) “assesse” means a person by whom ⁷[any tax] or any other sum of money is payable under this Act, and includes—

(a) every person in respect of whom any proceeding under this Act has been taken for the ⁸[assessment of his income or assessment of fringe benefits] or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;

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

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

⁹[(7A) “Assessing Officer” means the ¹⁰[¹¹Assistant Commissioner or Deputy Commissioner] or ¹²Assistant Director or Deputy Director]] or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (I) or sub-section (2) of section 120 or any other provision of this Act, and the ²Additional Commissioner or]

1. Subs. by Act 27 of 1999, s. 3, for “nine-tenth” (w.e.f. 1-4-2000).

2. Ins. by Act 22 of 2007, s. 3 (w.e.f. 1-6-1994).

3. Sub-section (3) omitted by Act 4 of 1988, s. 126 (w.e.f. 1-4-1988).

4. Subs. by s. 2, *ibid.*, for “Commissioner” (w.e.f. 1-4-1988).

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. Subs. by Act 10 of 1965, s. 4, for “income-tax or super tax” (w.e.f. 1-4-1965).

8. Subs. by Act 18 of 2005, s. 3, for “assessment of his income” (w.e.f. 1-4-2006).

9. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1988).

10. Subs. by Act 33 of 1996, s. 3, for “Assistant Commissioner” (w.e.f. 1-10-1996).

11. Subs. by Act 21 of 1998, s. 3, for “Assistant Commissioner” (w.e.f. 1-10-1998).

12. Subs. by s. 3, *ibid.*, for “Assistant Director” (w.e.f. 1-10-1998).

¹[Additional Director or] ²[Joint Commissioner or Joint Director] who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;]

(8) “assessment” includes reassessment;

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

³[(9A) “Assistant Commissioner” means a person appointed to be an Assistant Commissioner of Income-tax ⁴[or a Deputy Commissioner of Income-tax] under sub-section (1) of section 117;]

⁵[(9B) “Assistant Director” means a person appointed to be an Assistant Director of Income-tax under sub-section (1) of section 117;]

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

⁶[(11) “block of assets” means a group of assets falling within a class of assets comprising—

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

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

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

(12) “Board” means the ⁷[Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963 (54 of 1963)];

⁸[(12A) “books or books of account” includes ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;]

(13) “business” includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

⁹[(13A) “business trust” means a trust registered as,—

(i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); or

(ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), and

the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;]

1. Ins. by Act 22 of 2007, s. 3 (w.e.f. 1-10-1996).

2. Subs. by Act 21 of 1998, s. 4, for “Deputy Commissioner or Deputy Director” (w.e.f. 1-10-1998).

3. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1988).

4. Ins. by Act 21 of 1998, s. 4 (w.e.f. 1-10-1998).

5. Ins. by Act 22 of 2007, s. 3 (w.e.f. 1-4-1988).

6. Subs. by Act 21 of 1998, s. 4, for clause (11) (w.e.f. 1-4-1999).

7. Subs. by Act 54 of 1963, s. 5, for “Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (4 of 1924)” (w.e.f. 1-1-1964).

8. Ins. by Act 14 of 2001, s. 3 (w.e.f. 1-6-2001).

9. Subs. by Act 20 of 2015, s. 3, for clause (13A) (w.e.f. 1-4-2016).

(14) ¹[“capital asset” means—

(a) property of any kind held by an assessee, whether or not connected with his business or profession;

(b) any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992),

but does not include—

(i) any stock-in-trade [other than the securities referred to in sub-clause (b)], consumable stores or raw materials held for the purposes of his business or profession;

²[(ii) personal effects, that is to say, movable property (including wearing apparel and furniture) held for personal use by the assessee or any member of his family dependant on him, but excludes—

(a) jewellery;

(b) archaeological collections;

(c) drawings;

(d) paintings;

(e) sculptures; or

(f) any work of art.

Explanation ³[1].—For the purposes of this sub-clause, “jewellery” includes—

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

(b) precious or semi-precious stones, whether or not set in any furniture, utensil or other article or worked or sewn into any wearing apparel.]

⁴[*Explanation* 2.—For the purposes of this clause—

(a) the expression “Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD;

(b) the expression “securities” shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);]

⁵[(iii) agricultural land in India, not being land situate—

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand ⁶*** ; or

1. Subs. by Act 25 of 2014, s. 3, for certain words (w.e.f. 1-4-2015).

2. Subs. by Act 22 of 2007, s. 3, for clause (ii) (w.e.f. 1-4-2008).

3. *Explanation* renumbered as *Explanation*1 thereof by Act 25 of 2014, s. 3 (w.e.f. 1-4-2015).

4. Ins. by s. 3, *ibid.* (w.e.f. 1-4-2015).

5. Subs. by Act 19 of 1970, s. 3, for sub-clause (iii) (w.e.f. 1-4-1970).

6. The words “according to the last preceding census of which the relevant figures have been published before the first day of the previous year” omitted by Act 17 of 2013, s. 3 (w.e.f. 1-4-2014).

¹[(b) in any area within the distance, measured aurally,—

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

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

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

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

²[(iv) 6½ per cent.. Gold Bonds, 1977, ³[or 7 per cent.. Gold Bonds, 1980], ⁴[or National Defence Gold Bonds, 1980], issued by the Central Government;]

⁵[(v) Special Bearer Bonds, 1991, issued by the Central Government;]

⁶[(vi) Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 ⁷[or deposit certificates issued under the Gold Monetisation Scheme, 2015] notified by the Central Government.]

⁸[*Explanation.*—For the removal of doubts, it is hereby clarified that “property” includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever;]

⁹[(15) “charitable purpose” includes relief of the poor, education, ¹⁰[yoga,] medical relief, ¹¹[preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest,] and the advancement of any other object of general public utility:

¹²[Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;]]

1. Subs. by Act 17 of 2013, s. 3, for item (b) (w.e.f. 1-4-2014).

2. Ins. by Act 54 of 1962, s. 2 (w.e.f. 13-12-1962).

3. Ins. by Act 15 of 1965, s. 2 (w.e.f. 1-4-1965).

4. Ins. by Act 41 of 1965, s. 2 (w.e.f. 4-12-1965).

5. Ins. by Act 7 of 1981, s. 5 (w.e.f. 12-1-1981).

6. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

7. Ins. by Act 28 of 2016, s. 3 (w.e.f. 1-4-2016).

8. Ins. by Act 23 of 2012, s. 3 (w.e.f. 1-4-1962).

9. Subs. by Act 18 of 2008, s. 3, for clause (15) (w.e.f. 1-4-2009).

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

11. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-4-2009).

12. Subs. by Act 20 of 2015, s. 3, for the proviso (w.e.f. 1-4-2016).

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

²[(15B)] “child”, in relation to an individual, includes a step-child and an adopted child of that individual;]

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

⁵[(16A) “Commissioner (Appeals)” means a person appointed to be a Commissioner of Income-tax (Appeals) under sub-section (1) of section 117;]

⁶[(17) “company” means—

(i) any Indian company, or

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

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

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

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

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

⁷[(a) if it is a company owned by the Government or the Reserve Bank of India or in which not less than forty per cent. of the shares are held (whether singly or taken together) by the Government or the Reserve Bank of India or a corporation owned by that bank; or]

⁸[(aa) if it is a company which is registered under section 25 of the Companies Act, 1956 (1 of 1956); or]

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

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

1. Subs. by Act 25 of 2014, s. 3, for clause (15A) (w.e.f. 1-6-2013).

2. Ins. by Act 41 of 1975, s. 2 (w.e.f. 1-4-1976).

3. Clause (15A) renumbered as clause (15B) thereof by Act 4 of 1988, s. 3 (w.e.f. 1-4-1988).

4. Subs. by Act 25 of 2014, s. 3, for clause (16) (w.e.f. 1-6-2013).

5. Ins. by the Act 29 of 1977, s. 39 and the Fifth Schedule (w.e.f. 10-7-1978).

6. Subs. by Act 32 of 1971, s. 3, for clause (17) (w.e.f. 1-4-1971).

7. Subs. by Act 5 of 1964, s. 4, for sub-clause (a) (w.e.f. 1-4-1964).

8. Ins. by Act 32 of 1971, s. 3 (w.e.f. 1-4-1971).

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

²[(ad) if it is a company, wherein shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by, one or more co-operative societies;]

³[(b) if it is a company which is not a private company as defined in the Companies Act, 1956 (1 of 1956), and the conditions specified either in item (A) or in item (B) are fulfilled, namely:—

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

⁴[(B) shares in the company (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than fifty per cent. of the voting power have been allotted unconditionally to, or acquired unconditionally by, and were throughout the relevant previous year beneficially held by—

(a) the Government, or

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

(c) any company to which this clause applies or any subsidiary company of such company ⁵[if the whole of the share capital of such subsidiary company has been held by the parent company or by its nominees throughout the previous year].

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

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

⁶[(19A) “Deputy Commissioner” means a person appointed to be a Deputy Commissioner of Income-tax ⁷*** under sub-section (1) of section 117;

⁸[(19AA) “demerger”, in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956 (1 of 1956), by a demerged company of its one or more undertakings to any resulting company in such a manner that—

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

1. Ins. by Act 32 of 1985, s. 3 (w.e.f. 1-4-1984).

2. Ins. by Act 18 of 1992, s. 3 (w.e.f. 1-4-1993).

3. Subs. by Act 14 of 1969, s. 3, for sub-clause (b) (w.e.f. 1-4-1970).

4. Subs. by Act 11 of 1983, s. 3, for item (B) (w.e.f. 2-4-1983).

5. Subs. by Act 11 of 1987, s. 74, for “where such subsidiary company fulfils the conditions laid down in clause (b) of section 108” (w.e.f. 1-4-1988).

6. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1988).

7. The words “or an Additional Commissioner of Income-tax” omitted by Act 21 of 1998, s. 4 (w.e.f. 1-10-1998).

8. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

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

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

(iv) the resulting company issues, in consideration of the demerger, its shares to the shareholders of the demerged company on a ¹[proportionate basis except where the resulting company itself is a shareholder of the demerged company];

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

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

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

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

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

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

(a) the liabilities which arise out of the activities or operations of the undertaking;

(b) the specific loans or borrowings (including debentures) raised, incurred and utilised solely for the activities or operations of the undertaking; and

(c) in cases, other than those referred to in clause (a) or clause (b), so much of the amounts of general or multipurpose borrowings, if any, of the demerged company as stand in the same proportion which the value of the assets transferred in a demerger bears to the total value of the assets of such demerged company immediately before the demerger.

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

Explanation 4.—For the purposes of this clause, the splitting up or the reconstruction of any authority or a body constituted or established under a Central, State or Provincial Act, or a local authority or a public sector company, into separate authorities or bodies or local authorities or

1. Subs. by Act 23 of 2012, s. 3, for “proportionate basis” (w.e.f. 1-4-2013).

companies, as the case may be, shall be deemed to be a demerger if such split up or reconstruction fulfils ¹[such conditions as may be notified in the Official Gazette, by the Central Government;]

²[*Explanation 5.*—For the purposes of this clause, the reconstruction or splitting up of a company, which ceased to be a public sector company as a result of transfer of its shares by the Central Government, into separate companies, shall be deemed to be a demerger, if such reconstruction or splitting up has been made to give effect to any condition attached to the said transfer of shares and also fulfils such other conditions as may be notified by the Central Government in the Official Gazette.]

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

(19B) “Deputy Commissioner (Appeals)” means a person appointed to be a Deputy Commissioner of Income-tax (Appeals) ³[or an Additional Commissioner of Income-tax (Appeals)] under sub-section (1) of section 117;]

³[(19C) “Deputy Director” means a person appointed to be a Deputy Director of Income-tax ^{4***} under sub-section (1) of section 117;]

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

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

(22) “dividend” includes—

(a) any distribution by a company of accumulated profits, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(b) any distribution to its shareholders by a company of debentures, debenture-stock, or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits, whether capitalised or not;

(c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

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

1. Subs. by Act 10 of 2000, s. 3, for “the conditions specified in sub-clauses (i) to (vii) of this clause, to the extent applicable” (w.e.f. 1-4-2000).

2. Ins. by Act 47 of 2016, s. 2 (w.e.f. 1-4-2017).

3. Ins. by Act 32 of 1994, s. 3 (w.e.f. 1-6-1994).

4. The words “or an Additional Director of Income-tax” omitted by Act 21 of 1998, s. 4 (w.e.f. 1-10-1998).

5. Subs. by Act 25 of 2014, s. 3, for clause (21) (w.e.f. 1-6-2013).

(e) any payment by a company, not being a company in which the public are substantially interested, of any sum (whether as representing a part of the assets of the company or otherwise) ¹[made after the 31st day of May, 1987, by way of advance or loan to a shareholder, being a person who is the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) holding not less than ten per cent. of the voting power, or to any concern in which such shareholder is a member or a partner and in which he has a substantial interest (hereafter in this clause referred to as the said concern)] or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company in either case possesses accumulated profits;

but “dividend” does not include—

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

²[(ia) a distribution made in accordance with sub-clause (c) or sub-clause (d) in so far as such distribution is attributable to the capitalised profits of the company representing bonus shares allotted to its equity shareholders after the 31st day of March, 1964 ³[and before the 1st day of April, 1965];]

(ii) any advance or loan made to a shareholder ⁴[or the said concern] by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;

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

⁵[(iv) any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 77A of the Companies Act, 1956 (1 of 1956);]

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

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

Explanation 2.—The expression “accumulated profits” in sub-clauses (a), (b), (d) and (e), shall include all profits of the company up to the date of distribution or payment referred to in those sub-clauses, and in sub-clause (c) shall include all profits of the company up to the date of liquidation,⁶[but shall not, where the liquidation is consequent on the compulsory acquisition of its undertaking by the Government or a corporation owned or controlled by the Government under any law for the time being in force, include any profits of the company prior to three successive previous years immediately preceding the previous year in which such acquisition took place].

⁷[*Explanation 2A.*—In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.]

1. Subs. by Act 11 of 1987, s. 3, for “by way of advance or loan to a shareholder, being a person who has a substantial interest in the company,” (w.e.f. 1-4-1988).

2. Ins. by Act 10 of 1965, s. 4 (w.e.f. 1-4-1965).

3. Ins. by Act 13 of 1966, s. 4 (w.e.f. 1-4-1966).

4. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

5. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

6. Ins. by Act 31 of 1964, s. 2 (w.e.f. 1-4-1962).

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

¹[*Explanation 3.*—For the purposes of this clause,—

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

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

²[(22A) “domestic company” means an Indian company, or any other company which, in respect of its income liable to tax under this Act, has made the prescribed arrangements for the declaration and payment, within India, of the dividends (including dividends on preference shares) payable out of such income;]

³[(22AA) “document” includes an electronic record as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000);]

⁴[(22AAA) “electoral trust” means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government;]

⁵[(22B)] “fair market value”, in relation to a capital asset, means—

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

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

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

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

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

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

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

²[(23A) “foreign company” means a company which is not a domestic company;]

⁸[(23B) “fringe benefits” means any fringe benefits referred to in section 115WB;]

1. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

2. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

3. Ins. by Act 14 of 2001, s. 3 (w.e.f. 1-6-2001).

4. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-4-2010).

5. Ins. by Act 5 of 1964, s. 4 (w.e.f. 1-4-1964).

6. Clause (22A) renumbered as clause (22B) thereof by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

7. Subs. by Act 33 of 2009, s. 3, for clause (23) (w.e.f. 1-4-2010).

8. Ins. by Act 18 of 2005, s. 3 (w.e.f. 1-4-2006).

¹[(23C) “hearing” includes communication of data and documents through electronic mode;]

(24) “income” includes—

(i) profits and gains;

(ii) dividend;

²[(*iii*a) voluntary contributions received by a trust created wholly or partly for charitable or religious purposes or by an institution established wholly or partly for such purposes ³[or by an association or institution referred to in clause (21) or clause (23), or by a fund or trust or institution referred to in sub-clause (*iv*) or sub-clause (*v*) ⁴[or by any university or other educational institution referred to in sub-clause (*iiiad*) or sub-clause (*vi*) or by any hospital or other institution referred to in sub-clause (*iii*ae) or sub-clause (*via*)] of clause (23C), of section 10] ⁵[or by an electoral trust].]

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

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

⁶[(*iii*a) any special allowance or benefit, other than perquisite included under sub-clause (*iii*), specifically granted to the assessee to meet expenses wholly, necessarily and exclusively for the performance of the duties of an office or employment of profit;

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

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

⁷[(*iva*) the value of any benefit or perquisite, whether convertible into money or not, obtained by any representative assessee mentioned in clause (*iii*) or clause (*iv*) of sub-section (1) of section 160 or by any person on whose behalf or for whose benefit any income is receivable by the representative assessee (such person being hereafter in this sub-clause referred to as the “beneficiary”) and any sum paid by the representative assessee in respect of any obligation which, but for such payment, would have been payable by the beneficiary;]

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

⁸[(*va*) any sum chargeable to income-tax under clause (*iii*a) of section 28;]

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

2. Ins. by Act 16 of 1972, s. 3 (w.e.f. 1-4-1973).

3. Subs. by Act 3 of 1989, s. 2, for “or by a trust or institution of national importance referred to in clause (*d*) of sub-section (1) of section 80F” (w.e.f. 1-4-1989).

4. Subs. by Act 21 of 2006, s. 3, for certain words, brackets, figures and letters (w.e.f. 1-4-2007). Earlier certain words inserted by s. 3, *ibid.* (w.e.f. 1-4-1999).

5. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-4-2010).

6. Ins. by Act 3 of 1989, s. 2 (w.e.f. 1-4-1962).

7. Ins. by Act 44 of 1980, s. 3 (w.e.f. 1-4-1980).

8. Ins. by Act 12 of 1990, s. 3 (w.e.f. 1-4-1962).

¹[(*vb*) any sum chargeable to income-tax under clause (*iiib*) of section 28;]

²[(*vc*) any sum chargeable to income-tax under clause (*iiic*) of section 28;]

³[(*vd*)] the value of any benefit or perquisite taxable under clause (*iv*) of section 28;

⁴[(*ve*) any sum chargeable to income-tax under clause (*v*) of section 28;]

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

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

⁵[(*viii*) the profits and gains of any business of banking (including providing credit facilities) carried on by a co-operative society with its members;]

⁶* * * * *

⁷[(*ix*) any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature whatsoever.]

⁸[*Explanation*.—For the purposes of this sub-clause,—

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

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

⁹[(*x*) any sum received by the assessee from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of the Employees’ State Insurance Act, 1948 (34 of 1948), or any other fund for the welfare of such employees;]

¹⁰[(*xi*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy.

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

¹¹[(*xii*) any sum referred to in ¹²[clause (*va*) of section 28;]

¹³[(*xiii*) the fair market value of inventory referred to in clause (*via*) of section 28;]

¹⁴[(*xiii*) any sum referred to in clause (*v*) of sub-section (2) of section 56;]

1. Ins. by Act 12 of 1990, s. 3 (w.r.e.f. 1-4-1967).

2. Ins. by s. 3, *ibid.* (w.r.e.f. 1-4-1972).

3. Clause (*va*) renumbered as clause (*vd*) by s. 3, *ibid.* (w.r.e.f. 1-4-1962).

4. Ins. by Act 18 of 1992, s. 3 (w.e.f. 1-4-1993).

5. Ins. by Act 21 of 2006, s. 3 (w.e.f. 1-4-2007).

6. Clause (*viii*) omitted by Act 26 of 1988, s. 54 (w.e.f. 1-4-1988).

7. Ins. by Act 16 of 1972, s. 3 (w.e.f. 1-4-1972).

8. Ins. by Act 14 of 2001, s. 3 (w.e.f. 1-4-2002).

9. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

10. Ins. by Act 33 of 1996, s. 3 (w.e.f. 1-10-1996).

11. Ins. by Act 20 of 2002, s. 3 (w.e.f. 1-4-2003).

12. Subs. by Act 32 of 2003, s. 3, for “clause (*vii*)” (w.e.f. 1-4-2003).

13. Ins. by Act 13 of 2018, s. 3 (w.e.f. 1-4-2019).

14. Ins. by Act 23 of 2004, s. 3 (w.e.f. 1-4-2005).

¹[(xiv) any sum referred to in clause (vi) of sub-section (2) of section 56;]

²[(xv) any sum of money or value of property referred to in clause (vii) ³[or clause (viiia)] of sub-section (2) of section 56;]

⁴[(xvi) any consideration received for issue of shares as exceeds the fair market value of the shares referred to in clause (viib) of sub-section (2) of section 56;]

⁵[(xvii) any sum of money referred to in clause (ix) of sub-section (2) of section 56;]

⁶[(xviiia) any sum of money or value of property referred to in clause (x) of sub-section (2) section 56;]

⁷[(xviib) any compensation or other payment referred to in clause (xi) of sub-section (2) of section 56;]

⁸[(xviii) assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee ⁹[other than,—

(a) the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation* 10 to clause (I) of section 43; or

(b) the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government, as the case may be;]

(25) “Income-tax Officer” means a person appointed to be an Income-tax Officer under ¹⁰*** section 117;

¹¹[(25A) “India” means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and subsoil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters;]

(26) “Indian company” means a company formed and registered under the Companies Act, 1956 (1 of 1956), and includes—

(i) a company formed and registered under any law relating to companies formerly in force in any part of India ¹²[other than the State of Jammu and Kashmir and the Union territories specified in sub-clause (iii) of this clause];

¹³[(ia) a corporation established by or under a Central, State or Provincial Act;

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

1. Ins. by Act 22 of 2007, s. 3 (w.e.f. 1-4-2007).

2. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-10-2009).

3. Ins. by Act 14 of 2010, s. 3 (w.e.f. 1-6-2010).

4. Ins. by Act 23 of 2012, s. 3 (w.e.f. 1-4-2013).

5. Ins. by Act 25 of 2014, s. 3 (w.e.f. 1-4-2015).

6. Ins. by Act 7 of 2017, s. 3 (w.e.f. 1-4-2017).

7. Ins. by Act 13 of 2018, s. 3 (w.e.f. 1-4-2019).

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

9. Subs. by Act 28 of 2016, s. 3, for “other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of *Explanation* 10 to clause (I) of section 43” by s. 3 (w.e.f. 1-4-2017).

10. The words, brackets and figures “sub-section (I) of” omitted by Act 3 of 1989, s. 2 (w.e.f. 1-4-1988).

11. Subs. by Act 22 of 2007, s. 3, for clause (25A) (w.e.f. 25-8-1976).

12. Subs. by the Taxation Laws (Extension to Union Territories) Regulation, 1963 (Reg. 3 of 1963), s. 3, for “(other than the State of Jammu and Kashmir)” (w.e.f. 1-4-1963).

13. Ins. by Act 32 of 1971, s. 3 (w.e.f. 01-4-1971).

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

¹[(iii) in the case of any of the Union territories of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry, a company formed and registered under any law for the time being in force in that Union territory:]

Provided that the ²[registered or, as the case may be, principal office of the company, corporation, institution, association or body] in all cases is in India;

³[(26A) “infrastructure capital company” means such company which makes investments by way of acquiring shares or providing long-term finance to any enterprise or undertaking wholly engaged in the business referred to in sub-section (4) of section 80-IA or sub-section (1) of section 80-IAB or an undertaking developing and building a housing project referred to in sub-section (10) of section 80-IB or a project for constructing a hotel of not less than three-star category as classified by the Central Government or a project for constructing a hospital with at least one hundred beds for patients;

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

⁴* * * * *

(28) “Inspector of Income-tax” means a person appointed to be an Inspector of Income-tax under ⁵[sub-section (1)] of section 117;

⁶[(28A) “interest” means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised;

⁷[(28B) “interest on securities” means,—

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

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

1. Ins. by the Taxation Laws (Extension to Union Territories) Regulation, 1963 (Reg. 3 of 1963), s. 3 (w.e.f. 1-4-1963).

2. Subs. by Act 32 of 1971, s. 3, for “registered office of the company” (w.e.f. 1-4-1971).

3. Ins. by Act 21 of 2006, s. 3 (w.e.f. 1-4-2006).

4. Clause (27) omitted by Act 4 of 1988, s. 3 (w.e.f. 1-4-1988).

5. Subs. by s. 3, *ibid.*, for “sub-section (2)” (w.e.f. 1-4-1988).

6. Ins. by Act 66 of 1976, s. 3 (w.e.f. 1-6-1976).

7. Ins. by Act 26 of 1988, s. 3 (w.e.f. 1-4-1989).

¹[(28BB) “insurer” means an insurer, being an Indian insurance company, as defined under clause (7A) of section 2 of the Insurance Act, 1938 (4 of 1938), which has been granted a certificate of registration under section 3 of that Act;]

²[(28C) “Joint Commissioner” means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (I) of section 117;

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

(29) “legal representative” has the meaning assigned to it in clause (II) of section 2 of the Code of Civil Procedure, 1908 (5 of 1908);

³[(29A) “long-term capital asset” means a capital asset which is not a short-term capital asset;

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

⁴[(29BA) “manufacture”, with its grammatical variations, means a change in a non-living physical object or article or thing,—

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

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

⁵[(29C) “maximum marginal rate” means the rate of income-tax (including surcharge on income-tax, if any) applicable in relation to the highest slab of income in the case of an individual ⁶[, association of persons or, as the case may be, body of individuals] as specified in the Finance Act of the relevant year;]

⁷[(29D) “National Tax Tribunal” means the National Tax Tribunal established under section 3 of the National Tax Tribunal Act, 2005;]

(30) “non-resident” means a person who is not a “resident” ⁸[, and for the purposes of sections 92, 93 ⁹*** and 168, includes a person who is not ordinarily resident within the meaning of clause (6) of section 6;

(31) “person” includes—

(i) an individual,

(ii) a Hindu undivided family,

1. Ins. by Act 14 of 2001, s. 3 (w.e.f. 1-4-2002).

2. Ins. by Act 21 of 1998, s. 3 (w.e.f. 1-10-1998).

3. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

4. Ins. by Act 33 of 2009, s. 3 (w.r.e.f. 1-4-2009).

5. Ins. by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

6. Ins. by Act 49 of 1991, s. 3 (w.e.f. 1-4-1991).

7. Ins. by Act 49 of 2005, s. 30 and the Schedule (w.e.f. 28-12-2005). This amendment has been struck down by the Supreme Court's order dated 25th September, 2014 in the Madras Bar Association Vs Union of India.

8. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-1999).

9. The figures “, 113” omitted by Act 10 of 1965, s. 4 (w.e.f. 1-4-1965).

- (iii) a company,
- (iv) a firm,
- (v) an association of persons or a body of individuals, whether incorporated or not,
- (vi) a local authority, and
- (vii) every artificial juridical person, not falling within any of the preceding sub-clauses.

¹[*Explanation.*—For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;]

(32) “person who has a substantial interest in the company”, in relation to a company, means a person who is the beneficial owner of shares, not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits, carrying not less than twenty per cent. of the voting power ;

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

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

²[(34A) “Principal Chief Commissioner of Income-tax” means a person appointed to be a Principal Chief Commissioner of Income-tax under sub-section (1) of section 117;

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

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

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

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

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

(b) any person connected with the management or administration of the local authority, company, association or body upon whom the ³[Assessing Officer] has served a notice of his intention of treating him as the principal officer thereof;

(36) “profession” includes vocation;

⁴[(36A) “public sector company” means any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);]

1. Ins. by Act 20 of 2002, s. 3 (w.e.f. 1-4-2002).

2. Ins. by Act 25 of 2014, s. 3 (w.r.e.f. 1-6-2013).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1987).

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

¹[(37A) “rate or rates in force” or “rates in force”, in relation to an assessment year or financial year, means—

(i) for the purposes of calculating income-tax under the first proviso to sub-section (5) of section 132, or computing the income-tax chargeable under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 or deducting income-tax under section 192 from income chargeable under the head “Salaries” ^{2***} or ³[computation of the “advance tax” payable under Chapter XVII-C ⁴[in a case not falling under section 115A or ⁵[section 115B ⁶[or section 115BB or section 115BBB or section 115E] or section 164 or section 164A ^{7***} ⁸[or section 167B]]], the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, and for the purposes of computation of the “advance tax” payable under Chapter XVII-C ⁹[in a case falling under section 115A or ¹⁰[section 115B ⁶[or section 115BB or section 115BBB or section 115E] or section 164 or section 164A ^{7***} ⁸[or section 167B]]], the rate or rates specified in section 115A or ⁵[section 115B ⁶[or section 115BB or section 115BBB or section 115E] or section 164 or section 164A ^{7***} ⁸[or section 167B], as the case may be,] or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, whichever is applicable;]

(ii) for the purposes of deduction of tax under sections 193, 194, ¹¹[194A, ¹²[194B, 194BB] ¹³[and 194D], the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year;]

(iii) for the purposes of deduction of tax under ¹⁴[section 194LBA or] ¹⁵[section 194LBB or section 194LBC or] section 195, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year or the rate or rates of income-tax specified in ¹⁶[an agreement entered into by the Central Government under section 90, or an agreement notified by the Central Government under section 90A, whichever is applicable by virtue of the provisions of section 90, or section 90A, as the case may be];]

(38) “recognised provident fund” means a provident fund which has been and continues to be recognised by the ¹⁷¹⁸[Principal Chief Commissioner or Chief Commissioner] or ¹⁸[Principal Commissioner or Commissioner]] in accordance with the rules contained in Part A of the Fourth Schedule, and includes a provident fund established under a scheme framed under the Employees’ Provident Funds Act, 1952 (19 of 1952);

1. Ins. by Act 20 of 1967, s. 4 (w.e.f. 1-4-1967).

2. The words, brackets, figures and letters “or sub-section (9) of section 80E from any payment referred to therein” omitted by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989). Earlier the quoted words were inserted by Act 19 of 1968, s. 4 (w.e.f. 1-4-1968).

3. Subs. by Act 19 of 1970, s. 3, for “computation of the “advance tax” payable under Chapter XVII-C, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year” (w.e.f. 1-4-1971).

4. Subs. by Act 66 of 1976, s. 3, for “in a case not falling under section 164” (w.e.f. 1-6-1976).

5. Subs. by Act 4 of 1988, s. 3, for “section 115B or section 164” (w.e.f. 1-4-1988).

6. Subs. by Act 20 of 2002, s. 3, for “or section 115BB or section 115E” (w.e.f. 1-4-2003).

7. The words, figures and letters “or section 167A” omitted by Act 3 of 1989, s. 2 (w.e.f. 1-4-1989).

8. Ins. by Act 4 of 1988, s. 2 (w.e.f. 1-4-1989).

9. Subs. by Act 66 of 1976, s. 3, for “in a case falling under section 164, the rate specified in that section” (w.e.f. 1-6-1976).

10. Subs. by Act 4 of 1988, s. 3, for “section 115B or, as the case may be, section 164” (w.e.f. 1-4-1988).

11. Subs. by Act 16 of 1972, s. 3, for “194A” (w.e.f. 1-4-1972).

12. Subs. by Act 19 of 1978, s. 32, for “194B,” (w.e.f. 1-4-1978).

13. Subs. by Act 49 of 1991, s. 3, for “, 194D and 195” (w.e.f. 1-10-1991).

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

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

16. Subs. by Act 21 of 2006, s. 3, for “an agreement entered into by the Central Government under section 90, whichever is applicable by virtue of the provisions of section 90” (w.e.f. 1-6-2006).

17. Subs. by Act 4 of 1988, s. 2, for “Commissioner” (w.e.f. 1-4-1988).

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

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(40) “regular assessment” means the assessment made under ²[sub-section (3) of section 143] or section 144;

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

³[(41A) “resulting company” means one or more companies (including a wholly owned subsidiary thereof) to which the undertaking of the demerged company is transferred in a demerger and, the resulting company in consideration of such transfer of undertaking, issues shares to the shareholders of the demerged company and includes any authority or body or local authority or public sector company or a company established, constituted or formed as a result of demerger;]

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

⁴[(42A) ⁵“short-term capital asset” means a capital asset held by an assessee for not more than ⁶[thirty-six months] immediately preceding the date of its transfer:]]

⁷[Provided that in the case of ⁸[a security (other than a unit) listed in a recognised stock exchange in India] ⁹[or a unit of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963) or ¹⁰[a unit of an equity oriented fund]] ¹¹[or a zero coupon bond], the provisions of this clause shall have effect as if for the words “thirty-six months”, the words “twelve months” had been substituted:]

¹²[Provided further that in case of a share of a company (not being a share listed in a recognised stock exchange) or a unit of a Mutual Fund specified under clause (23D) of section 10, which is transferred during the period beginning on the 1st day of April, 2014 and ending on the 10th day of July, 2014, the provisions of this clause shall have effect as if for the words “thirty-six months”, the words “twelve months” had been substituted:]

¹³[Provided also that in the case of a share of a company (not being a share listed in a recognised stock exchange in India), ¹⁴[or an immovable property, being land or building or both] the provisions of this clause shall have effect as if for the words “thirty-six months”, the words “twenty-four months” had been substituted.]

¹⁵[*Explanation 1*].—(i) In determining the period for which any capital asset is held by the assessee—

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

1. Clause (39) omitted by Act 18 of 1992, s. 3 (w.e.f. 1-4-1993). Earlier clause (39) substituted by Act 36 of 1989, s. 2 (w.e.f. 1-4-1989) which was later omitted by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989) and again restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

2. Subs. by Act 12 of 1990, s. 3, for “section 143” (w.e.f. 1-4-1989).

3. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

4. Ins. by Act 20 of 1962, s. 3 (w.e.f. 1-4-1962).

5. Subs. by Act 21 of 1973, s. 3, for certain words (w.e.f. 1-4-1974).

6. Subs. by Act 29 of 1977, s. 3, for “sixty months” (w.e.f. 1-4-1978).

7. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

8. Subs. by Act 25 of 2014, s. 3, for “a share held in a company or any other security listed in a recognized stock exchange in India” (w.e.f. 1-4-2015).

9. Ins. by Act 32 of 1994, s. 3 (w.e.f. 1-4-1995).

10. Subs. by Act 25 of 2014, s. 3, for “a unit of a Mutual Fund specified under clause (23D) of section 10” (w.e.f. 1-4-2015).

11. Ins. by Act 18 of 2005, s. 3 (w.e.f. 1-4-2006).

12. Ins. by Act 25 of 2014, s. 3 (w.e.f. 1-4-2015).

13. Ins. by Act 28 of 2016, s. 3 (w.e.f. 1-4-2017).

14. Ins. by Act 7 of 2017, s. 3 (w.e.f. 1-4-2018).

15. Existing *Explanation* renumbered as *Explanation 1* by Act 32 of 1994, s. 3 (w.e.f. 1-4-1995).

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

²[(ba) in the case of a capital asset referred to in clause (via) of section 28, the period shall be reckoned from the date of its conversion or treatment;]

³[(c) in the case of a capital asset being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a transfer referred to in clause (vii) of section 47, there shall be included the period for which the share or shares in the amalgamating company were held by the assessee;]

⁴[(d) in the case of a capital asset, being a share or any other security (hereafter in this clause referred to as the financial asset) subscribed to by the assessee on the basis of his right to subscribe to such financial asset or subscribed to by the person in whose favour the assessee has renounced his right to subscribe to such financial asset, the period shall be reckoned from the date of allotment of such financial asset;

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

⁵[(f) in the case of a capital asset, being a financial asset, allotted without any payment and on the basis of holding of any other financial asset, the period shall be reckoned from the date of the allotment of such financial asset;]

⁶[(g) in the case of a capital asset, being a share or shares in an Indian company, which becomes the property of the assessee in consideration of a demerger, there shall be included the period for which the share or shares held in the demerged company were held by the assessee;]

⁷[(h) in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

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

1. Subs. by Act 20 of 1967, s. 4, for “clauses (i) to (iii)” (w.e.f. 1-4-1967).

2. Ins. by Act 13 of 2018, s. 3 (w.e.f. 1-4-2019).

3. Ins. by Act 20 of 1967, s. 4 (w.e.f. 1-4-1967).

4. Ins. by Act 32 of 1994, s. 3 (w.e.f. 1-4-1995).

5. Ins. by Act 22 of 1995, s. 3 (w.e.f. 1-4-1996).

6. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

7. Ins. by Act 32 of 2003, s. 3 (w.e.f. 1-4-2004).

¹[(*hb*) in the case of a capital asset, being any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer free of cost or at concessional rate to his employees (including former employee or employees), the period shall be reckoned from the date of allotment or transfer of such specified security or sweat equity shares;]

²[(*hc*) in the case of a capital asset, being a unit of a business trust, allotted pursuant to transfer of share or shares as referred to in clause (*xvii*) of section 47, there shall be included the period for which the share or shares were held by the assessee;]

³[(*hd*) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xviii*) of section 47, there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee;

(*he*) in the case of a capital asset, being share or shares of a company, which is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in clause (*b*) of sub-section (*1*) of section 115AC held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made;]

⁴[(*hf*) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, there shall be included the period for which the preference shares were held by the assessee;]

⁵[(*hg*) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, there shall be included the period for which the unit or units in the consolidating plan of a mutual fund scheme were held by the assessee;]

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

⁶[*Explanation 2*.—For the purposes of this clause, the expression “security” shall have the meaning assigned to it in clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).]

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

1. Ins. by Act 22 of 2007, s. 3 (w.e.f. 1-4-2008).

2. Ins. by Act 25 of 2014, s. 3 (w.e.f. 1-10-2014).

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

4. Ins. by Act 7 of 2017, s. 3 (w.e.f. 1-4-2018).

5. Ins. by s. 3, *ibid.* (w.e.f. 1-4-2017).

6. Ins. by Act 32 of 1994, s. 3 (w.e.f. 1-4-1995).

¹[*Explanation 4*.—For the purposes of this clause, the expression “equity oriented fund” shall have the meaning assigned to it in ²[clause (a) of the *Explanation* to section 112A];]

³[(42B) “short-term capital gain” means capital gain arising from the transfer of a short-term capital asset;]

⁴[(42C) “slump sale” means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

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

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

⁵[(43) “tax” in relation to the assessment year commencing on the 1st day of April, 1965, and any subsequent assessment year means income-tax chargeable under the provisions of this Act, and in relation to any other assessment year income-tax and super-tax chargeable under the provisions of this Act prior to the aforesaid date ⁶[and in relation to the assessment year commencing on the 1st day of April, 2006, and any subsequent assessment year includes the fringe benefit tax payable under section 115WA];

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

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⁸[(44) “Tax Recovery Officer” means any Income-tax Officer who may be authorised by the ⁹[Principal Chief Commissioner or Chief Commissioner] or ¹⁰[Principal Commissioner or Commissioner], by general or special order in writing, to exercise the powers of a Tax Recovery Officer ¹¹[and also to exercise or perform such powers and functions which are conferred on, or assigned to, an Assessing Officer under this Act and which may be prescribed];]

1. Ins. by Act 25 of 2014, s. 3 (w.e.f. 1-4-2015).

2. Subs. by Act 13 of 2018, s. 3, for “the *Explanation* to clause (38) of section 10” (w.e.f. 1-4-2019).

3. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

4. Ins. by Act 27 of 1999, s. 3 (w.e.f. 1-4-2000).

5. Subs. by Act 10 of 1965, s. 4, for clause (43) (w.e.f. 1-4-1965).

6. Subs. by Act 18 of 2005, s. 3, for “the aforesaid date” (w.e.f. 1-4-2006).

7. Clause (43B) omitted by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989).

8. Subs. by s. 3, *ibid.*, for clause (44) (w.e.f. 1-4-1989).

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

10. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2013).

11. Ins. by Act 29 of 2006, s. 2 (w.e.f. 13-7-2006).

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

¹* * * *

²[(47) “transfer”, in relation to a capital asset, includes,—

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

(ii) the extinguishment of any rights therein; or

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

(iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment;] ³[or]

⁴[(iva) the maturity or redemption of a zero coupon bond; or]

³[(v) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882); or

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

⁵[*Explanation 1*].—For the purposes of sub-clauses (v) and (vi), “immovable property” shall have the same meaning as in clause (d) of section 269UA.]

⁶[*Explanation 2*.—For the removal of doubts, it is hereby clarified that “transfer” includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily, by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterised as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India;]

⁷[(48) “zero coupon bond” means a bond—

(a) issued by any infrastructure capital company or infrastructure capital fund or public sector company ⁸[or scheduled bank] on or after the 1st day of June, 2005;

(b) in respect of which no payment and benefit is received or receivable before maturity or redemption from infrastructure capital company or infrastructure capital fund or public sector company ⁸[or scheduled bank]; and

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

1. Clause (46) omitted by Act 10 of 1965, s. 4 (w.e.f. 1-4-1965).

2. Subs. by Act 67 of 1984, s. 2, for clause (47) (w.e.f. 1-4-1985).

3. Ins. by Act 11 of 1987, s. 3 (w.e.f. 1-4-1988).

4. Ins. by Act 18 of 2005, s. 3 (w.e.f. 1-4-2006).

5. The *Explanation* renumbered as *Explanation 1* by Act 23 of 2012, s. 3 (w.e.f. 1-4-1962).

6. Ins. by s. 3, *ibid.* (w.e.f. 1-4-1962).

7. Ins. by Act 18 of 2005, s. 3 (w.e.f. 1-4-2006). Earlier clause (48) omitted by Act 4 of 1988, s. 3 (w.e.f. 1-4-1989) and later restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989) and again omitted by Act 18 of 1992, s. 2 (w.e.f. 1-4-1993).

8. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-4-2009).

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

²[**3. “Previous year” defined.**—For the purposes of this Act, “previous year” means the financial year immediately preceding the assessment year:

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

CHAPTER II

BASIS OF CHARGE

4. Charge of income-tax.—(1) Where any Central Act enacts that income-tax shall be charged for any assessment year at any rate or rates, income-tax at that rate or those rates shall be charged for that year in accordance with, and ³[subject to the provisions (including provisions for the levy of additional income-tax) of, this Act] in respect of the total income of the previous year ^{4***}of every person:

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

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

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

- (a) is received or is deemed to be received in India in such year by or on behalf of such person; or
- (b) accrues or arises or is deemed to accrue or arise to him in India during such year; or
- (c) accrues or arises to him outside India during such year:

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

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

- (a) is received or is deemed to be received in India in such year by or on behalf of such person; or
- (b) accrues or arises or is deemed to accrue or arise to him in India during such year.

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

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

1. Ins. by Act 33 of 2009, s. 3 (w.e.f. 1-4-2009).

2. Subs. by Act 27 of 1999, s. 4 (w.e.f. 1-4-2000).

3. Subs. by Act 4 of 1988, s. 5, for “subject to the provisions of this Act” (w.e.f. 1-4-1989).

4. The words “or previous years, as the case may be” omitted by s. 5, *ibid.* (w.e.f. 1-4-1989).

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

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

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

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

$$2* \qquad \qquad * \qquad \qquad * \qquad \qquad * \qquad \qquad *$$

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

³[*Explanation* ⁴[1].—In the case of an individual,—

(a) being a citizen of India, who leaves India in any previous year ⁵[as a member of the crew of an Indian ship as defined in clause (18) of section 3 of the Merchant Shipping Act, 1958 (44 of 1958), or] for the purposes of employment outside India, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and eighty-two days” had been substituted;

(b) being a citizen of India, or a person of Indian origin within the meaning of *Explanation* to clause (e) of section 115C, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and ⁶[eighty-two] days” had been substituted.]

⁷[*Explanation 2.*—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.]

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

2. Sub-clause (b) omitted by Act 14 of 1982, s. 3 (w.e.f. 1-4-1983).

4. *Explanation* renumbered as *Explanation1* thereof by Act 20 of 2015, s. 4 (w.e.f. 1-4-2015).

5. Ins. by Act 12 of 1990, s. 4 (w.e.f. 1-4-1990).

6. Subs. by Act 32 of 1994, s. 5 (w.e.f. 1-4-1995).

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

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

- (i) it is an Indian company; or
- (ii) its place of effective management, in that year, is in India.

Explanation.—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of business of an entity as a whole are, in substance made.]

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

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

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

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

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

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

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

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

³[(iii) the contribution made, by the Central Government ⁴[or any other employer] in the previous year, to the account of an employee under a pension scheme referred to in section 80CCD.]

8. Dividend income.—⁵[For the purposes of inclusion in the total income of an assessee,—

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

⁶[(b) any interim dividend shall be deemed to be the income of the previous year in which the amount of such dividend is unconditionally made available by the company to the member who is entitled to it.]

1. Subs. by Act 28 of 2016, s. 4, for clause (3) (w.e.f. 1-4-2017).

2. Subs. by Act 32 of 2003, s. 4, for certain words (w.e.f. 1-4-2004).

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

4. Subs. by Act 22 of 2007, s. 4 (w.e.f. 1-4-2004).

5. Subs. by Act 10 of 1965, s. 5, for “For the purposes of inclusion in the total income of an assessee, any dividend” (w.e.f. 1-4-1965).

6. Ins. by s. 5, *ibid.* (w.e.f. 1-4-1965).

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

(i) all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India,^{1***} or through the transfer of a capital asset situate in India.

*Explanation*²[1].—For the purposes of this clause—

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

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

³* * * * *

⁴[(c) in the case of a non-resident, being a person engaged in the business of running a news agency or of publishing newspapers, magazines or journals, no income shall be deemed to accrue or arise in India to him through or from activities which are confined to the collection of news and views in India for transmission out of India;]

⁵[(d) in the case of a non-resident, being—

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

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

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

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

⁶[(e) in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut and unassorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf.]

⁷[*Explanation 2.*—For the removal of doubts, it is hereby declared that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

1. The words “or through or from any money lent at interest and brought into India in cash or in kind” omitted by Act 66 of 1976, s. 4 (w.e.f. 1-6-1976).

2. *Explanation* renumbered as *Explanation 1* thereof by Act 32 of 2003, s. 5 (w.e.f. 1-4-2004).

3. The proviso omitted by Act 5 of 1964, s. 5 (w.e.f. 1-4-1964).

4. Ins. by Act 11 of 1983, s. 4 (w.e.f. 1-4-1962).

5. Ins. by Act 67 of 1984, s. 3 (w.e.f. 1-4-1982).

6. Ins. by Act 28 of 2016, s. 5 (w.e.f. 1-4-2016).

7. Ins. by Act 32 of 2003, s. 5 (w.e.f. 1-4-2004).

¹[(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(i) in the name of the non-resident; or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or

(iii) for the provision of services by the non-resident; or]

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

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

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

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

²[*Explanation 2A*.—For the removal of doubts, it is hereby clarified that the significant economic presence of a non-resident in India shall constitute “business connection” in India and “significant economic presence” for this purpose, shall mean—

(a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or

(b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means:

Provided that the transactions or activities shall constitute significant economic presence in India, whether or not,—

(i) the agreement for such transactions or activities is entered in India;

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

(iii) the non-resident renders services in India:

Provided further that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise in India.]

1. Subs. by Act 13 of 2018, s. 4, for clause (a) (w.e.f. 1-4-2019).

2. Ins. by s. 4, *ibid.* (w.e.f. 1-4-2019).

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

¹[*Explanation 4.*—For the removal of doubts, it is hereby clarified that the expression “through” shall mean and include and shall be deemed to have always meant and included “by means of”, “in consequence of” or “by reason of”.

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

²[Provided that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in a Foreign Institutional Investor as referred to in clause (a) of the *Explanation* to section 115AD for an assessment year commencing on or after the 1st day of April, 2012 but before the 1st day of April, 2015:]

³[Provided further that nothing contained in this *Explanation* shall apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014, made under the Securities and Exchange Board of India Act, 1992.]

⁴[*Explanation 6.*—For the purposes of this clause, it is hereby declared that—

(a) the share or interest, referred to in *Explanation 5*, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets—

(i) exceeds the amount of ten crore rupees; and

(ii) represents at least fifty per cent. of the value of all the assets owned by the company or entity, as the case may be;

(b) the value of an asset shall be the fair market value as on the specified date, of such asset without reduction of liabilities, if any, in respect of the asset, determined in such manner as may be prescribed;

(c) “accounting period” means each period of twelve months ending with the 31st day of March:

Provided that where a company or an entity, referred to in *Explanation 5*, regularly adopts a period of twelve months ending on a day other than the 31st day of March for the purpose of—

(i) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or

1. Ins. by Act 23 of 2012, s. 4 (w.e.f. 1-4-1962).

2. The proviso inserted by Act 7 of 2017, s. 4 (w.e.f. 1-4-2012).

3. The proviso inserted by s. 4, *ibid.* (w.e.f. 1-4-2015).

4. Ins. by Act 20 of 2015, s. 5 (w.e.f. 1-4-2016).

(ii) reporting to persons holding the share or interest,
then, the period of twelve months ending with the other day shall be the accounting period of the company or, as the case may be, the entity:

Provided further that the first accounting period of the company or, as the case may be, the entity shall begin from the date of its registration or incorporation and end with the 31st day of March or such other day, as the case may be, following the date of such registration or incorporation, and the later accounting period shall be the successive periods of twelve months:

Provided also that if the company or the entity ceases to exist before the end of accounting period, as aforesaid, then, the accounting period shall end immediately before the company or, as the case may be, the entity, ceases to exist;

(d) “specified date” means the—

(i) date on which the accounting period of the company or, as the case may be, the entity ends preceding the date of transfer of a share or an interest; or

(ii) date of transfer, if the book value of the assets of the company or, as the case may be, the entity on the date of transfer exceeds the book value of the assets as on the date referred to in sub-clause (i), by fifteen per cent.

Explanation 7.—For the purposes of this clause,—

(a) no income shall be deemed to accrue or arise to a non-resident from transfer, outside India, of any share of, or interest in, a company or an entity, registered or incorporated outside India, referred to in the *Explanation 5*,—

(i) if such company or entity directly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of such company or entity; or

(ii) if such company or entity indirectly owns the assets situated in India and the transferor (whether individually or along with its associated enterprises), at any time in the twelve months preceding the date of transfer, neither holds the right of management or control in relation to such company or entity, nor holds any right in, or in relation to, such company or entity which would entitle him to the right of management or control in the company or entity that directly owns the assets situated in India, nor holds such percentage of voting power or share capital or interest in such company or entity which results in holding of (either individually or along with associated enterprises) a voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital or total interest, as the case may be, of the company or entity that directly owns the assets situated in India;

(b) in a case where all the assets owned, directly or indirectly, by a company or, as the case may be, an entity referred to in the *Explanation 5*, are not located in India, the income of the non-resident transferor, from transfer outside India of a share of, or interest in, such company or entity, deemed to accrue or arise in India under this clause, shall be only such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed;

(c) “associated enterprise” shall have the meaning assigned to it in section 92A;]

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

¹[*Explanation.*—For the removal of doubts, it is hereby declared that the income of the nature referred to in this clause payable for—

(a) service rendered in India; and

1. Subs. by Act 27 of 1999, s. 5, for the *Explanation* (w.e.f. 1-4-2000).

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

shall be regarded as income earned in India;]

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

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

¹[(v) income by way of interest payable by—

(a) the Government; or

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

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

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

(a) it is hereby declared that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly;

(b) “permanent establishment” shall have the meaning assigned to it in clause (iiia) of section 92F;]

(vi) income by way of royalty payable by—

(a) the Government; or

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

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

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

1. Ins. by Act 66 of 1976, s. 4 (w.e.f. 1-6-1976).

2. Ins. by Act 20 of 2015, s. 5 (w.e.f. 1-4-2016).

¹[Provided further that nothing contained in this clause shall apply in relation to so much of the income by way of royalty as consists of lump sum payment made by a person, who is a resident, for the transfer of all or any rights (including the granting of a licence) in respect of computer software supplied by a non-resident manufacturer along with a computer or computer-based equipment under any scheme approved under the Policy on Computer Software Export, Software Development and Training, 1986 of the Government of India.]

Explanation 1.—For the purposes of the ²[first proviso], an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date; so, however, that, where the recipient of the income by way of royalty is a foreign company, the agreement shall not be deemed to have been made before that date unless, before the expiry of the time allowed under sub-section (1) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year commencing on the 1st day of April, 1977, or the assessment year in respect of which such income first becomes chargeable to tax under this Act, whichever assessment year is later, the company exercises an option by furnishing a declaration in writing to the ³[Assessing Officer] (such option being final for that assessment year and for every subsequent assessment year) that the agreement may be regarded as an agreement made before the 1st day of April, 1976.

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

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

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

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

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

⁴[(iva) the use or right to use any industrial, commercial or scientific equipment but not including the amounts referred to in section 44BB;]

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

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

⁵[*Explanation 3.*—For the purposes of this clause, “computer software” means any computer programme recorded on any disc, tape, perforated media or other information storage device and includes any such programme or any customized electronic data.]

⁶[*Explanation 4.*—For the removal of doubts, it is hereby clarified that the transfer of all or any rights in respect of any right, property or information includes and has always included transfer of all

1. Ins. by Act 49 of 1991, s. 4 (w.e.f. 1-4-1991).

2. Subs. by s. 4, *ibid.*, for “foregoing proviso” (w.e.f. 1-4-1991).

3. Subs. by Act 4 of 1988, s. 2, for “Income-tax Officer” (w.e.f. 1-4-1988).

4. Ins. by Act 14 of 2001, s. 4 (w.e.f. 1-4-2002).

5. Subs. by Act 10 of 2000, s. 4, for *Explanation 3* (w.e.f. 1-4-2001).

6. Ins. by Act 23 of 2012, s. 4 (w.e.f. 1-6-1976).

or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

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

- (a) the possession or control of such right, property or information is with the payer;
- (b) such right, property or information is used directly by the payer;
- (c) the location of such right, property or information is in India.]

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

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

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

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

²[*Explanation 1.*—For the purposes of the foregoing proviso, an agreement made on or after the 1st day of April, 1976, shall be deemed to have been made before that date if the agreement is made in accordance with proposals approved by the Central Government before that date.]

Explanation ³[2].—For the purposes of this clause, “fees for technical services” means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head “Salaries”.

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

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

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

1. The proviso ins. by Act 29 of 1977, s. 4 (w.e.f. 1-4-1977).

2. *Explanation* ins. by s. 4, *ibid.* (w.e.f. 1-4-1977).

3. *Explanation* renumbered as *Explanation 2* thereof by s. 4, *ibid.* (w.e.f. 1-4-1977).

¹[9A. **Certain activities not to constitute business connection in India.**—(1) Notwithstanding anything contained in sub-section (1) of section 9 and subject to the provisions of this section, in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

(2) Notwithstanding anything contained in section 6, an eligible investment fund shall not be said to be resident in India for the purpose of that section merely because the eligible fund manager, undertaking fund management activities on its behalf, is situated in India.

(3) The eligible investment fund referred to in sub-section (1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:—

(a) the fund is not a person resident in India;

(b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into ²[or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf];

(c) the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent. of the corpus of the fund;

(d) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

(e) the fund has a minimum of twenty-five members who are, directly or indirectly, not connected persons;

(f) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten per cent.;

(g) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty per cent.;

(h) the fund shall not invest more than twenty per cent. of its corpus in any entity;

(i) the fund shall not make any investment in its associate entity;

(j) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees:

Provided that if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year:

³[Provided further that nothing contained in this clause shall apply to a fund which has been wound up in the previous year;]

(k) the fund shall not carry on or control and manage, directly or indirectly, any business in India ^{4***};

(l) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

(m) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity:

1. Ins. by Act 20 of 2015, s. 6 (w.e.f. 1-4-2016).

2. Ins. by Act 28 of 2016, s. 6 (w.e.f. 1-4-2017).

3. The proviso inserted by Act 7 of 2017, s. 5 (w.e.f. 1-4-2016).

4. The words "or from India" omitted by Act 28 of 2016, s. 6 (w.e.f. 1-4-2017).

Provided that the conditions specified in clauses (e), (f) and (g) shall not apply in case of an investment fund set up by the Government or the Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions, if any, by notification in the Official Gazette, specify in this behalf.

(4) The eligible fund manager, in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions, namely:—

(a) the person is not an employee of the eligible investment fund or a connected person of the fund;

(b) the person is registered as a fund manager or an investment advisor in accordance with the specified regulations;

(c) the person is acting in the ordinary course of his business as a fund manager;

(d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty per cent. of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

(5) Every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tax authority containing information relating to the fulfilment of the conditions specified in this section and also provide such other relevant information or documents as may be prescribed.

(6) Nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

(7) Nothing contained in this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

(8) The provisions of this section shall be applied in accordance with such guidelines and in such manner as the Board may prescribe in this behalf.

(9) For the purposes of this section,—

(a) “associate” means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being more than fifteen per cent. of its share capital or interest, as the case may be;

(b) “connected person” shall have the meaning assigned to it in clause (4) of section 102;

(c) “corpus” means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;

(d) “entity” means any entity in which an eligible investment fund makes an investment;

(e) “specified regulations” means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 or the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), which may be notified by the Central Government under this clause.]

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

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

(1) agricultural income;

(2) ¹[subject to the provisions of sub-section (2) of section 64,] any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family;

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

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

³* * * *

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

⁵[Provided that the Central Government shall not specify, for the purposes of this sub-clause, such securities or bonds on or after the 1st day of June, 2002;]

⁶[(ii) in the case of an individual, any income by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with ⁷[the Foreign Exchange Management Act, 1999 (42 of 1999)], and the rules made thereunder:

Provided that such individual is a person resident outside India as defined in ⁸[clause (w)] of section 2 of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account;]]

⁹* * * *

¹⁰[(4B) in the case of an individual, being a citizen of India or a person of Indian origin, who is a non-resident, any income from interest on such ¹¹[savings certificates issued before the 1st day of June, 2002] by the Central Government as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the individual has subscribed to such certificates in convertible foreign exchange remitted from a country outside India in accordance with the provisions of ⁷[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder.

Explanation.—For the purposes of this clause,—

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

1. Ins. by Act 42 of 1970, s. 3 (w.e.f. 1-4-1971).

2. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1993). Earlier inserted by Act 4 of 1988, s. 6 and omitted by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989).

3. Clause (3) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

4. Subs. by Act 4 of 1988, s. 6, for clauses (4) and (4A) (w.e.f. 1-4-1989).

5. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

6. Subs. by Act 49 of 1991, s. 5, for sub-clause (ii) (w.e.f. 1-4-1991).

7. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

8. Subs. by Act 7 of 2017, s. 6, for “clause (q)” (w.e.f. 1-4-2013).

9. The Second proviso omitted by Act 18 of 2005, s. 4 (w.e.f. 1-4-2006).

10. Ins. by Act 14 of 1982, s. 4 (w.e.f. 1-4-1983).

11. Subs. by Act 20 of 2002, s. 4, for “savings certificates issued” (w.e.f. 1-4-2003).

(b) “convertible foreign exchange” means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of ¹[the Foreign Exchange Management Act, 1999 (42 of 1999)], and any rules made thereunder;]

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

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

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

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

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

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

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

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

$$3* \qquad \qquad * \qquad \qquad * \qquad \qquad *$$

4^* * * *

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

5^* $*$ $*$ $*$

⁶[(ii) the remuneration received by him as an official, by whatever name called, of an embassy, high commission, legation, commission, consulate or the trade representation of a foreign State, or as a member of the staff of any of these officials, for service in such capacity:

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

1. Subs. by Act 17 of 2013, s. 4, for “the Foreign Exchange Regulation Act, 1973 (46 of 1973)” (w.e.f. 1-4-2013).

2. Subs. by Act 36 of 1989, s. 4, for clause (5) (w.e.f. 1-4-1989).

3. Clause (5A) omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Clause (5B) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

5. Sub-clause (i) omitted by s. 4, *ibid.* (w.e.f. 1-4-2003).

6. Subs. by Act 26 of 1988, s. 4, for sub-clauses (ii) to (v) (w.e.f. 1-4-1989).

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

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

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

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

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

¹* * * *

²* * * *

³* * * *

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

⁴* * * *

⁵[(xi) the remuneration received by him as an employee of the Government of a foreign State during his stay in India in connection with his training in any establishment or office of, or in any undertaking owned by,—

(i) the Government ; or

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

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

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

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

⁶[(6A) where in the case of a foreign company deriving income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement

1. Sub-clause (via) omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

2. Sub-clause (vii) omitted by Act 38 of 1993, s. 3 (w.e.f. 1-4-1993).

3. Sub-clause (viii) omitted by Act 21 of 1998, s. 5 (w.e.f. 1-4-1999).

4. Sub-clause (ix) and (x) omitted by s. 5, *ibid.* (w.e.f. 1-4-1999).

5. Ins. by Act 66 of 1976, s. 5 (w.e.f. 1-4-1976).

6. Ins. by Act 11 of 1983, s. 5 (w.e.f. 1-4-1984).

made by the foreign company with Government or the Indian concern after the 31st day of March, 1976 ¹[but before the 1st day of June, 2002] ²[and,—

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

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

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

Explanation.—³[For the purposes of this clause and clause (6B)],—

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

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

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

⁴[(6B) where in the case of a non-resident (not being a company) or of a foreign company deriving income (not being salary, royalty or fees for technical services) from Government or an Indian concern in pursuance of an ⁵[agreement entered into before the 1st day of June, 2002] by the Central Government] with the Government of a foreign State or an international organisation, the tax on such income is payable by Government or the Indian concern to the Central Government under the terms of that agreement or any other ⁶[related agreement approved before that date] by the Central Government, the tax so paid;]

⁷[(6BB) where in the case of the Government of a foreign State or a foreign enterprise deriving income from an Indian company engaged in the business of operation of aircraft, as a consideration of acquiring an aircraft or an aircraft engine (other than payment for providing spares, facilities or services in connection with the operation of leased aircraft) on lease under ⁸[an agreement entered into after the 31st day of March, 1997 but before the 1st day of April, 1999, ⁹[or entered into after the 31st day of March, 2007 and approved by the Central Government in this behalf]] and the tax on such income is payable by such Indian company under the terms of that agreement to the Central Government, the tax so paid.

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

1. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

2. Subs. by Act 18 of 1992, s. 4, for certain words (w.e.f. 1-6-1992).

3. Subs. by Act 26 of 1988, s. 4, for “For the purposes of this clause” (w.e.f. 1-4-1988).

4. Ins. by s. 4, *ibid.* (w.e.f. 1-4-1988).

5. Subs. by Act 20 of 2002, s. 4, for “agreement entered into by the Central Government” (w.e.f. 1-4-2003).

6. Subs. by s. 4, *ibid.* for “related agreement approved” (w.e.f. 1-4-2003).

7. Ins. by Act 26 of 1997, s. 3 (w.e.f. 1-4-1998).

8. Subs. by Act 23 of 2004, s. 5, for certain words, figures and letters (w.e.f. 1-4-2006).

9. Subs. by Act 21 of 2006, s. 4, for “or entered into after the 31st day of September, 2006 and approved by the Central Government in this behalf” (w.e.f. 1-4-2007).

¹[(6C) any income arising to such foreign company, as the Central Government may, by notification in the Official Gazette, specify in this behalf, ²[by way of royalty or fees] for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India;]

³[(6D) any income arising to a non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation;]

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

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

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

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

⁴[(8A) in the case of a consultant—

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

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

Explanation.—In this clause, “consultant” means—

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

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

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

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

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

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

2. Subs. by Act 32 of 2003, s. 6, for “by way of fees” (w.e.f. 1-4-2004).

3. Ins. by Act 13 of 2018, s. 5 (w.e.f. 1-4-2018).

4. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1991).

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

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

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

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

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

(9) the income of any member of the family of any such individual as is referred to in clause (8) ¹[or clause (8A) or, as the case may be, clause (8B)] accompanying him to India, which accrues or arises outside India, and is not deemed to accrue or arise in India, in respect of which such member is required to pay any income or social security tax to the Government of that foreign State ¹[or, as the case may be, country of origin of such member];

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

(ii) any gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972), to the extent it does not exceed an amount calculated in accordance with the provisions of sub-sections (2) and (3) of section 4 of that Act;

(iii) any other gratuity received by an employee on his retirement or on his becoming incapacitated prior to such retirement or on termination of his employment, or any gratuity received by his widow, children or dependants on his death, to the extent it does not, in either case, exceed one-half month's salary for each year of completed service, ³[calculated on the basis of the average salary for the ten months immediately preceding the month in which any such event occurs, subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government];

Provided that where any gratuities referred to in this clause are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this clause ⁴[shall not exceed the limit so specified]:

1. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1991).

2. Subs. by Act 20 of 1974, s. 3, for clause (10) (w.e.f. 1-4-1975).

3. Subs. by Act 4 of 1988, s. 6, for the certain words (w.e.f. 1-4-1989).

4. Subs. by s. 6, for clause (10), *ibid*, "shall not exceed thirty six thousand rupees" (w.e.f. 1-4-1989).

Provided further that where any such gratuity or gratuities was or were received in any one or more earlier previous years also and the whole or any part of the amount of such gratuity or gratuities was not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this clause ¹[shall not exceed the limit so specified] as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

²* * * * *

Explanation.—³[In this clause, and in clause (10AA)], “salary” shall have the meaning assigned to it in clause (h) of rule 2 of Part A of the Fourth Schedule;]

⁴[(10A) (i) any payment in commutation of pension received under the Civil Pensions (Commutation) Rules of the Central Government ⁵[or under any similar scheme applicable to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said Rules) or to the members of the all-India services or to the members of the defence services or to the members of the civil services of a State or holders of civil posts under a State or to the employees of a local authority] or a corporation established by a Central, State or Provincial Act;

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

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

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

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

⁶* * * * *

⁷[(iii) any payment in commutation of pension received from a fund under clause (23AAB);]

⁸[(10AA) (i) any payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement ⁹[whether on superannuation] or otherwise;

(ii) any payment of the nature referred to in sub-clause (i) received by an employee, other than an employee of the Central Government or a State Government, in respect of so much of the period of earned leave at his credit at the time of his retirement ⁹[whether on superannuation] or otherwise as does not exceed ¹⁰[ten months], calculated on the basis of the average salary drawn by the employee during

1. Subs. by Act 4 of 1988, s.6 for “shall not exceed thirty six thousand rupees” (w.e.f. 1-4-1989).

2. The third and fourth provisos omitted by s. 6, *ibid.* (w.e.f. 1-4-1989).

3. Subs. by s. 6, *ibid.*, for “In this clause” (w.e.f. 1-4-1989).

4. Ins. by Act 15 of 1965, s. 3 (w.e.f. 1-4-1962).

5. Subs. by Act 20 of 1974, s. 3 for the certain words (w.e.f. 1-4-1962).

6. The proviso omitted by Act 4 of 1988, s. 6 (w.e.f. 1-4-1989).

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

8. Ins. by Act 14 of 1982, s. 4 (w.e.f. 1-4-1978).

9. Subs. by Act 67 of 1984, s. 4 for “on superannuation” (w.e.f. 1-4-1978).

10. Subs. by Act 27 of 1999, s. 6 for “eight months” (w.e.f. 1-4-1989).

the period of ten months immediately preceding his retirement ¹[whether on superannuation] or otherwise, ²[subject to such limit as the Central Government may, by notification in the Official Gazette, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government]:

Provided that where any such payments are received by an employee from more than one employer in the same previous year, the aggregate amount exempt from income-tax under this sub-clause ³[shall not exceed the limit so specified]:

Provided further that where any such payment or payments was or were received in any one or more earlier previous years also and the whole or any part of the amount of such payment or payments was or were not included in the total income of the assessee of such previous year or years, the amount exempt from income-tax under this sub-clause ³[shall not exceed the limit so specified], as reduced by the amount or, as the case may be, the aggregate amount not included in the total income of any such previous year or years.

4* * * *

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

⁵*** the entitlement to earned leave of an employee shall not exceed thirty days for every year of actual service rendered by him as an employee of the employer from whose service he has retired;

6* * * *

⁷[(10B) any compensation received by a workman under the Industrial Disputes Act, 1947 (14 of 1947), or under any other Act or Rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, ⁸[at the time of his retrenchment:

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

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

⁹[(ii) such amount, not being less than fifty thousand rupees, as the Central Government may, by notification in the Official Gazette, specify in this behalf,]

whichever is less:

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

1. Subs. by Act 67 of 1984, s. 4 for “on superannuation”(w.e.f. 1-4-1978).

2. Subs. by Act 4 of 1988, s. 6, for “thirty thousand rupees, whichever is less” (w.e.f. 1-7-1986).

3. Subs. by s. 6, *ibid.*, for “shall not exceed thirty thousand rupees” (w.e.f. 1-7-1986).

4. The third and fourth provisos omitted by s. 6 *ibid.* (w.e.f. 1-7-1986).

5. The brackets and figure “(i)” omitted by s. 6 *ibid.* (w.e.f. 1-7-1986).

6. Clause (ii) omitted by s. 6, *ibid.*, (w.e.f. 1-7-1986).

7. Ins. by Act 25 of 1975, s. 3 (w.e.f. 1-4-1976).

8. Subs. by Act 32 of 1985, s. 4, for certain words (w.e.f. 1-4-1986).

9. Subs. by Act 4 of 1988, s. 6, for sub-clause (ii) (w.e.f. 1-4-1989).

Explanation.—For the purposes of this clause—

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

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

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

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

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

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

¹[(10BB) any payments made under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), and any scheme framed thereunder except payment made to any assessee in connection with the Bhopal Gas Leak Disaster to the extent such assessee has been allowed a deduction under this Act on account of any loss or damage caused to him by such disaster;]

²[(10BC) any amount received or receivable from the Central Government or a State Government or a local authority by an individual or his legal heir by way of compensation on account of any disaster, except the amount received or receivable to the extent such individual or his legal heir has been allowed a deduction under this Act on account of any loss or damage caused by such disaster.

Explanation.—For the purposes of this clause, the expression “disaster” shall have the meaning assigned to it under clause (d) of section 2 of the Disaster Management Act, 2005 (53 of 2005);]

³[(10C) ⁴[any amount received or receivable by an employee of]—

(i) a public sector company; or

(ii) any other company; or

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

(iv) a local ⁵[authority; or]

⁶[(v) a co-operative society; or

1. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1992).

2. Ins. by Act 22 of 2007, s. 6 (w.e.f. 1-4-2005).

3. Subs. by Act 38 of 1993, s. 3, for clause (10C) (w.e.f. 1-4-1993).

4. Subs. by Act 32 of 2003, s. 6 for “any amount received by an employe of” (w.e.f. 1-4-2004).

5. Subs. by Act 32 of 1994, s. 6, for “authority,” (w.e.f. 1-4-1995).

6. Ins. by s. 6, *ibid.* (w.e.f. 1-4-1995).

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

(vii) an Indian Institute of Technology within the meaning of clause (g) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961); or

¹[(viii) any State Government; or]

²[(viii) the Central Government; or]

³[(viii) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification in the Official Gazette, specify in this behalf; or]

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

⁴{on his ⁵[voluntary retirement] or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a public sector company referred to in sub-clause (i), a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees]:

Provided that the schemes of the said companies or authorities ⁶[or societies or Universities or the Institutes referred to in sub-clauses (vii) and (viii)], as the case may be, governing the payment of such amount are framed in accordance with such guidelines (including inter alia criteria of economic viability) as may be prescribed ⁷***:

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

⁸[Provided also that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year;]

⁹[(10CC) in the case of an employee, being an individual deriving income in the nature of a perquisite, not provided for by way of monetary payment, within the meaning of clause (2) of section 17, the tax on such income actually paid by his employer, at the option of the employer, on behalf of such employee, notwithstanding anything contained in section 200 of the Companies Act, 1956 (1 of 1956);]

1. Ins. by Act 14 of 2001, s. 5 (w.e.f. 1-4-2002).

2. Ins. by s. 5, *ibid*, (w.e.f. 1-4-2002).

3. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2002).

4. Subs. by Act 32 of 2003, s. 6, for “at the time of his voluntary retirement” (w.e.f. 1-4-2004).

5. Subs. by Act 10 of 2000, s. 5, for certain words (w.e.f. 1-4-2001).

6. Ins. by Act 32 of 1994, s. 6 (w.e.f. 1-4-1995).

7. The certain words brackets and figures omitted by Act 10 of 2000, s. 5 (w.e.f. 1-4-2001).

8. Ins. by Act 33 of 2009, s. 4 (w.e.f. 1-4-2010).

9. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

¹[(10D) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

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

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

(c) any sum received under an insurance policy issued on or after the 1st day of April, 2003²[but on or before the 31st day of March, 2012] in respect of which the premium payable for any of the years during the term of the policy exceeds twenty per cent. of the actual capital sum³[assured; or]

⁴[(d) any sum received under an insurance policy issued on or after the 1st day of April, 2012 in respect of which the premium payable for any of the years during the term of the policy exceeds ten per cent. of the actual capital sum assured:]

Provided that the provisions of ⁵[sub-clauses (c) and (d)] shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under ⁵[sub-clause(c)], effect shall be given to the ⁶[*Explanation* to sub-section (3) of section 80C or the *Explanation* to sub-section (2A) of section 88, as the case may be:]

⁷[Provided also that where the policy, issued on or after the 1st day of April, 2013, is for insurance on life of any person, who is—

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

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

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

⁸[*Explanation 1*].—For the purposes of this clause, “Keyman insurance policy” means a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person] ⁷[and includes such policy which has been assigned to a person, at any time during the term of the policy, with or without any consideration;]

⁹[*Explanation 2*.—For the purposes of sub-clause (d), the expression “actual capital sum assured” shall have the meaning assigned to it in the *Explanation* to sub-section (3A) of section 80C;]

1. Subs. by Act 32 of 2003, s. 6, for clause (10D) (w.e.f. 1-4-2004).

2. Ins. by Act 23 of 2012, s. 5 (w.e.f. 1-4-2013).

3. Subs. by s. 5, *ibid.*, for “assured” (w.e.f. 1-4-2013).

4. Ins. by s. 5, *ibid.* (w.e.f. 1-4-2013).

5. Subs. by s. 5, *ibid.*, for “this sub-clause” (w.e.f. 1-4-2013).

6. Subs. by Act 18 of 2005, s. 4 for “*Explanation* to sub-section (2A) of section 88” (w.e.f. 1-4-2006).

7. Ins. by Act 17 of 2013, s. 5 (w.e.f. 1-4-2014).

8. *Explanation* renumbered as *Explanation 1* thereof by Act 23 of 2012, s. 5 (w.e.f. 1-4-2013).

9. Ins. by s. 5, *ibid.* (w.e.f. 1-4-2013).

(11) any payment from a provident fund to which the Provident Funds Act, 1925 (19 of 1925), applies ¹[or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette];

²[(11A) any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873 (5 of 1873);]

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

³[(12A) any payment from the National Pension System Trust to an ⁴[assessee] on closure of his account or on his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed forty per cent. of the total amount payable to him at the time of such closure or his opting out of the scheme;]

⁵[(12B) any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013) and the regulations made thereunder, to the extent it does not exceed twenty-five per cent. of the amount of contributions made by him;]

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

(i) on the death of a beneficiary; or

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

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

(iv) by way of refund of contributions to an employee on his leaving the service in connection with which the fund is established otherwise than by retirement at or after a specified age or on his becoming incapacitated prior to such retirement, to the extent to which such payment does not exceed the contributions made prior to the commencement of this Act and any interest ⁷[thereon; or]

³[(v) by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD and notified by the Central Government;]

⁸[(13A) any special allowance specifically granted to an assessee by his employer to meet expenditure actually incurred on payment of rent (by whatever name called) in respect of residential accommodation occupied by the assessee, to such extent ⁹*** as may be prescribed having regard to the area or place in which such accommodation is situate and other relevant considerations.]

¹⁰[*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply in a case where—

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

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

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

1. Ins. by Act 19 of 1968, s. 30 and the third Schedule (w.e.f. 1-4-1969).

2. Ins. by Act 20 of 2015, s. 7 (w.e.f. 1-4-2015).

3. Ins. by Act 28 of 2016, s. 7 (w.e.f. 1-4-2017).

4. Subs. by Act 13 of 2018, s. 5, for “employee” (w.e.f. 1-4-2019).

5. Ins. by Act 7 of 2017, s. 6 (w.e.f. 1-4-2018).

6. Subs. by Act 10 of 1965, s. 6 (w.e.f. 1-4-1962).

7. Subs. by Act 28 of 2016, s.7, for “thereon” (w.e.f. 1-4-2017).

8. Ins. by Act 13 of 1964, s. 3 (w.e.f. 6-10-1964).

9. The words “(not exceeding four hundred rupees per month” omitted by 23 of 1986, s. 3 (w.e.f. 1-4-1987).

10. The *Explanation* inserted by Act 67 of 1984, s. 4 (w.e.f. 1-4-1976).

11. Subs. by Act 4 of 1988, s. 6, for clause (14) (w.e.f. 1-4-1989).

exclusively incurred in the performance of the duties of an office or employment of profit, ¹[as may be prescribed], to the extent to which such expenses are actually incurred for that purpose;

(ii) any such allowance granted to the assessee either to meet his personal expenses at the place where the duties of his office or employment of profit are ordinarily performed by him or at the place where he ordinarily resides, or to compensate him for the increased cost of living, ²[as may be prescribed and to the extent as may be prescribed];]

³[Provided that nothing in sub-clause (ii) shall apply to any allowance in the nature of personal allowance granted to the assessee to remunerate or compensate him for performing duties of a special nature relating to his office or employment unless such allowance is related to the place of his posting or residence;]

4* * * *

(15) ⁵[(i) income by way of interest, premium on redemption or other payment on such securities, bonds, annuity certificates, savings certificates, other certificates issued by the Central Government and deposits as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such conditions and limits as may be specified in the said notification;

⁶[(iib) ⁷[in the case of an individual or a Hindu undivided family,] interest on such Capital Investment Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

⁸[Provided that the Central Government shall not specify, for the purposes of this sub-clause, such Capital Investment Bonds on or after the 1st day of June, 2002;]

⁹[(iic) in the case of an individual or a Hindu undivided family, interest on such Relief Bonds as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

¹⁰[(iid) interest on such bonds, as the Central Government may, by notification in the Official Gazette, specify, arising to—

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

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

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

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

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

1. Subs. by Act 22 of 1995, s. 4, for “as the Central Government may, by notification in the Official Gazette, specify” (w.e.f. 1-7-1995).

2. Subs. by s. 4, *ibid.*, for “as the Central Government may, by notification in the Official Gazette, specify, to the extent specified in the notification” (w.e.f. 1-7-1995).

3. Added by Act 36 of 1989, s. 4 (w.e.f. 1-4-1989).

4. Clause (14A) omitted by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

5. Subs. by Act 4 of 1988, s. 6, for clause (i), (ia), (ib), (ii) and (iia) (w.e.f. 1-4-1989).

6. Ins. by Act 14 of 1982, s. 4 (w.e.f. 1-4-1983).

7. Subs. by Act 11 of 1983, s. 5, for “interest or such capital interest” (w.e.f. 1-4-1983).

8. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

9. Ins. by Act 26 of 1988, s. 4 (w.e.f. 1-4-1989).

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

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

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

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

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

²[(iiia) interest payable to any bank incorporated in a country outside India and authorised to perform central banking functions in that country on any deposits made by it, with the approval of the Reserve Bank of India, with any scheduled bank.

Explanation.—For the purposes of this sub-clause, “scheduled bank” shall have the meaning assigned to it in ³[clause (ii) of the *Explanation* to clause (viiia) of sub-section (I) of section 36];]

⁴[(iiib) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;]

⁵[(iiic) interest payable to the European Investment Bank, on a loan granted by it in pursuance of the framework-agreement for financial co-operation entered into on the 25th day of November, 1993 by the Central Government with that Bank;]

(iv) interest payable—

⁶[(a) by Government or a local authority on moneys borrowed by it before the 1st day of June, 2001 from, or debts owed by it before the 1st day of June, 2001 to, sources outside India;]

(b) by an industrial undertaking in India on moneys borrowed by it under ⁷[a loan agreement entered into before the 1st day of June, 2001 with any such financial institution] in a foreign country as may be approved in this behalf by the Central Government by general or special order;

(c) by an industrial undertaking in India on any moneys borrowed or debt incurred by it ⁸[before the 1st day of June, 2001] in a foreign country in respect of the purchase outside India of raw materials ⁹[or components] or capital plant and machinery, ¹⁰[to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment.]

⁹[¹¹[*Explanation* 1.]—For the purposes of this item, “purchase of capital plant and machinery” includes the purchase of such capital plant and machinery under a hire-purchase agreement or a lease agreement with an option to purchase such plant and machinery.]

1. Ins. by Act 20 of 2002, s. 4 (w.e.f. 1-4-2003).

2. Ins. by Act 32 of 1985, s. 4 (w.e.f. 1-4-1985).

3. Subs. by Act 4 of 1988, s. 126, for “the *Explanation* to clause (iii) of sub-section (6) of section 11” (w.e.f. 1-4-1989).

4. Ins. by Act 54 of 2003, s. 2 (w.e.f. 1-4-2001).

5. Ins. by Act 23 of 2004, s. 5 (w.e.f. 1-4-2005).

6. Subs. by Act 14 of 2001, s. 5, for item (a) (w.e.f. 1-4-2002).

7. Subs. by s. 5, *ibid.*, for “a loan agreement entered into with any such financial institution” (w.e.f. 1-4-2002).

8. Subs. by s. 5, *ibid.*, for “moneys borrowed or debt incurred by it” (w.e.f. 1-4-2002).

9. Ins. by Act 11 of 1983, s. 5 (w.e.f. 1-4-1983).

10. Subs. by Act 5 of 1964, s. 6, for “in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment” (w.e.f. 1-4-1964).

11. *Explanation* renumbered as *Explanation* 1 thereof by Act 54 of 2003, s. 2 (w.e.f. 1-4-1962).

¹[*Explanation 2*.—For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;]

²[(d) by the Industrial Finance Corporation of India established by the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), ³[or the Export-Import Bank of India established under the Export-Import Bank of India Act, 1981 (28 of 1981),] ⁴[or the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987),] ⁵[or the Small Industries Development Bank of India established under section 3 of the Small Industries Development Bank of India Act, 1989 (39 of 1989),] or the Industrial Credit and Investment Corporation of India [a company formed and registered under the Indian Companies Act, 1913 (7 of 1913)], on ⁶[any moneys borrowed by it from sources outside India before the 1st day of June, 2001], to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;]

(e) by any other financial institution established in India or a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act), on ⁶[any moneys borrowed by it from sources outside India before the 1st day of June, 2001] under a loan agreement approved by the Central Government where the moneys are borrowed either for the purpose of advancing loans to industrial undertakings in India for purchase outside India of raw materials or capital plant and machinery or for the purpose of importing any goods which the Central Government may consider necessary to import in the public interest, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;]

⁷[(f) by an industrial undertaking in India on any moneys borrowed by it in foreign currency from sources outside India under ⁸[a loan agreement approved by the Central Government before the 1st day of June, 2001] having regard to the need for industrial development in India, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment;

⁹[(fa) by a scheduled bank ^{10***} ¹¹[to a non-resident or to a person who is not ordinarily resident within the meaning of sub-section (6) of section 6] on deposits in foreign currency where the acceptance of such deposits by the bank is approved by the Reserve Bank of India.

¹²[*Explanation*.—For the purposes of this item, the expression “scheduled bank” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934), but does not include a co-operative bank;

1. Ins. by Act 54 of 2003 s. 2, (w.e.f. 1-4-1962).

2. Ins. by Act 26 of 1974, s. 2 (w.e.f. 1-4-1973).

3. Ins. by Act 11 of 1983, s. 5 (w.e.f. 1-4-1983).

4. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1991).

5. Ins. by Act 18 of 1992, s. 4 (w.e.f. 1-4-1992).

6. Subs. by Act 14 of 2001, s. 5, for “any moneys borrowed by it from sources outside India” (w.e.f. 1-4-2002).

7. Ins. by Act 66 of 1976, s. 5 (w.e.f. 1-6-1976).

8. Subs. by, Act 14 of 2001 s. 5, for “a loan agreement approved by the Central Government” (w.e.f. 1-4-2001).

9. Ins. by Act 49 of 1991, s. 5 (w.e.f. 1-4-1991).

10. The words figures and letters “before the 1st day of April, 2005” omitted by Act 18 of 2005, s. 4 (w.e.f. 1-4-2006).

11. Ins. by Act 38 of 1993, s. 3 (w.e.f. 1-4-1993).

12. Subs. by Act 22 of 2007, s. 6, for the *Explanation* (w.e.f. 1-4-2007).