machinery or plant of the nature referred to in clauses (*a*), (*b*) and (*d*) of [1][the second proviso] to sub-section (*1*)] for the purposes of the business of the undertaking; or

(*c*) if at any time before the expiry of the ten years aforesaid, the assesseeutilises the amount credited to the reserve account under sub-section (*4*) for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any assets outside India or for any other purpose which is not a purpose of the business of the undertaking,

and the provisions of sub-section (*4A*) of section 155 shall apply accordingly:

Provided that nothing in clause (*a*) shall apply—

(*i*) where the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*ii*) where the sale or transfer of the ship, aircraft, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (*6*) or sub-section (*7*).

(*6*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, aircraft, machinery or plant, in respect of which investment allowance has been allowed to the amalgamating company under sub-section (*1*),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (*4*) in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, aircraft, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (*4A*) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(*b*) the balance of investment allowance, if any, still outstanding to the amalgamating company in respect of such ship, aircraft, machinery or plant, shall be allowed to the amalgamated company in accordance with the provisions of sub-section (*3*), so, however, that the total period for which the balance of investment allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (*3*) and the amalgamated company shall be treated as the assessee in respect of such ship, aircraft, machinery or plant for the purposes of this section.

(*7*) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, aircraft, machinery or plant, the provisions of clauses (*a*) and (*b*) of sub-section (*6*) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this sub-section shall apply only where—

(*i*) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

1. Subs. by Act 3 of 1989, s. 6, for "the proviso" (w.e.f. 1-4-1989).

(*ii*) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

(*8*) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of any ship or aircraft acquired or any machinery or plant installed after such date [1]*** as may be specified therein.

[2][(*8A*) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, omit any article or thing from the list of articles or things specified in the Eleventh Schedule.]

[3][(*8B*) Notwithstanding anything contained in sub-section (*8*) or the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. GSR 870(E), dated the 12th June, 1986, issued thereunder, the provisions of this section shall apply in respect of,—

(*a*) (*i*) a new ship or new aircraft acquired after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that he had, before the 12th day of June, 1986, entered into a contract for the purchase of such ship or aircraft with the builder or manu-facturer or owner thereof, as the case may be;

(*ii*) any new machinery or plant installed after the 31st day of March, 1987 but before the 1st day of April, 1988, if the assessee furnishes evidence to the satisfaction of the Assessing Officer that before the 12th day of June, 1986, he had purchased such machinery or plant or had entered into a contract for the purchase of such machinery or plant with the manufacturer or owner of, or a dealer in, such machinery or plant, or had, where such machinery or plant has been manufactured in an undertaking owned by the assessee, taken steps for the manufacture of such machinery or plant:

Provided that nothing contained in sub-section (*1*) shall entitle the assessee to claim deduction in respect of a ship or aircraft or machinery or plant referred to in this clause in any previous year except the previous year relevant to the assessment year commencing on the 1st day of April, 1989;

(*b*) a new ship or new aircraft acquired or any new machinery or plant installed after the 31st day of March, 1988, but before such date as the Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, specify in this behalf.

(*8C*) Subject to the provisions of clause (*ii*) of sub-section (*3*), where a deduction has been allowed to an assessee under sub-section (*1*) in any assessment year, no deduction shall be allowed to the assessee under section 32AB in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year.]

[4]* * * * *

1. The words ", not being earlier than three years from the date of such notification," omitted by Act 23 of 1986, s. 7 (w.e.f. 1-4-1986).
2. Ins. by Act 29 of 1977, s. 9 (w.e.f. 1-4-1978).
3. Subs. by Act 3 of 1989, s. 6, for sub-section (*8B*) (w.e.f. 1-4-1989).
4. Sub-section (*9*) omitted by Act 12 of 1990, s. 7 (w.e.f. 1-4-1976).

[1][**32AB. Investment deposit account.—**(*1*) Subject to the other provisions of this section, where an assessee, whose total income includes income chargeable to tax under the head "Profits and gains of business or profession", has, out of such income,—

(*a*) deposited any amount in an account (hereafter in this section referred to as deposit account) maintained by him with the Development Bank before the expiry of six months from the end of the previous year or before furnishing the return of his income, whichever is earlier; or

(*b*) utilised any amount during the previous year for the purchase of any new ship, new aircraft, new machinery or plant, without depositing any amount in the deposit account under clause (*a*),

in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) to be framed by the Central Government, or if the assessee is carrying on the business of growing and manufacturing tea in India, to be approved in this behalf by the Tea Board, the assessee shall be allowed a [2][deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of]—

(*i*) a sum equal to the amount, or the aggregate of the amounts, so deposited and any amount so utilised; or

(*ii*) a sum equal to twenty per cent. of the profits of [3]*** business or profession as computed in the accounts of the assessee audited in accordance with sub-section (*5*),

whichever is less:

[4][Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or as the case may be, any member of such firm, association of persons or body of individuals:]

[5][Provided further that no such deduction shall be allowed in relation to the assessment year commencing on the 1st day of April, 1991, or any subsequent assessment year.]

(*2*) For the purposes of this section,—

[6]* * * * *

[7][(*ii*) "new ship" or "new aircraft" includes a ship or aircraft which before the date of acquisition by the assessee was used by any other person, if it was not at any time previous to the date of such acquisition owned by any person resident in India;

(*iii*) "new machinery or plant" includes machinery or plant which before its installation by the assessee was used outside India by any other person, if the following conditions are fulfilled, namely :—

(*a*) such machinery or plant was not, at any time previous to the date of such installation by the assessee, used in India;

(*b*) such machinery or plant is imported into India from any country outside India; and

(*c*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

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1. Ins. by Act 23 of 1986, s. 8 (w.e.f. 1-4-1987).
2. Subs. by Act 11 of 1987, s. 7, for "deduction of" (w.e.f. 1-4-1987).
3. The word "eligible" omitted by Act 13 of 1989, s. 7 (w.e.f. 1-4-1991).
4. Ins. by Act 11 of 1987, s. 7 (w.e.f. 1-4-1987).
5. Ins. by Act 12 of 1990, s. 8 (w.e.f. 1-4-1990).
6. Clause (*i*) omitted by Act 13 of 1989, s. 7 (w.e.f. 1-4-1991).
7. Subs. by Act 11 of 1987, s. 7 for clause (*ii*) (w.e.f. 1-4-1987).

(*iv*) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).]

(*3*) [1][The profits of business or profession of an assessee for the purposes of sub-section (*1*) shall] be an amount arrived at after deducting an amount equal to the depreciation computed in accordance with the provisions of sub-section (*1*) of section 32 from the amounts of profits computed in accordance with the requirements of Parts II and III of the [2][Schedule VI] to the Companies Act, 1956 (1 of 1956), [3][as increased by the aggregate of—

(*i*) the amount of depreciation;

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

(*iii*) the amount of surtax paid or payable under the Companies (Profits) Surtax Act, 1964 (7 of 1964);

(*iv*) the amounts carried to any reserves, by whatever name called;

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

(*vi*) the amount by way of provision for losses of subsidiary companies; and

(*vii*) the amount or amounts of dividends paid or proposed,

if any debited to the profit and loss account; and as reduced by any amount or amounts withdrawn from reserves or provisions, if such amounts are credited to the profit and loss account [4]***.]

[5]* * * * *

(*4*) No deduction under sub-section (*1*) shall be allowed in respect of any amount utilised for the purchase of—

(*a*) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(*b*) any office appliances (not being computers);

(*c*) any road transport vehicles;

(*d*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

[6][(*e*) any new machinery or plant to be installed in an industrial undertaking, other than a small-scale industrial undertaking, as defined in section 80HHA, for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.]

(*5*) The deduction under sub-section (*1*) shall not be admissible unless the accounts of the business or profession of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (*2*) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant:

1. Subs. by Act 13 of 1989, s. 7, for certain words (w.e.f. 1-4-1991).
2. Subs. by s. 7, *ibid.*, for "Sixth Schedule" (w.e.f. 1-4-1991).
3. Subs. by Act 11 of 1987, s. 7, for certain words (w.e.f. 1-4-1987).
4. The word "and" omitted by Act 13 of 1989, s. 7 (w.e.f. 1-4-1991).
5. Clause (*b*) omitted by s. 7, *ibid*. (w.e.f. 1-4-1991).
6. Ins. by s. 7, *ibid*. (w.e.f. 1-4-1991).

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business or profession audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

[1][(*5A*) Any amount standing to the credit of the assessee in the deposit account shall not be allowed to be withdrawn before the expiry of a period of five years from the date of deposit except for the purposes specified in the [2][scheme or] in the circumstances specified below :—

(*a*) closure of business;

(*b*) death of an assessee;

(*c*) partition of a Hindu undivided family;

(*d*) dissolution of a firm;

(*e*) liquidation of a company.

[3][*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall affect the operation of the provisions of sub-section (*5AA*) or sub-section (*6*) in relation to any withdrawals made from the deposit account either before or after the expiry of a period of five years from the date of deposit.]

[3][(*5AA*) Where any amount, standing to the credit of the assessee in the deposit account, is withdrawn during any previous year by the assessee in the circumstance specified in clause (*a*) or clause (*d*) of sub-section (*5A*), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.]

(*5B*) Where any amount standing to the credit of the assessee in the deposit account is utilised by the assessee for the purposes of any expenditure in connection with the [4]*** business or profession in accordance with the scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".]

(*6*) Where any amount, standing to the credit of the assessee in the deposit account, released during any previous year by the Development Bank for being utilised by the assessee for the purposes specified in the scheme or at the closure of the account [5][in circumstances other than the circumstances specified in clauses (*b*), (*c*) and (*e*) of sub-section (*5A*)], [6][is not utilised in accordance with and within the time specified in, the scheme], either wholly or in part, [7]*** the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

(*7*) Where any asset acquired in accordance with the scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deductions allowed under sub-section (*1*) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

1. Ins. by Act 11 of 1987, s. 7 (w.e.f. 1-4-1987).
2. Subs. by Act 13 of 1989, s. 7, for "scheme and" (w.e.f. 1-4-1987).
3. Ins. by s. 7, *ibid*. (w.e.f. 1-4-1987).
4. The word "eligible" omitted by s. 7, *ibid*. (w.e.f. 1-4-1991).
5. Ins. by s. 7, *ibid*. (w.e.f. 1-4-1987).
6. Subs. by Act 11 of 1987, s. 7 for "is not utilised in accordance with the scheme" (w.e.f. 1-4-1987).
7. The words "within the previous year" omitted by s. 7, *ibid.* (w.e.f 1-4-1987).

Provided that nothing in this sub-section shall apply—

(*i*) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*ii*) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (*ii*) of the proviso shall apply only where—

(*i*) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(*ii*) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

(*8*) The Central Government may, if it considers it necessary or expedient so to do, by notification in the Official Gazette, omit any article or thing from the list of articles or things specified in the Eleventh Schedule.

(*9*) The Central Government may, after making such inquiry as it may think fit, direct, by notification in the Official Gazette, that the provisions of this section shall not apply to any class of assessees, with effect from such date as it may specify in the notification.

[1][(*10*) Where a deduction has been allowed to an assessee under this section in any assessment year, no deduction shall be allowed to the assessee under sub-section (*1*) of section 32A in the said assessment year (hereinafter referred to as the initial assessment year) and a block of further period of four years beginning with the assessment year immediately succeeding the initial assessment year.]

Explanation.—In this section,—

(*a*) "computers" does not include calculating machines and calculating devices;

(*b*) "Development Bank" means—

(*i*) in the case of an assessee carrying on business of growing and manufacturing tea in India, the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(*ii*) in the case of other assessees, the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964) and includes such bank or institution as may be specified in the scheme in this behalf.

1. Subs. by Act 3 of 1989, s. 7, for sub-section (*10*) (w.e.f. 1-4-1989).

[1]**[32AC. Investment in new plant or machinery.**—(*1*) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new asset after the 31st day of March, 2013 but before the 1st day of April, 2015 and the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees, then, there shall be allowed a deduction,—

(*a*) for the assessment year commencing on the 1st day of April, 2014, of a sum equal to fifteen per cent. of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2014, if the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees; and

(*b*) for the assessment year commencing on the 1st day of April, 2015, of a sum equal to fifteen per cent. of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2015, as reduced by the amount of deduction allowed, if any, under clause (*a*).

[2][(*1A*) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new assets and the amount of actual cost of such new assets [3][acquired during any previous year exceeds twenty-five crore rupees and such assets are installed on or before the 31st day of March, 2017], then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new assets for the assessment year relevant to that previous year:

[4][Provided that where the installation of the new assets are in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new assets are installed:]

[5][Provided further that] no deduction under this sub-section shall be allowed for the assessment year commencing on the 1st day of April, 2015 to the assessee, which is eligible to claim deduction under sub-section (*1*) for the said assessment year.

(*1B*) No deduction under sub-section (*1A*) shall be allowed for any assessment year commencing on or after the 1st day of April, 2018.]

(*2*) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (*1*) [6][or sub-section (*1A*)] in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

(*3*) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger within a period of five years from the date of its installation, the provisions of sub-section (*2*) shall apply to the amalgamated company or the resulting company, as the case may be, as they would have applied to the amalgamating company or the demerged company.

(*4*) For the purposes of this section, "new asset" means any new plant or machinery (other than ship or aircraft) but does not include—

(*i*) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(*ii*) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

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1. Ins. by Act 17 of 2013, s. 6 (w.e.f. 1-4-2014).
2. Ins. by Act 25 of 2014, s. 11 (w.e.f. 1-4-2015).
3. Subs. by Act 28 of 2016, s. 14, for "acquired and installed during any previous year exceeds twenty-five crore rupees" (w.e.f. 1-4-2016).
4. The proviso inserted by s. 14, *ibid.* (w.e.f. 1-4-2016).
5. Subs. by s. 14, *ibid*., for "Provided that" (w.e.f. 1-4-2016).
6. Ins. by Act 25 of 2014, s. 11 (w.e.f. 1-4-2015).

(*iii*) any office appliances including computers or computer software;

(*iv*) any vehicle; or

(*v*) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.]

[1][**32AD. Investment in new plant or machinery in notified backward areas in certain States**.— (*1*) Where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, there shall be allowed a deduction of a sum equal to fifteen per cent. of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

(*2*) If any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or re-organisation of business referred to in clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47, within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (*1*) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

(*3*) Where the new asset is sold or otherwise transferred in connection with the amalgamation or demerger or re-organisation of business referred to in clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47 within a period of five years from the date of its installation, the provisions of sub-section (*2*) shall apply to the amalgamated company or the resulting company or the successor referred to in clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47, as the case may be, as they would have applied to the amalgamating company or the demerged company or the predecessor referred to in clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47.

(*4*) For the purposes of this section, "new asset" means any new plant or machinery (other than a ship or aircraft) but does not include—

(*a*) any plant or machinery, which before its installation by the assessee, was used either within or outside India by any other person;

(*b*) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(*c*) any office appliances including computers or computer software;

(*d*) any vehicle; or

(*e*) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.]

1. Ins. by Act 20 of 2015, s. 11 (w.e.f. 1-4-2016).

33. Development rebate.—[1][(*1*) (*a*) In respect of a new ship or new machinery or plant (other than office appliances or road transport vehicles) which is owned by the assessee and is wholly used for the purposes of the business carried on by him, there shall, in accordance with and subject to the provisions of this section and of section 34, be allowed a deduction, in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year, a sum by way of development rebate as specified in clause (*b*).

(*b*) The sum referred to in clause (a) shall be—

(*A*) in the case of a ship, forty per cent. of the actual cost thereof to the assessee;

(*B*) in the case of machinery or plant,—

(*i*) where the machinery or plant is installed for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule,—

(*a*) thirty-five per cent. of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent. of such cost, where it is installed after the 31st day of March, 1970;

(*ii*) where the machinery or plant is installed after the 31st day of March, 1967, by an assessee being an Indian company in premises used by it as a hotel and such hotel is for the time being approved in this behalf by the Central Government,—

(*a*) thirty-five per cent. of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent. of such cost, where it is installed after the 31st day of March, 1970;

(*iii*) where the machinery or plant is installed after the 31st day of March, 1967, being an asset representing expenditure of a capital nature on scientific research related to the business carried on by the assessee,—

(*a*) thirty-five per cent. of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) twenty-five per cent. of such cost, where it is installed after the 31st day of March, 1970;

(*iv*) in any other case,—

(*a*) twenty per cent. of the actual cost of the machinery or plant to the assessee, where it is installed before the 1st day of April, 1970, and

(*b*) fifteen per cent. of such cost, where it is installed after the 31st day of March, 1970.]

[2][(*1A*) (*a*) An assessee who, after the 31st day of March, 1964, acquires any ship which before the date of acquisition by him was used by any other person shall, subject to the provisions of section 34, also

1. Subs. by Act 20 of 1967, s. 33 and the Third Schedule, for sub-section (*1*) (w.e.f. 1-4-1968).
2. Ins. by Act 5 of 1964, s. 8 (w.e.f. 1-4-1964).

be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely:—

(*i*) such ship was not previous to the date of such acquisition owned at any time by any person resident in India;

(*ii*) such ship is wholly used for the purposes of the business carried on by the assessee; and

(*iii*) such other conditions as may be prescribed.

(*b*) An assessee who installs any machinery or plant (other than office appliances or road transport vehicles) which before such installation by the assessee was used outside India by any other person shall, subject to the provisions of section 34, also be allowed as a deduction a sum by way of development rebate at such rate or rates as may be prescribed, provided that the following conditions are fulfilled, namely:—

(*i*) such machinery or plant was not used in India at any time previous to the date of such installation by the assessee;

(*ii*) it is imported in India by the assessee from any country outside India;

(*iii*) no deduction on account of depreciation or development rebate in respect of such machinery or plant has been allowed or is allowable under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), or this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee;

(*iv*) such machinery or plant is wholly used for the purposes of the business carried on by the assessee; and

(*v*) such other conditions as may be prescribed.

(*c*) The development rebate under this sub-section shall be allowed as a deduction in respect of the previous year in which the ship was acquired or the machinery or plant was installed or, if the ship, machinery or plant is first put to use in the immediately succeeding previous year, then, in respect of that previous year.]

(*2*) In the case of a ship acquired or machinery or plant installed after the 31st day of December, 1957, where the total income of the assessee assessable for the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be [1][(the total income for this purpose being computed without making any allowance under sub-section (*1*) or sub-section (*1A*) of this section or sub-section (*1*) of section 33A or any deduction under Chapter VIA [2]***] is nil or is less than the full amount of the development rebate calculated [3][at the rate applicable thereto [4][under sub-section (*1*) or sub-section (*1A*), as the case may be],—

(*i*) the sum to be allowed by way of development rebate for that assessment year [4][under sub-section (*1*) or sub-section (*1A*)] shall be only such amount as is sufficient to reduce the said total income to *nil*; and

(*ii*) the amount of the development rebate, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development rebate to be

1. Ins. by Act 20 of 1967, s. 33 and the third Schedule, for certain brackets, words, figures and letters (w.e.f. 1-4-1968).

2. The words, figures and letter "or section 280-O" omitted by Act 26 of 1988, s. 54 (w.e.f. 1-4-1988).

3. Subs. by Act 5 of 1964, s. 8, for "at the rate applicable thereto under that sub-section" (w.e.f. 1-4-1965).

4. Subs. by s. 8, *ibid*., for "under sub-section (*1*)" (w.e.f. 1-4-1965).

allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to *nil*, and the balance of the development rebate, if any, still outstanding shall be carried forward to the following assessment year and so on, so however, that no portion of the development rebate shall be carried forward for more than eight assessment years immediately succeeding the assessment year relevant to the previous year in which the ship was acquired or the machinery or plant installed or the immediately succeeding previous year, as the case may be.

Explanation.—Where for any assessment year development rebate is to be allowed in accordance with the provisions of sub-section (*2*) in respect of ships acquired or machinery or plant installed in more than one previous year, and the total income of the assessee assessable for that assessment year [1][(the total income for this purpose being computed without making any allowance under sub-section (*1*) or sub-section (*1A*) of this section or sub-section (*1*) of section 33A or any deduction under Chapter VI-A [2]***] is less than the aggregate of the amounts due to be allowed in respect of the assets aforesaid for that assessment year, the following procedure shall be followed, namely :—

(*i*) the allowance under clause (*ii*) of sub-section (*2*) shall be made before any allowance under clause (*i*) of that sub-section is made; and

(*ii*) where an allowance has to be made under clause (*ii*) of sub-section (*2*) in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

[3][(*3*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any ship, machinery or plant in respect of which development rebate has been allowed to the amalgamating company under sub-section (*1*) or sub-section (*1A*),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (*3*) of section 34 in respect of the reserve created by the amalgamating company and in respect of the period within which such ship, machinery or plant shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (*5*) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(*b*) the balance of development rebate, if any, still outstanding to the amalgamating company in respect of such ship, machinery or plant shall be allowed to the amalgamated company in accordance with the provisions of sub-section (*2*), so, however, that the total period for which the balance of development rebate shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (*2*) and the amalgamated company shall be treated as the assessee in respect of such ship, machinery or plant for the purposes of this section and section 34.]

(*4*) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any ship, machinery or plant, the provisions of clauses (*a*) and (*b*) of sub-section (*3*) shall, so far as may be, apply to the firm and the company.

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1. Subs. by Act 20 of 1967, s. 33 and the Third Schedule, for certain brackets, words, figures and letters (w.e.f. 1-4-1968).

2. The words, figures and letter "or section 280-O" omitted by Act 26 of 1988, s. 54 (w.e.f. 1-4-1988).

3. Subs. by Act 20 of 1967, s. 9, for sub-section (*3*) (w.e.f. 1-4-1967).

Explanation.—The provisions of this clause shall apply only where—

(*i*) all the property of the firm relating to the business immediately before the succession becomes the property of the company;

(*ii*) all the liabilities of the firm relating to the business immediately before the succession become the liabilities of the company; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

[1][(*5*) The Central Government, if it considers it necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed in respect of a ship acquired or machinery or plant installed after such date, not being earlier than three years from the date of such notification, as may be specified therein.]

[2][(*6*) Notwithstanding anything contained in the foregoing provisions of this section, no deduction by way of development rebate shall be allowed in respect of any machinery or plant installed after the 31st day of March, 1965, in any office premises or any residential accommodation, including any accommodation in the nature of a guest-house:]

[3][Provided that the provisions of this sub-section shall not apply in the case of an assessee being an Indian company, in respect of any machinery or plant installed by it in premises used by it as a hotel, where the hotel is for the time being approved in this behalf by the Central Government.]

[4][**33A. Development allowance.**—(*1*) In respect of planting of tea bushes on any land in India owned by an assessee who carries on business of growing and manufacturing tea in India, a sum by way of development allowance equivalent to—

(*i*) where tea bushes have been planted on any land not planted at any time with tea bushes or on any land which had been previously abandoned, [5][fifty per cent..] of the actual cost of planting; and

(*ii*) where tea bushes are planted in replacement of tea bushes that have died or have become permanently useless on any land already planted, [6][thirty per cent..] of the actual cost of planting,

shall, subject to the provisions of this section, [7][be allowed as a deduction in the manner specified hereunder, namely:—

(*a*) the amount of the development allowance shall, in the first instance, be computed with reference to that portion of the actual cost of planting which is incurred during the previous year in which the land is prepared for planting or replanting, as the case may be, and in the previous year next following, and the amount so computed shall be allowed as a deduction in respect of such previous year next following; and

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1. Ins. by Act 5 of 1964, s. 8 (w.e.f. 1-4-1964).

2. Ins. by Act 10 of 1965, s. 8 (w.e.f. 1-4-1965).

3. Ins. by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).

4. Ins. by Act 10 of 1965, s. 9 (w.e.f. 1-4-1965).

5. Subs. by Act 13 of 1966, s. 8, for "forty per cent." (w.e.f. 1-4-1966).

6. Subs. by s. 8, *ibid*., for "twenty per cent." (w.e.f. 1-4-1966).

7. Subs. by s. 3, *ibid*., for "be allowed as a deduction in respect of the third secceeding previous year next following he previous year in which the land is prepared for planting or replanting, as the case may be" (w.e.f. 1-4-1966).

(*b*) thereafter, the development allowance shall again be computed with reference to the actual cost of planting, and if the sum so computed exceeds the amount allowed as a deduction under clause (*a*), the amount of the excess shall be allowed as a deduction in respect of the third succeeding previous year next following the previous year in which the land has been prepared for planting or replanting, as the case may be:]

[1][Provided that no deduction under clause (*i*) shall be allowed unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1990:

Provided further that no deduction shall be allowed under clause (*ii*) unless the planting has commenced after the 31st day of March, 1965, and been completed before the 1st day of April, 1970.]

(*2*) Where the total income of the assessee assessable for the assessment year relevant to [2][the previous year in respect of which the deduction is required to be allowed under sub-section (*1*)] [3][(the total income for this purpose being computed after deduction of the allowance under sub-section (*1*) or sub-section (*1A*) or clause (*ii*) of sub-section (*2*) of section 33, but without making any deduction under sub-section (*1*) of this section or any deduction under Chapter VI-A [4]***)] is nil or is less than the full amount of the development allowance [5][calculated at the rates and in the manner specified in sub-section (*1*)]—

(*i*) the sum to be allowed by way of development allowance for that assessment year under sub-section (*1*) shall be only such amount as is sufficient to reduce the said total income to *nil*; and

(*ii*) the amount of the development allowance, to the extent to which it has not been allowed as aforesaid, shall be carried forward to the following assessment year, and the development allowance to be allowed for the following assessment year shall be such amount as is sufficient to reduce the total income of the assessee assessable for that assessment year, computed in the manner aforesaid, to nil, and the balance of the development allowance, if any, still outstanding shall be carried forward to the following assessment year and so on, so, however, that no portion of the development allowance shall be carried forward for more than eight assessment years immediately succeeding the assessment year in which the deduction was first allowable.

Explanation.—Where for any assessment year development allowance is to be allowed in accordance with the provisions of sub-section (*2*) in respect of more than one previous year, and the total income of the assessee assessable for that assessment year [3][(the total income for this purpose being computed after deduction of the allowance under sub-section (*1*) or sub-section (*1A*) or clause (*ii*) of sub-section (*2*) of section 33, but without making any deduction under sub-section (*1*) of this section or any deduction under Chapter VIA [4]***)] is less than the amount of the development allowance due to be made in respect of that assessment year, the following procedure shall be followed, namely:—

(*i*) the allowance under clause (*ii*) of sub-section (*2*) of this section shall be made before any allowance under clause (*i*) of that sub-section is made; and

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1. Subs. by Act 12 of 1990, s. 9, for the proviso (w.e.f. 1-4-1990).
2. Subs. by Act 13 of 1966, s. 8, for "the third succeeding previous year next following the previous year in which the land has been prepared" (w.e.f. 1-4-1966).
3. Subs. by Act 20 of 1967, s. 33 and the third Schedule, for "(the total income for this purpose being computed after making the allowance under sub-section (*1*) or sub-section (*1A*) or clause (*ii*) of sub-section (*2*) of section 33 but without making any allowance under sub-section (*1*) of this section" (w.e.f. 1-4-1968).
4. The words, figures and letter "or section 280-O" omitted by Act 26 of 1988, s. 54 (w.e.f. 1-4-1988).
5. Subs. by Act 13 of 1966, s. 8, for "calculated at the rates specified in sub-section (*1*)" (w.e.f. 1-4-1966).

(*ii*) where an allowance has to be made under clause (*ii*) of sub-section (*2*) of this section in respect of amounts carried forward from more than one assessment year, the amount carried forward from an earlier assessment year shall be allowed before any amount carried forward from a later assessment year.

(*3*) The deduction under sub-section (*1*) shall be allowed only if the following conditions are fulfilled, namely:—

(*i*) the particulars prescribed in this behalf have been furnished by the assessee;

(*ii*) an amount equal to seventy-five per cent. of the development allowance to be actually allowed is debited to the profit and loss account of the relevant previous year and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(*a*) for distribution by way of dividends or profits; or

(*b*) for remittance outside India as profits or for the creation of any asset outside India; and

(*iii*) such other conditions as may be prescribed.

(*4*) If any such land is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which the deduction under sub-section (*1*) was allowed, any allowance under this section shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (*5A*) of section 155 shall apply accordingly:

Provided that this sub-section shall not apply—

(*i*) where the land is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act, or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*ii*) where the sale or transfer of the land is made in connection with the amalgamation or succession referred to in sub-section (*5*) or sub-section (*6*).

[1][(*5*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company any land in respect of which development allowance has been allowed to the amalgamating company under sub-section (*1*),—

(*a*) the amalgamated company shall continue to fulfil the conditions mentioned in sub-section (*3*) in respect of the reserve created by the amalgamating company and in respect of the period within which such land shall not be sold or otherwise transferred and in default of any of these conditions, the provisions of sub-section (*5A*) of section 155 shall apply to the amalgamated company as they would have applied to the amalgamating company had it committed the default; and

(*b*) the balance of development allowance, if any, still outstanding to the amalgamating company in respect of such land shall be allowed to the amalgamated company in accordance with the provisions of sub-section (*2*), so, however, that the total period for which the balance of development allowance shall be carried forward in the assessments of the amalgamating company and the amalgamated company shall not exceed the period of eight years specified in sub-section (*2*) and the amalgamated company shall be treated as the assessee in respect of such land for the purposes of this section.

1. Subs. by Act 20 of 1967, s. 10, for sub-section (*5*) (w.e.f. 1-4-1967).

(*6*) Where a firm is succeeded to by a company in the business carried on by it as a result of which the firm sells or otherwise transfers to the company any land on which development allowance has been allowed, the provisions of clauses (*a*) and (*b*) of sub-section (*5*) shall, so far as may be, apply to the firm and the company.

Explanation.—The provisions of this sub-section shall apply if the conditions laid down in the *Explanation* to sub-section (*4*) of section 33 are fulfilled.

(*7*) For the purposes of this section, "actual cost of planting" means the aggregate of—

(*i*) the cost of preparing the land;

(*ii*) the cost of seeds, cutting and nurseries;

(*iii*) the cost of planting and replanting; and

(*iv*) the cost of upkeep thereof for the previous year in which the land has been prepared and the three successive previous years next following such previous year,

reduced by that portion of the cost, if any, as has been met directly or indirectly by any other person or authority:

[1][Provided that where such cost exceeds—

(*i*) forty thousand rupees per hectare in respect of land situate in a hilly area comprised in the district of Darjeeling; or

(*ii*) thirty-five thousand rupees per hectare in respect of land situate in a hilly area comprised in an area other than the district of Darjeeling; or

(*iii*) thirty thousand rupees per hectare in any other area,

then, the excess shall be ignored.

Explanation.—For the purposes of this proviso, "district of Darjeeling" means the district of Darjeeling as on the 28th day of February, 1981, being the date of introduction of the Finance Bill, 1981, in the House of the People.]

(*8*) The Board may, having regard to the elevation and topography, by general or special order, declare any areas to be hilly areas for the purposes of this section and such order shall not be questioned before any court of law or any other authority.

[2][*Explanation*.—For the purposes of this section, an assessee having a leasehold or other right of occupancy in any land shall be deemed to own such land and where the assessee transfers such right, he shall be deemed to have sold or otherwise transferred such land.]

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1. Subs. by Act 16 of 1981, s. 6, for the proviso and *Explanation* (w.e.f. 1-4-1982).

2. Ins. by Act 25 of 1975, s. 5 (w.e.f. 1-4-1962).

[1][**33AB. Tea development account** [2]**[, coffee development account and rubber development account]**.—(*1*) Where an assessee carrying on business of [3][growing and manufacturing tea or coffee or rubber] in India has, before the expiry of six months from the end of the previous year or before [4][the due date of furnishing the return of his income], [5][whichever is earlier,—

(*a*) deposited with the National Bank any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) [6][approved in this behalf by the Tea Board or the Coffee Board or the Rubber Board]; or

(*b*) [7][deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board or the Rubber Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Government,]

the assessee shall, subject to the provisions of this section,] be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(*a*) a sum equal to the amount or the aggregate of the amounts so deposited; or

(*b*) [8][a sum equal to forty per cent.. of the profits] of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less:

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner, or as the case may be, any member of such firm, association of persons or body of individuals:

Provided further that where any deduction, in respect of any amount deposited in the special account [9][, or in the [10][Deposit Account], has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

(*2*) The deduction under sub-section (*1*) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed formduly signed and verified by such accountant:

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

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1. Subs. by Act 12 of 1990, s. 10, for section 33AB (w.e.f. 1-4-1991).
2. Ins. by Act 32 of 2003, s. 16 (w.e.f. 1-4-2004).
3. Subs. by s. 16, *ibid*., for "growing and manufacturing tea" (w.e.f. 1-4-2004).
4. Subs. by s. 16, *ibid*., for "furnishing the return of his income" (w.e.f. 1-4-2004).
5. Subs. by Act 32 of 1994, s. 12, for certain words (w.e.f. 1-4-1995).
6. Subs. by Act 32 of 2003, s. 16, for "approved in this behalf by the Tea Board" (w.e.f. 1-4-2004).
7. Subs. by s. 16, *ibid*., for certain words (w.e.f. 1-4-2004).
8. Subs.by Act 14 of 2001, s. 22, for "a sum equal to twenty per cent. of the profits" (w.e.f. 1-4-2002).
9. Ins. by Act 32 of 1994, s. 12 (w.e.f. 1-4-1995).
10. Subs. by Act 32 of 2003, s. 16, for "Tea Deposit Account" (w.e.f. 1-4-2004).

(*3*) Any amount standing to the credit of the assessee in [1][the special account or the [2][Deposit Account] shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme] or in the circumstances specified below:—

(*a*) closure of business;

(*b*) death of an assessee;

(*c*) partition of a Hindu undivided family;

(*d*) dissolution of a firm;

(*e*) liquidation of a company.

[3][(*4*) Notwithstanding anything contained in sub-section (*3*), where any amount standing to the credit of the assessee in the special account or in the Deposit Account is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—

(*a*) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(*b*) any office appliances (not being computers);

(*c*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(*d*) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.]

(*5*) Where any amount, standing to the credit of the assessee in the special account [4][or in the [2][Deposit Account]], is withdrawn during any previous year by the assessee in the circumstance specified in clause (*a*) or clause (*d*) of sub-section (*3*), the whole of such amount shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year, as if the business had not closed or, as the case may be, the firm had not been dissolved.

(*6*) Where any amount standing to the credit of the assessee in the special account [4][or in the [2][Deposit Account]] is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme [4][or the deposit scheme], such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession.

(*7*) Where any amount, standing to the credit of the assessee in the special account [4][or in the [2][Deposit Account]], which is released during any previous year by the National Bank [4][or which is withdrawn by the assessee from the [2][Deposit Account]]for being utilised by the assessee for the purposes of such business in accordance with the scheme [4][or the deposit scheme] is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year:

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1. Subs. by Act 32 of 1994, s. 12, for "the special account shall not be allowed to be withdrawn except for the purposes specified in the scheme" (w.e.f. 1-4-1995).

2. Subs. by Act 32 of 2003, s. 16, for "Tea Deposit Account" (w.e.f. 1-4-2004).

3. Subs. by s. 16, *ibid*., for sub-section (*4*) (w.e.f. 1-4-2004).

4. Ins. by Act 32 of 1994, s. 12 (w.e.f. 1-4-1995).

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in circumstances specified in clauses (*b*), (*c*) and (*e*) of sub-section (*3*).

(*8*) Where any asset acquired in accordance with the scheme [1][or the deposit scheme] is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (*1*) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

Provided that nothing in this sub-section shall apply—

(*i*) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*ii*) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme [1][or the deposit scheme] continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (*ii*) of the proviso shall apply only where—

(*i*) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(*ii*) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company ; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

(*9*) The Central Government, if it considers necessary or expedient so to do, may, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—In this section,—

[2][(*a*) "Coffee Board" means the Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942);

(*aa*) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981);

(*ab*) "Rubber Board" means the Rubber Board constituted under sub-section (*1*) of section 4 of the Rubber Act, 1947 (24 of 1947);]

1. Ins. by Act 32 of 1994, s. 12 (w.e.f. 1-4-1995).

2. Subs. by Act 32 of 2003, s. 16, for clause (*a*) (w.e.f. 1-4-2004).

(*b*) "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953 (29 of 1953).]

[1][**33ABA. Site Restoration Fund**.—(*1*) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year—

(*a*) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(*b*) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (*a*) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of—

(*i*) a sum equal to the amount or the aggregate of the amounts so deposited; or

(*ii*) a sum equal to twenty per cent. of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less:

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals:

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year:

Provided also that any amount credited in the special account or the Site Restoration Account by way of interest shall be deemed to be a deposit.

(*2*) The deduction under sub-section (*1*) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant:

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(*3*) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

1. Ins. by Act 21 of 1998, s. 10 (w.e.f. 1-4-1999).

(*4*) Notwithstanding anything contained in sub-section (*3*), no deduction under sub-section (*1*) shall be allowed in respect of any amount utilised for the purchase of—

(*a*) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(*b*) any office appliances (not being computers);

(*c*) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(*d*) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(*5*) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is withdrawn on closure of the account during any previous year by the assessee, the amount so withdrawn from the account, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

Explanation.—Where any amount is withdrawn on closure of the account in a previous year in which the business carried on by the assessee is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(*6*) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(*7*) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year.

[1]* * * * *

(*8*) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (*1*) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

1. The proviso omitted by Act 27 of 1999, s. 13 (w.e.f. 1-4-1999).

Provided that nothing in this sub-section shall apply—

(*i*) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*ii*) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(*i*) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(*ii*) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(*iii*) all the shareholders of the company were partners of the firm immediately before the succession.

(*9*) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(*a*) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(*b*) the expression "amount standing to the credit of the assessee in the special account or the Site Restoration Account" includes interest accrued to such accounts.]

[1][**33AC. Reserves for shipping business**.—(*1*) [2][In the case of an assessee, being a Government company or a public company formed and registered in India with the main object of carrying on the business of operation of ships, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount not exceeding fifty per cent. of profits derived from the business of operation of ships (computed under the head "Profits and gains of business or profession" and before making any deduction under this section), as is debited to the profit and loss account of the previous year in respect of which the deduction is to be allowed and credited to a reserve account, to be utilised in the manner laid down in sub-section (*2*):]

[3][Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the aggregate of the amounts of the paid-up share capital, the general reserves and amount credited to the share premium account of the assessee, no allowance under this sub-section shall be made in respect of such excess:]

[4][Provided further that for five assessment years commencing on or after the 1st day of April, 2001 and ending before the 1st day of April, 2006, the provisions of this sub-section shall have effect as if for the words "an amount not exceeding fifty per cent.. of profits", the words "an amount not exceeding the profits" had been substituted:]

1. Ins. by Act 36 of 1989, s. 5 (w.e.f. 1-4-1990).
2. Subs. by Act 22 of 1995, s. 8, for certain words, brackets and figures (w.e.f. 1-4-1996).
3. Subs. by Act 20 of 2002, s. 15, for the first proviso (w.e.f. 1-4-2003).
4. Ins. by Act 10 of 2000, s. 15 (w.e.f. 1-4-2001).

[1][Provided also that no deduction shall be allowed under this section for any assessment year commencing on or after the 1st day of April, 2005.]

(*2*) The amount credited to the reserve account under sub-section (*1*) shall be utilised by the assessee before the expiry of a period of eight years next following the previous year in which the amount was credited—

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

(*b*) until the acquisition of a new ship, for the purposes of the business of the assessee other than for distribution by way of dividends or profits or for remittance outside India as profits or for the creation of any asset outside India.

(*3*) Where any amount credited to the reserve account under sub-section (*1*),—

(*a*) has been utilised for any purpose other than that referred to in clause (*a*) or clause (*b*) of sub-section (*2*), the amount so utilised; or

(*b*) has not been utilised for the purpose specified in clause (*a*) of sub-section (*2*), the amount not so utilised; or

(*c*) has been utilised for the purpose of acquiring a new ship as specified in clause (*a*) of sub-section (*2*), but such ship is [2][sold or otherwise transferred, other than in any scheme of demerger] by the assessee to any person at any time before the expiry of [3][three years] from the end of the previous year in which it was acquired, the amount so utilised in acquiring the ship,

shall be deemed to be the profits,—

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

(*ii*) in a case referred to in clause (*b*), in the year immediately following the period of eight years specified in sub-section (*2*); or

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

and shall be charged to tax accordingly.

[4][(*4*) Where the ship is sold or otherwise transferred (other than in any scheme of demerger) after the expiry of the period specified in clause (*c*) of sub-section (*3*) and the sale proceeds are not utilised for the purpose of acquiring a new ship within a period of one year from the end of the previous year in which such sale or transfer took place, [5][so much of such sale proceeds which represent the amount credited to the reserve account and utilised for the purposes mentioned in clause (*c*) of sub-section (*3*)] shall be deemed to be the profits of the assessment year immediately following the previous year in which the ship is sold or transferred.]

Explanation.—For the purposes of this section,—

(*a*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

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1. Ins. by Act 23 of 2004, s. 9 (w.e.f. 1-4-2005).
2. Subs. by Act 27 of 1999, s. 14, for "sold or otherwise transferred" (w.e.f. 1-4-2000).
3. Subs. by Act 32 of 2003, s. 17, for "eight years" (w.e.f. 1-4-2004).
4. Ins. by s. 17, *ibid*. (w.e.f. 1-4-2004).
5. Subs. by Act 18 of 2005, s. 9, for "such sale proceeds" (w.e.f. 1-4-2004).

[1][(*aa*) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956);]

(*b*) "new ship" shall have the same meaning as in clause (*ii*) of sub-section (*2*) of section 32AB.]

[2][**33B. Rehabilitation allowance**.—Where the business of any industrial undertaking carried on in India is discontinued in any previous year by reason of extensive damage to, or destruction of, any building, machinery, plant or furniture owned by the assessee and used for the purposes of such business as a direct result of—

(*i*) flood, typhoon, hurricane, cyclone, earthquake or other convulsion of nature; or

(*ii*) riot or civil disturbance; or

(*iii*) accidental fire or explosion; or

(*iv*) action by an enemy or action taken in combating an enemy (whether with or without a declaration of war),

and, thereafter, at any time before the expiry of three years from the end of such previous year, the business is re-established, reconstructed or revived by the assessee, he shall, in respect of the previous year in which the business is so re-established, reconstructed or revived, be allowed a deduction of a sum by way of rehabilitation allowance equivalent to sixty per cent.. of the amount of the deduction allowable to him under clause (*iii*) of sub-section (*1*) of section 32in respect of the building, machinery, plant or furniture so damaged or destroyed:

[3][Provided that no deduction under this section shall be allowed in relation to the assessment year commencing on the 1st day of April, 1985, or any subsequent assessment year.]

Explanation.—In this section, "industrial undertaking" means any undertaking which is mainly engaged in the business of generation or distribution of electricity or any other form of power or in the construction of ships or in the manufacture or processing of goods or in mining.]

34. Conditions for depreciation allowance and development rebate.—[4]* * * * *

(*3*) (*a*) The deduction referred to in section 33 shall not be allowed unless an amount equal to seventy-five per cent.. of the development rebate to be actually allowed is debited to the profit and loss account of [5][any previous year in respect of which the deduction is to be allowed under sub-section (*2*) of that section or any earlier previous year (being a previous year not earlier than the year in which the ship was acquired or the machinery or plant was installed or the ship, machinery or plant was first put to use)] and credited to a reserve account to be utilised by the assessee during a period of eight years next following for the purposes of the business of the undertaking, other than—

(*i*) for distribution by way of dividends or profits; or

(*ii*) for remittance outside India as profits or for the creation of any asset outside India:

Provided that this clause shall not apply where the assessee is a company, being a licensee within the meaning of the Electricity (Supply) Act, 1948 (54 of 1948), or where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958:

[6][Provided further that where a ship has been acquired after the 28th day of February, 1966, this clause shall have effect in respect of such ship as if for the words "seventy-five", the word "fifty" had been substituted.]

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1. Ins. by Act 18 of 1992, s. 12 (w.e.f. 1-4-1993).
2. Ins. by Act 20 of 1967, s. 11 (w.e.f. 1-4-1967).
3. Ins. by Act 21 of 1984, s. 5 (w.e.f. 1-4-1985).
4. Sub-sections (*1*) and (*2*) omitted by 46 of 1986, s. 6 (w.e.f. 1-4-1988).
5. Subs. by Act 12 of 1990, s. 11, for "the relevant previous year" (w.e.f. 1-4-1962).
6. Ins. by Act 13 of 1966, s. 9 (w.e.f. 1-4-1966).

[1]* * * * *

(*b*) If any ship, machinery or plant is sold or otherwise transferred by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired or installed, any allowance made under section 33or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of that ship, machinery or plant shall be deemed to have been wrongly made for the purposes of this Act, and the provisions of sub-section (*5*) of section 155shall apply accordingly:

Provided that this clause shall not apply—

(*i*) where the ship has been acquired or the machinery or plant has been installed before the 1st day of January, 1958; or

(*ii*) where the ship, machinery or plant is sold or otherwise transferred by the assessee to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956); or

(*iii*) where the sale or transfer of the ship, machinery or plant is made in connection with the amalgamation or succession, referred to in sub-section (*3*) or sub-section (*4*) of section 33.

[2][**34A. Restriction on unabsorbed depreciation and unabsorbed investment allowance for limited period in case of certain domestic companies**.—(*1*) In computing the profits and gains of the business of a domestic company in relation to the previous year relevant to the assessment year commencing on the 1st day of April, 1992, where effect is to be given to the unabsorbed depreciation allowance or unabsorbed investment allowance or both in relation to any previous year relevant to the assessment year commencing on or before the 1st day of April, 1991, the deduction shall be restricted to two-third of such allowance or allowances and the balance,—

(*a*) where it relates to depreciation allowance, be added to the depreciation allowance for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 and be deemed to be part of that allowance or if there is no such allowance for that previous year, be deemed to be the allowance for that previous year and so on for the succeeding previous years;

(*b*) where it relates to investment allowance, be carried forward to the assessment year commencing on the 1st day of April, 1993 and the balance of the investment allowance, if any, still outstanding shall be carried forward to the following assessment year and where the period of eight years has expired before the portion of such balance is adjusted, the said period shall be extended beyond eight years till such time the portion of the said balance is absorbed in the profits and gains of the business of the domestic company.

(*2*) For the assessment year commencing on the 1st day of April, 1992, the provisions of sub-section (*2*) of section 32 and sub-section (*3*) of section 32Ashall apply to the extent such provisions are not inconsistent with the provisions of sub-section (*1*) of this section.

(*3*) Nothing contained in sub-section (*1*) shall apply where the amount of unabsorbed depreciation allowance or of the unabsorbed investment allowance, as the case may be, or the aggregate amount of such allowances in the case of a domestic company is less than one lakh rupees.

(*4*) Nothing contained in sections 234B and 234Cshall apply to any shortfall in the payment of any tax due on the assessed tax or, as the case may be, returned income where such shortfall is on account of restricting the amount of depreciation allowance or investment allowance under this section and the assessee has paid the amount of shortfall before furnishing the return of income under sub-section (*1*) of section 139.]

1. The *Explanation* omitted by Act 12 of 1990, s. 11 (w.e.f. 1-4-1962).
2. Ins. by Act 18 of 1992, s. 13 (w.e.f. 1-4-1992).

[1]**[35. Expenditure on scientific research**.—(*1*) In respect of expenditure on scientific research, the following deductions shall be allowed—

(*i*) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business.

[2][*Explanation*.—Where any such expenditure has been laid out or expended before the commencement of the business (not being expenditure laid out or expended before the 1st day of April, 1973) on payment of any salary [as defined in *Explanation* 2 below sub-section (*5*) of section 40A] to an employee engaged in such scientific research or on the purchase of materials used in such scientific research, the aggregate of the expenditure so laid out or expended within the three years immediately preceding the commencement of the business shall, to the extent it is certified by the prescribed authorityto have been laid out or expended on such scientific research, be deemed to have been laid out or expended in the previous year in which the business is commenced;]

(*ii*) [3][an amount equal to [4][one and one half] times of any sum paid] to a [5][research association] which has as its object the undertaking of scientific research or to a university, college or other institution to be used for scientific research:

[6][Provided that such association, university, college or other institution for the purposes of this clause—

(*A*) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(*B*) such association, university, college or other institution is specified as such, by notification in the Official Gazette, by the Central Government;]

[7][Provided further that where any sum is paid to such association, university, college or other institution in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the sum so paid;]

[8][(*iia*) [9]*** any sum paid to a company to be used by it for scientific research:

Provided that such company—

(*A*) is registered in India,

(*B*) has as its main object the scientific research and development,

(*C*) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(*D*) fulfils such other conditions as may be prescribed;]

1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier omitted by Act 4 of 1988, s. 10 (w.e.f. 1-4-1989).
2. Ins. by Act 26 of 1974, s. 5 (w.e.f. 1-4-1974).
3. Subs. by Act 27 of 1999, s. 15, for "any sum paid" (w.e.f. 1-4-2000).
4. Subs. by Act 28 of 2016, s. 15 for "one and three fourth" (w.e.f. 1-4-2018).
5. Subs. by Act 14 of 2010, s. 9, for "scientific research association" (w.e.f. 1-4-2011).
6. Subs. by Act 29 of 2006, s. 5, for the proviso (w.e.f. 1-4-2006).
7. Ins. by Act 28 of 2016, s. 15 (we.f. 1-4-2018).
8. Ins. by Act 18 of 2008, s. 7 (w.e.f. 1-4-2009).
9. The words "an amount equal to one and one-fourth times of" omitted by Act 28 of 2016, s. 15 (w.e.f. 1-4-2018).

[1][(*iii*) [2][[3]*** [4][any sum paid] to a research association which has as its object the undertaking of research in social science or statistical research or to a university], college or other institution to be used for research in social science or statistical research:

[5][Provided that [6][such association, university], college or other institution for the purposes of this clause—

(*A*) is for the time being approved, in accordance with the guidelines, in the manner and subject to such conditions as may be prescribed; and

(*B*) [6][such association, university], college or other institution is specified as such, by notification in the Official Gazette, by the Central Government.]]

[7][*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a [8][research association], university, college or other institution to which clause (*ii*) or clause (*iii*) applies, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to the association, university, college or other institution referred to in clause (*ii*) or clause (*iii*) has been withdrawn;]

(*iv*) in respect of any expenditure of a capital nature on scientific research related to the business carried on by the assessee, such deduction as may be admissible under the provisions of sub-section (*2*):

[9][Provided that the [8][research association], university, college or other institution referred to in clause (*ii*) or clause (*iii*) shall make an application in the prescribed form and manner to the [10][Central Government] for the purpose of grant of approval, or continuance thereof, under clause (*ii*) or, as the case may be, clause (*iii*):

Provided further that the [10][Central Government] may, before granting approval under clause (*ii*) or clause (*iii*), call for such documents (including audited annual accounts) or information from the [8][research association], university, college or other institution as it thinks necessary in order to satisfy itself about the genuineness of the activities of the [8][research association], university, college or other institution and that [11][Government] may also make such inquiries as it may deem necessary in this behalf:

Provided also that any [12][notification issued, by the Central Government under clause (*ii*) or clause (*iii*), before the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years] (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:]

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1. Subs. by Act 49 of 1991, s. 12, for clause (*iii*) (w.e.f. 1-4-1992).
2. Subs. by Act 27 of 1999, s. 15, for "any sum paid" (w.e.f. 1-4-2000).
3. The words "an amount equal to one and one-fourth times of" omitted by Act 28 of 2016, s. 15 (w.e.f. 1-4-2018).
4. Subs. by Act 14 of 2010, s. 9, for "any sum paid to a university" (w.e.f. 1-4-2011).
5. Subs. by Act 29 of 2006, s. 5, for the proviso (w.e.f. 1-4-2006).
6. Subs. by Act 14 of 2010, s. 9, for "such university" (w.e.f. 1-4-2011).
7. Ins. by Act 29 of 2006, s. 5 (w.e.f. 1-4-2006).
8. Subs. by Act 14 of 2010, s. 9, for "scientific research association" (w.e.f. 1-4-2011).
9. Ins. by Act 3 of 1989, s. 8 (w.e.f. 1-4-1989).
10. Subs. by Act 27 of 1999, s. 15, for "prescribed authority" (w.e.f. 1-4-2000).
11. Subs. by Act 29 of 2006, s. 5, for "authority" (w.e.f. 1-4-2006).
12. Subs. by s. 5, *ibid*., for "notification issued by the Central Government under clause (ii) or clause (iii) shall, at any one time, have effect for such assessment year or years, not exceeding three assessment years" (w.e.f. 1-4-2006).

[1][Provided also that where an application under the first proviso is made on or after the date on which the Taxation Laws (Amendment) Bill, 2006 receives the assent of the President, every notification under clause (*ii*) or clause (*iii*) shall be issued or an order rejecting the application shall be passed within the period of twelve months from the end of the month in which such application was received by the Central Government.]

(*2*) For the purposes of clause (*iv*) of sub-section (*1*),—

[2][(*i*) in a case where such capital expenditure is incurred before the 1st day of April, 1967, one-fifth of the capital expenditure incurred in any previous year shall be deducted for that previous year; and the balance of the expenditure shall be deducted in equal instalments for each of the four immediately succeeding previous years;

(*ia*) in a case where such capital expenditure is incurred after the 31st day of March, 1967, the whole of such capital expenditure incurred in any previous year shall be deducted for that previous year:]

[3][Provided that no deduction shall be admissible under this clause in respect of any expenditure incurred on the acquisition of any land, whether the land is acquired as such or as part of any property, after the 29th day of February, 1984.]

[4][*Explanation* 1].—Where any capital expenditure has been incurred before the commencement of the business, the aggregate of the expenditure so incurred within the three years immediately preceding the commencement of the business shall be deemed to have been incurred in the previous year in which the business is commenced.

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

(*a*) "land" includes any interest in land ; and

(*b*) the acquisition of any land shall be deemed to have been made by the assessee on the date on which the instrument of transfer of such land to him has been registered under the Registration Act, 1908 (16 of 1908), or where he has taken or retained the possession of such land or any part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882 (4 of 1882), the date on which he has so taken or retained possession of such land or part;]

(*ii*) notwithstanding anything contained in clause (*i*), where an asset representing expenditure of a capital nature [5][incurred before the 1st day of April, 1967], ceases to be used in a previous year for scientific research related to the business and the value of the asset at the time of the cessation, together with the aggregate of deductions already allowed under clause (*i*) falls short of the said expenditure, then—

(*a*) there shall be allowed a deduction for that previous year of an amount equal to such deficiency, and

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1. Ins. by Act 29 of 2006, s. 5 (w.e.f. 1-4-2006).
2. Subs. by Act 20 of 1967, s. 33 and the Third Schedule, for clause (*i*) (w.e.f. 1-4-1968).
3. Ins. by Act 21 of 1984, s. 6 (w.e.f. 1-4-1984).
4. The *Explanation* numbered as *Explanation* 1 by s. 6, *ibid*. (w.e.f. 1-4-1984).
5. Ins. by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).

(*b*) no deduction shall be allowed under that clause for that previous year or for any subsequent previous year;

(*iii*) if the asset mentioned in clause (*ii*) is sold, without having been used for other purposes, in the year of cessation, the sale price shall be taken to be the value of the asset at the time of the cessation ; and if the asset is sold, without having been used for other purposes, in a previous year subsequent to the year of cessation, and the sale price falls short of the value of the asset taken into account at the time of cessation, an amount equal to the deficiency shall be allowed as a deduction for the previous year in which the sale took place;

(*iv*) where a deduction is allowed for any previous year under this section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed under [1][clause (*ii*) of sub-section (*1*)] of section 32 [2][for the same or any other previous year] in respect of that asset;

(*v*) [3][where the asset mentioned in clause (*ii*)is used] in the business after it ceases to be used for scientific research related to that business, depreciation shall be admissible under [4][clause (*ii*) of sub-section (*1*)] of section 32.

[5][(*2A*) [6][Where, before the 1st day of March, 1984,the assessee pays any sum] [7][(being any sum paid with a specific direction that the sum shall not be used for the acquisition of any land or building or construction of any building)] to a scientific research association or university or college or other institution referred to in clause (*ii*) of sub-section (*1*) [8][or to a public sector company] to be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority having regard to the social, economic and industrial needs of India, then,—

(*a*) there shall be allowed a deduction of a sum equal to one and one-third times the sum so paid; and

(*b*) no deduction in respect of such sum shall be allowed under clause (*ii*) of sub-section (*1*) for the same or any other assessment year.]

[8][*Explanation*.—For the purposes of this sub-section, "public sector company" shall have the same meaning as in clause (*b*) of the *Explanation* below sub-section (*2B*) of section 32A.]

[9][(*2AA*) Where the assessee pays any sum to a National Laboratory [10][or a [11][University or an Indian Institute of Technology or a specified person] with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority, then—

(*a*) there shall be allowed a deduction of a sum equal to [12][one and one-half times] the sum so paid; and

1. Subs. by Act 46 of 1986, s. 32, for "clauses (*i*), (*ii*), (*iia*), (*iii*) and (*iv*) of sub-section (*1*) or under sub-section (*1A*)" (w.e.f. 1-4-1988).
2. Subs. by Act 44 of 1980, s. 7, for "for the same previous year" (w.e.f. 1-4-1962).
3. Subs. by Act 20 of 1967, s. 33 and the Third Schedule, for "where the asset is used" (w.e.f. 1-4-1968).
4. Subs. by Act 46 of 1986, s. 32, for "clauses (*i*), (*ii*) and (*iii*) of sub-section (*1*)" (w.e.f. 1-4-1988).
5. Ins. by Act 26 of 1974, s. 5 (w.e.f. 1-4-1974).
6. Subs. by Act 21 of 1984, s. 6, for "Where the assessee pays any sum" (w.e.f. 1-4-1984).
7. Ins. by Act 11 of 1983, s. 12 (w.e.f. 1-4-1984).
8. Ins. by Act 44 of 1980, s. 7 (w.e.f. 1-9-1980).
9. Ins. by Act 38 of 1993, s. 9 (w.e.f. 1-4-1994).
10. Ins. by Act 32 of 1994, s. 13 (w.e.f. 1-4-1995).
11. Subs. by Act 14 of 2001, s. 23, for "University or an Indian Institute of Technology" (w.e.f. 1-4-2002).
12. Subs. by Act 28 of 2016, s. 15, for "two times" (w.e.f. 1-4-2018).

(*b*) no deduction in respect of such sum shall be allowed under any other provision of this Act:

[1][Provided that the prescribed authority shall, before granting approval, satisfy itself about the feasibility of carrying out the scientific research and shall submit its report to the [2][Principal Chief Commissioner or Chief Commissioner or] [3][Principal Director General or Director General] in such form as may be prescribed.]

[4][Provided further that where any sum is paid to such National Laboratory or university or Indian Institute of Technology or specified person in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this sub-section shall be equal to the sum so paid.]

[5][*Explanation* 1.—The deduction, to which the assessee is entitled in respect of any sum paid to a National Laboratory, University, Indian Institute of Technology or a specified person for the approved programme referred to in this sub-section, shall not be denied merely on the ground that, subsequent to the payment of such sum by the assessee, the approval granted to,—

(*a*) such Laboratory, or specified person has been withdrawn; or

(*b*) the programme, undertaken by the National Laboratory, University, Indian Institute of Technology or specified person, has been withdrawn.]

[6][[7][*Explanation* 2].—For the purposes of this section,—

(*a*) "National Laboratory" means a scientific laboratory functioning at the national level under the aegis of the Indian Council of Agricultural Research, the Indian Council of Medical Research, the Council of Scientific and Industrial Research, the Defence Research and Development Organisation, the Department of Electronics, the Department of Bio-Technology or the Department of Atomic Energy and which is approved as a National Laboratory by the prescribed authority in such manner as may be prescribed;

(*b*) "University" shall have the same meaning as in Explanation to clause (*ix*) of section 47;

(*c*) "Indian Institute of Technology" shall have the same meaning as that of "Institute" in clause (*g*) of section 3 of the Institutes of Technology Act, 1961 (59 of 1961);]

[8][(*d*) "specified person" means such person as is approved by the prescribed authority.]

[9][(*2AB*) (*1*) Where a company [10][engaged in the business of bio-technology or in [11][any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the

1. Subs. by Act 33 of 1996, s. 12, for the provisos (w.e.f. 1-10-1996).
2. Ins. by Act 20 of 2015, s. 12 (w.e.f. 1-4-2016).
3. Subs. by Act 25 of 2014, s. 4, for "Director General" (w.e.f. 1-6-2013).
4. Ins. by Act 28 of 2016, s. 15 (w.e.f. 1-4-2018).
5. The *Explanation* inserted by Act 29 of 2006, s. 5 (w.e.f. 1-4-2006).
6. Subs. by Act 32 of 1994, s. 13, for the *Explanation* (w.e.f. 1-4-1995).
7. The *Explanation* renumbered as *Explanation* 2 thereof by Act 29 of 2006, s. 5 (w.e.f. 1-4-2006).
8. Ins. by Act 14 of 2001, s. 23 (w.e.f. 1-4-2002).
9. Ins. by Act 26 of 1997, s. 5 (w.e.f. 1-4-1998).
10. Subs. by Act 14 of 2001, s. 23, for "engaged in the business of" (w.e.f. 1-4-2002).
11. Subs. by Act 33 of 2009, s. 12, for "the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board" (w.e.f. 1-4-2010).

Eleventh Schedule]] incurs any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility as approved by the prescribed authority, then, there shall be allowed a deduction of [1][a sum equal to [2][one and one-half times] of the expenditure] so incurred.

[3][Provided that where such expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in-house research and development facility is incurred in a previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, the deduction under this clause shall be equal to the expenditure so incurred.]

[4][*Explanation*.—For the purposes of this clause, "expenditure on scientific research", in relation to drugs and pharmaceuticals, shall include expenditure incurred on clinical drug trial, obtaining approval from any regulatory authority under any Central, State or Provincial Act and filing an application for a patent under the Patents Act, 1970 (39 of 1970).]

(*2*) No deduction shall be allowed in respect of the expenditure mentioned in clause (*1*) under any other provision of this Act.

(*3*) No company shall be entitled for deduction under clause (*1*) unless it enters into an agreement with the prescribed authority for co-operation in such research and development facility and [5][fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed].

(*4*) The prescribed authority shall submit its report in relation to the approval of the said facility to the [6][Principal Chief Commissioner or Chief Commissioner or] [7][Principal Director General or Director General] in such form and within such time as may be prescribed.]

[8]* * * * *

[9][(*6*) No deduction shall be allowed to a company approved under sub-clause (*C*) of clause (*iia*) of sub-section (*1*) in respect of the expenditure referred to in clause (*1*) which is incurred after the 31st day of March, 2008.]

[10][(*2B*) (*a*) [11][Where, before the 1st day of March, 1984, an assessee has incurred any expenditure] (not being in the nature of capital expenditure incurred on the acquisition of any land or building or construction of any building) on scientific research undertaken under a programme approved in this

1. Subs. by Act 10 of 2000, s. 16, for "a sum equal to one and one-fourth times of the expenditure" (w.e.f. 1-4-2001).

2. Subs. by Act 28 of 2016, s. 15 for "two times" (w.e.f. 1-4-2018).

3. Ins. by s. 15, *ibid*. (w.e.f. 1-4-2018).

4. Ins. by Act 14 of 2001, s. 23 (w.e.f. 1-4-2002).

5. Subs. by Act 20 of 2015, s. 12, for "for audit of accounts maintained for that facility" (w.e.f. 1-4-2016).

6. Ins. by s. 12, *ibid*. (w.e.f. 1-4-2016).

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

8. Clause (5) omitted by Act 28 of 2016, s. 15 (w.e.f. 1-4-2018).

9. Ins. by Act 18 of 2008, s. 7 (w.e.f. 1-4-2009).

10. Ins. by Act 44 of 1980, s. 7 (w.e.f. 1-9-1980).

11. Subs. by Act 21 of 1984, s. 6, for "Where an assessee has incurred any expenditure" (w.e.f. 1-4-1984).

behalf by the prescribed authority having regard to the social, economic and industrial needs of India, he shall, subject to the provisions of this sub-section, be allowed a deduction of a sum equal to one and one-fourth times the amount of the expenditure certified by the prescribed authority to have been so incurred during the previous year.

(*b*) Where a deduction has been allowed under clause (*a*) for any previous year in respect of any expenditure, no deduction in respect of such expenditure shall be allowed under clause (*i*) of sub-section (*1*) or clause (*ia*) of sub-section (*2*) for the same or any other previous year.

(*c*) Where a deduction is allowed for any previous year under this sub-section in respect of expenditure represented wholly or partly by an asset, no deduction shall be allowed in respect of that asset under [1][clause (*ii*) of sub-section (*1*)] of section 32 for the same or any subsequent previous year.

(*d*) Any deduction made under this sub-section in respect of any expenditure on scientific research in excess of the expenditure actually incurred shall be deemed to have been wrongly made for the purposes of this Act if the assessee fails to furnish within one year of the period allowed by the prescribed authority for completion of the programme, a certificate of its completion obtained from that authority, and the provisions of sub-section (*5B*) of section 155 shall apply accordingly.]

[2][(*3*) If any question arises under this section as to whether, and if so, to what extent, any activity constitutes or constituted, or any asset is or was being used for, scientific research, the Board shall refer the question to—

(*a*) the Central Government, when such question relates to any activity under clauses (*ii*) and (*iii*) of sub-section (*1*), and its decision shall be final;

(*b*) the prescribed authority, when such question relates to any activity other than the activity specified in clause (*a*), whose decision shall be final.]

(*4*) The provisions of sub-section (*2*) of section 32shall apply in relation to deductions allowable under clause (*iv*) of sub-section (*1*) as they apply in relation to deductions allowable in respect of depreciation.

[3][(*5*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing expenditure of a capital nature on scientific research,—

(*i*) the amalgamating company shall not be allowed the deduction under clause (*ii*) or clause (*iii*) of sub-section (*2*); and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.]

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1. Subs. by Act 46 of 1986, s. 32, for "clauses (*i*), (*ii*), (*iia*) and (*iii*) of sub-section (*1*) or under sub-section (*1A*)" (w.e.f. 1-4-1988).

2. Subs. by Act 27 of 1999, s. 15, for sub-section (*3*) (w.e.f. 1-4-2000).

3. Ins. by Act 20 of 1967, s. 13 (w.e.f. 1-4-1967).

[1]**[35A. Expenditure on acquisition of patent rights or copyrights.**— (*1*) In respect of any expenditure of a capital nature incurred after the 28th day of February, 1966 [2][but before the 1st day of April, 1998], on the acquisition of patent rights or copyrights (hereafter, in this section, referred to as rights) used for the purposes of the business, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

(*i*) "relevant previous years" means the fourteen previous years beginning with the previous year in which such expenditure is incurred or, where such expenditure is incurred before the commencement of the business, the fourteen previous years beginning with the previous year in which the business commenced :

Provided that where the rights commenced, that is to say, became effective, in any year prior to the previous year in which expenditure on the acquisition thereof was incurred by the assessee, this clause shall have effect with the substitution for the reference to fourteen years of a reference to fourteen years less the number of complete years which, when the rights are acquired by the assessee, have elapsed since the commencement thereof, and if fourteen years have elapsed as aforesaid, of a reference to one year;

(*ii*) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the number of the relevant previous years.

(*2*) Where the rights come to an end without being subsequently revived or where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) are not less than the cost of acquisition thereof remaining unallowed, no deduction under sub-section (*1*) shall be allowed in respect of the previous year in which the rights come to an end or, as the case may be, the whole or any part of the rights is sold or in respect of any subsequent previous year.

(*3*) Where the rights either come to an end without being subsequently revived or are sold in their entirety and the proceeds of the sale (so far as they consist of capital sums) are less than the cost of acquisition thereof remaining unallowed, a deduction equal to such cost remaining unallowed or, as the case may be, such cost remaining unallowed as reduced by the proceeds of the sale, shall be allowed in respect of the previous year in which the rights come to an end, or, as the case may be, are sold.]

(*4*) Where the whole or any part of the rights is sold and the proceeds of the sale (so far as they consist of capital sums) exceed the amount of the cost of acquisition thereof remaining unallowed, so much of the excess as does not exceed the difference between the cost of acquisition of the rights and the amount of such cost remaining unallowed shall be chargeable to income-tax as income of the business of the previous year in which the whole or any part of the rights is sold.

Explanation.—Where the whole or any part of the rights is sold in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(*5*) Where a part of the rights is sold and sub-section (*4*) does not apply, the amount of the deduction to be allowed under sub-section (*1*) shall be arrived at by—

(*a*) subtracting the proceeds of the sale (so far as they consist of capital sums) from the amount of the cost of acquisition of the rights remaining unallowed; and

(*b*) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the rights are sold.]

1. Ins. by Act 13 of 1966, s. 10 (w.e.f. 1-4-1966).
2. Ins. by Act 21 of 1998, s. 12 (w.e.f. 1-4-1999).

[1][(*6*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the rights to the amalgamated company (being an Indian company),—

(*i*) the provisions of sub-sections (*3*) and (*4*) shall not apply in the case of the amalgamating company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the rights.]

[2][(*7*) Where in a scheme of demerger, the demerged company sells or otherwise transfers the rights to the resulting company (being an Indian company),—

(*i*) the provisions of sub-sections (*3*) and (*4*) shall not apply in the case of the demerged company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the latter had not sold or otherwise transferred the rights.]

[3]**[35AB. Expenditure on know-how.**—(*1*) Subject to the provisions of sub-section (*2*), where the assessee has paid [4][in any previous year relevant to the assessment year commencing on or before the 1st day of April, 1998] any lump sum consideration for acquiring any know-how for use for the purposes of his business, one-sixth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance amount shall be deducted in equal instalments for each of the five immediately succeeding previous years.

(*2*) Where the know-how referred to in sub-section (*1*) is developed in a laboratory, university or institution referred to in sub-section (*2B*) of section 32A, one-third of the said lump sum consideration paid in the previous year by the assessee shall be deducted in computing the profits and gains of the business for that year, and the balance amount shall be deducted in equal instalments for each of the two immediately succeeding previous years.

[5][(*3*) Where there is a transfer of an undertaking under a scheme of amalgamation or demerger and the amalgamating or the demerged company is entitled to a deduction under this section, then, the amalgamated company or the resulting company, as the case may be, shall be entitled to claim deduction under this section in respect of such undertaking to the same extent and in respect of the residual period as it would have been allowable to the amalgamating company or the demerged company, as the case may be, had such amalgamation or demerger not taken place.]

Explanation.—For the purposes of this section, "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil well or other sources of mineral deposits (including the searching for, discovery or testing of deposits or the winning of access thereto).]

[6]**[35ABA. Expenditure for obtaining right to use spectrum for telecommunication services.**—(*1*) In respect of any expenditure, being in the nature of capital expenditure, incurred for acquiring any right to use spectrum for telecommunication services either before the commencement of the business or thereafter at any time during any previous year and for which payment has actually been made to obtain a right to use spectrum, there shall, subject to and in accordance with the provisions of this section, be

1. Ins. by Act 26 of 1967, s. 14 (w.e.f. 1-4-1967).
2. Ins. by Act 27 of 1999, s. 16 (w.e.f. 1-4-2000).
3. Ins. by Act 32 of 1985, s. 8 (w.e.f. 1-4-1986).
4. Subs. by Act 21 of 1998, s. 12, for "in any previous year" (w.e.f. 1-4-1999).
5. Ins. by Act 27 of 1999, s. 17 (w.e.f. 1-4-2000).
6. Ins. by Act 28 of 2016, s. 16 (w.e.f. 1-4-2017).

allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

(*2*) The provisions contained in sub-sections (*2*) to (*8*) of section 35 ABB, shall apply as if for the word "licence", the word "spectrum" had been substituted.

(*3*) Where, in a previous year, any deduction has been claimed and granted to the assessee under sub-section (*1*), and, subsequently, there is failure to comply with any of the provisions of this section, then,—

(*a*) the deduction shall be deemed to have been wrongly allowed;

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

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

Explanation.—For the purposes of this section,—

(*i*) "relevant previous years" means,—

(*A*) in a case where the spectrum fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(*B*) in any other case, the previous years beginning with the previous year in which the spectrum fee is actually paid,

and the subsequent previous year or years during which the spectrum, for which the fee is paid, shall be in force;

(*ii*) "appropriate fraction" means the fraction, the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(*iii*) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner as may be prescribed.]

[1]**[35ABB. Expenditure for obtaining licence to operate telecommunication services.**—(*1*) In respect of any expenditure, being in the nature of capital expenditure, incurred [2][for acquiring any right to operate telecommunication services either before the commencement of the business to operate telecommunication services or thereafter at any time during any previous year] and for which payment has actually been made to obtain a licence, there shall, subject to and in accordance with the provisions of this section, be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount of such expenditure.

Explanation.—For the purposes of this section,—

[3][(*i*) "relevant previous years" means,—

(*A*) in a case where the licence fee is actually paid before the commencement of the business to operate telecommunication services, the previous years beginning with the previous year in which such business commenced;

(*B*) in any other case, the previous years beginning with the previous year in which the licence fee is actually paid,

1. Ins. by Act 26 of 1997, s. 6 (w.e.f. 1-4-1996).
2. Subs. by Act 27 of 1999, s. 18, for "for acquiring any right to operate telecommunication services" (w.e.f. 1-4-1996).
3. Subs. by s. 18, for clause (*i*) (w.e.f. 1-4-1996).

and the subsequent previous year or years during which the licence, for which the fee is paid, shall be in force;]

(*ii*) "appropriate fraction" means the fraction the numerator of which is one and the denominator of which is the total number of the relevant previous years;

(*iii*) "payment has actually been made" means the actual payment of expenditure irrespective of the previous year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee.

(*2*) Where the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the previous year in which the licence is transferred.

(*3*) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred to obtain the licence and the amount of such expenditure remaining unallowed shall be chargeable to income-tax as profits and gains of the business in the previous year in which the licence has been transferred.

Explanation.—Where the licence is transferred in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(*4*) Where the whole or any part of the licence is transferred and the proceeds of the transfer (so far as they consist of capital sums) are not less than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (*1*) in respect of the previous year in which the licence is transferred or in respect of any subsequent previous year or years.

(*5*) Where a part of the licence is transferred in a previous year and sub-section (*3*) does not apply, the deduction to be allowed under sub-section (*1*) for expenditure incurred remaining unallowed shall be arrived at by—

(*a*) subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed; and

(*b*) dividing the remainder by the number of relevant previous years which have not expired at the beginning of the previous year during which the licence is transferred.

(*6*) Where, in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the licence to the amalgamated company (being an Indian company),—

(*i*) the provisions of sub-sections (*2*), (*3*) and (*4*) shall not apply in the case of the amalgamating company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the licence.]

[1][(*7*) Where, in a scheme of demerger, the demerged company sells or otherwise transfers the licence to the resulting company (being an Indian company),—

(*i*) the provisions of sub-sections (*2*), (*3*) and (*4*) shall not apply in the case of the demerged company; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company if the latter had not transferred the licence.]

1. Ins. by Act 27 of 1999, s. 18 (w.e.f. 1-4-2000).

[1][(*8*) Where a deduction for any previous year under sub-section (*1*) is claimed and allowed in respect of any expenditure referred to in that sub-section, no deduction shall be allowed under sub-section (*1*) of section 32 for the same previous year or any subsequent previous year.]

[2]**[35AC. Expenditure on eligible projects or schemes.**— (*1*) Where an assessee incurs any expenditure by way of payment of any sum to a public sector company or a local authority or to an association or institution approved by the National Committee for carrying out any eligible project or scheme, the assessee shall, subject to the provisions of this section, be allowed a deduction of the amount of such expenditure incurred during the previous year :

Provided that a company may, for claiming the deduction under this sub-section, incur expenditure either by way of payment of any sum as aforesaid or directly on the eligible project or scheme.

(*2*) The deduction under sub-section (*1*) shall not be allowed unless the assessee furnishes along with his return of income a certificate—

(*a*) where the payment is to a public sector company or a local authority or an association or institution referred to in sub-section (*1*), from such public sector company or local authority or, as the case may be, association or institution;

(*b*) in any other case, from an accountant, as defined in the Explanation below sub-section (*2*) of section 288,

in such form, manner and containing such particulars (including particulars relating to the progress in the work relating to the eligible project or scheme during the previous year) as may be prescribed.

[3][*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to a public sector company or a local authority or to an association or institution for carrying out the eligible project or scheme referred to in this section applies, shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee,—

(*a*) the approval granted to such association or institution has been withdrawn; or

(*b*) the notification notifying the eligible project or scheme carried out by the public sector company or local authority or association or institution has been withdrawn.]

(*3*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.

[4][(*4*) Where an association or institution is approved by the National Committee under sub-section (*1*), and subsequently—

(*i*) that Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which approval was granted; or

(*ii*) such association or institution, to which approval has been granted, has not furnished to the National Committee, after the end of each financial year, a report in such form and setting forth such particulars and within such time as may be prescribed

the National Committee may, at any time, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned association or institution, withdraw the approval:

Provided that a copy of the order withdrawing the approval shall be forwarded by the National Committee to the Assessing Officer having jurisdiction over the concerned association or institution.

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1. Ins. by Act 27 of 1999, s. 18 (w.e.f. 1-4-1996).
2. Ins. by Act 49 of 1991, s. 13 (w.e.f. 1-4-1992).
3. Ins. by Act 29 of 2006, s. 6 (w.e.f. 1-4-2006).
4. Subs by Act 23 of 2004, s. 10 for sub-section (*4*) (w.e.f. 1-10-2004).

(*5*) Where any project or scheme has been notified as an eligible project or scheme under clause (*b*) of the Explanation, and subsequently—

(*i*) the National Committee is satisfied that the project or the scheme is not being carried on in accordance with all or any of the conditions subject to which such project or scheme was notified; or

(*ii*) a report in respect of such eligible project or scheme has not been furnished after the end of each financial year, in such form and setting forth such particulars and within such time as may be prescribed,

such notification may be withdrawn in the same manner in which it was issued:

Provided that a reasonable opportunity of showing cause against the proposed withdrawal shall be given by the National Committee to the concerned association, institution, public sector company or local authority, as the case may be:

Provided further that a copy of the notification by which the notification of the eligible project or scheme is withdrawn shall be forwarded to the Assessing Officer having jurisdiction over the concerned association, institution, public sector company or local authority, as the case may be, carrying on such eligible project or scheme.]

[1][(*6*) Notwithstanding anything contained in any other provision of this Act, where—

(*i*) the approval of the National Committee, granted to an association or institution, is withdrawn under sub-section (*4*) or the notification in respect of eligible project or scheme is withdrawn in the case of a public sector company or local authority or an association or institution under sub-section (*5*); or

(*ii*) a company has claimed deduction under the proviso to sub-section (*1*) in respect of any expenditure incurred directly on the eligible project or scheme and the approval for such project or scheme is withdrawn by the National Committee under sub-section (*5*),

the total amount of the payment received by the public sector company or the local authority or the association or the institution, as the case may be, in respect of which such company or authority or association or institution has furnished a certificate referred to in clause (*a*) of sub-section (*2*) or the deduction claimed by a company under the proviso to sub-section (*1*) shall be deemed to be the income of such company or authority or association or institution, as the case may be, for the previous year in which such approval or notification is withdrawn and tax shall be charged on such income at the maximum marginal rate in force for that year.]

[2][(*7*) No deduction under this section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018.]

Explanation.—For the purposes of this section,—

(*a*) "National Committee" means the Committee constituted by the Central Government, from amongst persons of eminence in public life, in accordance with the rules made under this Act;

(*b*) "eligible project or scheme" means such project or scheme for promoting the social and economic welfare of, or the uplift of, the public as the Central Government may, by notification in the Official Gazette, specify in this behalf on the recommendations of the National Committee.]

[3]**[35AD. Deduction in respect of expenditure on specified business.**— (*1*) An assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him:

1. Ins. by Act 20 of 2002, s. 16 (w.e.f. 1-4-2003).
2. Ins. by Act 28 of 2016, s. 17 (w.e.f. 1-4-2017).
3. Ins. by Act 33 of 2009, s. 13 (w.e.f. 1-4-2010).

Provided that the expenditure incurred, wholly and exclusively, for the purposes of any specified business, shall be allowed as deduction during the previous year in which he commences operations of his specified business, if—

(*a*) the expenditure is incurred prior to the commencement of its operations; and

(*b*) the amount is capitalised in the books of account of the assessee on the date of commencement of its operations.]

[1] * * * * *

(*2*) This section applies to the specified business which fulfils all the following conditions, namely:—

(*i*) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(*ii*) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(*iii*) where the business is of the nature referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*8*), such business,—

(*a*) is owned by a company formed and registered in India under the Companies Act, 1956 (1 of 1956) or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

(*b*) has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (*1*) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006) and notified by the Central Government in the Official Gazette in this behalf;

(*c*) has made not less than [2][such proportion of its total pipeline capacity as specified by regulations made by the Petroleum and Natural Gas Regulatory Board established under sub-section (*1*) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006)] available for use on common carrier basis by any person other than the assessee or an associated person; and

(*d*) fulfils any other condition as may be prescribed.

[3][(*iv*) where the business is of the nature referred to in sub-clause (*xiv*) of clause (*c*) of sub-section (*8*), such business,—

(*A*) is owned by a company registered in India or by a consortium of such companies or by an authority or a board or corporation or any other body established or constituted under any Central or State Act;

(*B*) entity referred to in sub-clause (*A*) has entered into an agreement with the Central Government or a State Government or a local authority or any other statutory body for developing or operating and maintaining or developing, operating and maintaining, a new infrastructure facility.]

[4][(*3*) Where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of [5][section 10AA and]

1. Sub-section (*1A*) Omitted by Act 28 of 2016, s. 18 (w.e.f 1-4-2018).
2. Subs. by Act 14 of 2010, s. 10, for the words "one-third of its total pipeline capacity" (w.e.f. 1-4-2010).
3. Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).
4. Subs. by Act 14 of 2010, s. 10, for sub-section (*3*) (w.e.f. 1-4-2011).
5. Ins. by Act 25 of 2014, s. 12 (w.e.f. 1-4-2015).

Chapter VIA under the heading" C.—Deductions in respect of certain incomes" in relation to such specified business for the same or any other assessment year.]

(*4*) No deduction in respect of the expenditure referred to in sub-section (*1*) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year.

(*5*) The provisions of this section shall apply to the specified business referred to in sub-section (*2*) if it commences its operations,—

(*a*) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network; [1]***

[2][(*aa*) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hotel of two-star or above category as classified by the Central Government;

(*ab*) on or after the 1st day of April, 2010, where the specified business is in the nature of building and operating a new hospital with at least one hundred beds for patients;

(*ac*) on or after the 1st day of April, 2010, where the specified business is in the nature of developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and which is notified by the Board in this behalf in accordance with the guidelines as may be prescribed; [3]***]

[4][(*ad*) on or after the 1st day of April, 2011, where the specified business is in the nature of developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(*ae*) on or after the 1st day of April, 2011, in a new plant or in a newly installed capacity in an existing plant for production of fertilizer; [5]***]

[6](*af*) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(*ag*) on or after the 1st day of April, 2012, where the specified business is in the nature of bee-keeping and production of honey and beeswax;

(*ah*) on or after the 1st day of April, 2012, where the specified business is in the nature of setting up and operating a warehousing facility for storage of sugar; [7]***]

[8][(*ai*) on or after the 1st day of April, 2014, where the specified business is in the nature of laying and operating a slurry pipeline for the transportation of iron ore;

(*aj*) on or after the 1st day of April, 2014, where the specified business is in the nature of setting up and operating a semi-conductor wafer fabrication manufacturing unit, and which is notified by the Board in accordance with such guidelines as may be prescribed; [9]***]

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1. The word "and" omitted by Act 14 of 2010, s. 10 (w.e.f. 1-4-2011).
2. Ins. by s. 10, *ibid*. (w.e.f. 1-4-2011).
3. The word "and" omitted by Act 8 of 2011, s. 6 (w.e.f. 1-4-2012).
4. Ins. by s. 6, *ibid*. (w.e.f. 1-4-2012).
5. The word "and" omitted by Act 23 of 2012, s. 9 (w.e.f. 1-4-2013).
6. Ins. by s. 9, *ibid*. (w.e.f. 1-4-2013).
7. The word "and" omitted by Act 25 of 2014, s. 12 (w.e.f. 1-4-2015).
8. Ins. by s. 12, *ibid*. (w.e.f. 1-4-2015).
9. The word "and" omitted by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).

[1][(*ak*) on or after the 1st day of April, 2017, where the specified business is in the nature of developing or operating and maintaining or developing, operating and maintaining, any infrastructure facility; and]

(*b*) on or after the 1st day of April, 2009, in all other cases not falling under [2][any of the above clauses.]

(*6*) The assessee carrying on the business of the nature referred to in clause (*a*) of sub-section (*5*) shall be allowed, in addition to deduction under sub-section (*1*), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

(*a*) the business referred to in clause (*a*) of sub-section (*5*) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(*b*) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

[3][(*6A*) Where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business referred to in sub-clause (*iv*) of clause (*c*) of sub-section (*8*).]

(*7*) The provisions contained in sub-section (*6*) of section 80A and the provisions of sub-sections (*7*) and (*10*) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

[4][(*7A*) Any asset in respect of which a deduction is claimed and allowed under this section shall be used only for the specified business, for a period of eight years beginning with the previous year in which such asset is acquired or constructed.

(*7B*) Where any asset, in respect of which a deduction is claimed and allowed under this section, is used for a purpose other than the specified business during the period specified in sub-section (*7A*), otherwise than by way of a mode referred to in clause (*vii*) of section 28, the total amount of deduction so claimed and allowed in one or more previous years, as reduced by the amount of depreciation allowable in accordance with the provisions of section 32, as if no deduction under this section was allowed, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the asset is so used.

(*7C*) Nothing contained in sub-section (*7B*) shall apply to a company which has become a sick industrial company under sub-section (*1*) of section 17 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), during the period specified in sub-section (*7A*).]

(*8*) For the purposes of this section,—

(*a*) an"associated person", in relation to the assessee, means a person,—

(*i*) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

1. Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).
2. Subs. by Act 23 of 2012, s. 9, for "clause (*a*), clause (*aa*), clause (*ab*) and clauses (*ac*)" (w.e.f. 1-4-2013).
3. Ins. by s. 9, *ibid*. (w.e.f. 1-4-2011).
4. Ins. by Act 25 of 2014, s. 12 (w.e.f. 1-4-2015).

(*ii*) who holds, directly or indirectly, shares carrying not less than twenty-six per cent of the voting power in the capital of the assessee;

(*iii*) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(*iv*) who guarantees not less than ten per cent of the total borrowings of the assessee;

(*b*) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

[1][(*ba*) "infrastructure facility" means—

(*i*) a road including toll road, a bridge or a rail system;

(*ii*) a highway project including housing or other activities being an integral part of the highway project;

(*iii*) a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system;

(*iv*) a port, airport, inland waterway, inland port or navigational channel in the sea;]

(*c*) "specified business" means any one or more of the following business, namely :—

(*i*) setting up and operating a cold chain facility;

(*ii*) setting up and operating a warehousing facility for storage of agricultural produce;

(*iii*) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;

[2][(*iv*) building and operating, anywhere in India, a [3][hotel] of two-star or above category as classified by the Central Government;

(*v*) building and operating, anywhere in India, a [4][hospital] with at least one hundred beds for patients;

(*vi*) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

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1. Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).
2. Ins. by Act 14 of 2010, s. 10 (w.e.f. 1-4-2011).
3. Subs. by Act 8 of 2011, s. 6, for "new hotel" (w.e.f. 1-4-2011).
4. Subs. by s. 6, *ibid*., for "new hospital" (w.e.f. 1-4-2011).

[1][(*vii*) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed;

(*viii*) production of fertilizer in India;]

[2][(*ix*) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(*x*) bee-keeping and production of honey and beeswax;

(*xi*) setting up and operating a warehousing facility for storage of sugar;]

[3][(*xii*) laying and operating a slurry pipeline for the transportation of iron ore;

(*xiii*) setting up and operating a semi-conductor wafer fabrication manufacturing unit notified by the Board in accordance with such guidelines as may be prescribed;]

[4][(*xiv*) developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility;]

(*d*) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(*i*) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

(*ii*) such machinery or plant is imported into India from any country outside India; and

(*iii*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee;

(*e*) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent of the total value of the machinery or plant used in such business, then, for the purposes of clause (*ii*) of sub-section (*2*), the condition specified therein shall be deemed to have been complied with;

(*f*) any expenditure of capital nature shall not include [5][any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees or] any expenditure incurred on the acquisition of any land or goodwill or financial instrument.]

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1. Ins. by Act 8 of 2011, s. 6 (w.e.f. 1-4-2012).
2. Ins. by Act 23 of 2012, s. 9 (w.e.f. 1-4-2013).
3. Ins. by Act 25 of 2014, s. 12 (w.e.f. 1-4-2015).
4. Ins. by Act 28 of 2016, s. 18 (w.e.f. 1-4-2018).
5. Ins. by Act 7 of 2017, s. 13 (w.e.f. 1-4-2018).

35B. [**Export markets development allowance**.]—*Omitted by the Direct Tax Laws (Amendment) Act*, 1987 (4 *of* 1988), *s*. 10 *as amended by Act* 3 *of* 1989, *s*. 95 (*w.e.f.*1-4-1989). *Earlier inserted by Act* 19 *of* 1968, *s*. 5 (*w.e.f*. 1-4-1968).

35C. [**Agricultural development allowance**.]—*Omitted by s. 10, ibid.* (*w.e.f.* 1-4-1988) *as amended by s*. 95, *ibid*. (*w.e.f.*1-4-1989). *Earlier inserted s*. 5, *ibid*. (*w.e.f*. 1-4-1968).

35CC. [**Rural development allowance**.]—*Omitted by s. 10, ibid. (w.e.f. 1-4-1988) as amended by s*. 95, *ibid*. (*w.e.f.*1-4-1989). *Earlier inserted s*. 5, *ibid*. (*w.e.f*. 1-4-1968).

[1][**35CCA.Expenditure by way of payment to associations and institutions for carrying out rural development programmes.**—[2][(*1*) Where an assessee incurs any expenditure by way of payment of any sum—

(*a*) to an association or institution, which has as its object the undertaking of any programme of rural development, to be used for carrying out any programme of rural development approved by the prescribed authority; or

(*b*) to an association or institution, which has as its object the training of persons for implementing programmes of rural development; [3][or]

[4][(*c*) to a rural development fund set up and notified by the Central Government in this [5][behalf; or]

[6][(*d*) to the National Urban Poverty Eradication Fund set up and notified by the Central Government in this behalf,]

the assessee shall, subject to the provisions of sub-section (*2*), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

[7][(*2*) The deduction under clause (*a*) of sub-section (*1*) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution referred to in the said clause unless the assessee furnishes a certificate from such association or institution to the effect that—

(*a*) the programme of rural development had been approved by the prescribed authority before the 1st day of March, 1983; and

(*b*) where such payment is made after the 28th day of February, 1983, such programme involves work by way of construction of any building or other structure (whether for use as a dispensary, school, training or welfare centre, workshop or for any other purpose) or the laying of any road or the construction or boring of a well or tube-well or the installation of any plant or machinery, and such work has commenced before the 1st day of March, 1983.]

(*2A*) The deduction under clause (*b*) of sub-section (*1*) shall not be allowed in respect of expenditure by way of payment of any sum to any association or institution unless the assessee furnishes a certificate from such association or institution to the effect that—

(*a*) the prescribed authority had approved the association or institution before the 1st day of March, 1983; and

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1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier omitted by Act 4 of 1988, s. 10 (w.e.f 1-4-1988). Original s. 35CCA ins. by Act 19 of 1978, s. 7 (w.e.f. 1-6-1978).
2. Subs. by Act 21 of 1979, s. 5, for sub-section (*1*) (w.e.f. 1-6-1979).
3. Ins. by Act 11 of 1983, s. 16 (w.e.f. 1-4-1983).
4. Ins. by s. 16, *ibid*. (w.e.f. 1-4-1983).
5. Subs. by Act 22 of 1995, s. 9, for "behalf" (w.e.f. 1-4-1996).
6. Ins. by s. 9, *ibid*. (w.e.f. 1-4-1996).
7. Subs. by Act 11 of 1983, s. 16 for sub-section (*2*), (*2A*) and (*2B*) (w.e.f. 1-4-1983).

(*b*) the training of persons for implementing any programme of rural development had been started by the association or institution before the 1st day of March, 1983.]

[1][*Explanation*.—The deduction, to which the assessee is entitled in respect of any sum paid to an association or institution for carrying out the programme of rural development referred to in sub-section (*1*), shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such programme of rural development, or as the case may be, to the association or institution has been withdrawn.]

(*2B*) No certificate of the nature referred to in sub-section (*2*) or sub-section (*2A*) shall be issued by any association or institution unless such association or institution has obtained from the prescribed authority authorisation in writing to issue certificates of such nature.]

Explanation.—For the purposes of this section, "programme of rural development" shall have the meaning assigned to it in the Explanation to sub-section (*1*) of section 35CC.

(*3*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under section 35C or section 35CC or section 80G or any other provision of this Act for the same or any other assessment year.]

[2]**[35CCB. Expenditure by way of payment to associations and institutions for carrying out programmes of conservation of natural resources.**—[3][(*1*) [4][Where an assessee incurs any expenditure on or before the 31st day of March, 2002] by way of payment of any sum—

(*a*) to an association or institution, which has as its object the undertaking of any programme of conservation of natural resources or of afforestation, to be used for carrying out any programme of conservation of natural resources or afforestation approved by the prescribed authority; or

(*b*) to such fund for afforestation as may be notified by the Central Government,

the assessee shall, subject to the provisions of sub-section (*2*), be allowed a deduction of the amount of such expenditure incurred during the previous year.]

(*2*) The deduction under [5][clause (*a*) of] sub-section (*1*) shall not be allowed with respect to expenditure by way of payment of any sum to any association or institution, unless such association or institution is for the time being approved in this behalf by the prescribed authority:

Provided that the prescribed authority shall not grant such approval for more than three years at a time.

(*3*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.]

[6][**35CCC. Expenditure on agricultural extension project.**— (*1*) Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with theguidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.

1. Ins. by Act 29 of 2006, s. 7 (w.e.f. 1-4-2006).
2. Restored by Act 3 of 1989, s. 95 earlier omitted by Act 4 of 1988, s.10 (w.e.f. 1-4-1989). Original s. 35CCB was inserted by Act 14 of 1982, s. 9 (w.e.f. 1-6-1982).
3. Subs. by Act 12 of 1990, s. 12, for sub-section (*1*) (w.e.f. 1-4-1991).
4. Subs. by Act 20 of 2002, s. 17, for "Where an assessee incurs any expenditure" (w.e.f. 1-4-2003).
5. Ins. by Act 12 of 1990, s. 12 (w.e.f. 1-4-1991).
6. Ins. by Act 23 of 2012, s. 10 (w.e.f. 1-4-2013).

[1][Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect as if for the words "a sum equal to one and one-half times of", the words "a sum equal to" had been substituted.]

(*2*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]

[2]**[35CCD. Expenditure on skill development project.**— (*1*) Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of a sum equal to one and one-half times of such expenditure.]

[3][Provided that for the assessment year beginning on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "an amount equal to one and one-half times of", the words "a sum equal to" had been substituted.]

(*2*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (*1*), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment year.]

[4]**[35D. Amortisation of certain preliminary expenses.**— (*1*) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (*2*),—

(*i*) before the commencement of his business, or

(*ii*) after the commencement of his business, in connection with the extension of his [5][undertaking] or in connection with his setting up a new [6][unit],

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of an amount equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business commences or, as the case may be, the previous year in which the extension of the [5][undertaking] is completed or the new [6][unit] commences production or operation:

[7][Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (*2*), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one-fifth of such expenditure for each of the five successive previous years" had been substituted.]

(*2*) The expenditure referred to in sub-section (*1*) shall be the expenditure specified in any one or more of the following clauses, namely :—

(*a*) expenditure in connection with—

(*i*) preparation of feasibility report;

(*ii*) preparation of project report;

1. Ins. by Act 28 of 2016, s. 19 (w.e.f. 1-4-2017).
2. Ins. by Act 23 of 2012, s. 10 (w.e.f. 1-4-2013).
3. Ins. by Act 28 of 2016, s. 20 (w.e.f. 1-4-2017).
4. Ins. by Act 42 of 1970, s. 8 (w.e.f. 1-4-1971).
5. Subs. by Act 18 of 2008, s. 8, for "industrial undertaking" (w.e.f. 1-4-2009).
6. Subs. by s. 8, *ibid*., for "industrial unit" (w.e.f. 1-4-2009).
7. Ins. by Act 21 of 1998, s. 14 (w.e.f. 1-4-1999).

(*iii*) conducting market survey or any other survey necessary for the business of the assessee;

(*iv*) engineering services relating to the business of the assessee:

Provided that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board;

(*b*) legal charges for drafting any agreement between the assessee and any other person for any purpose relating to the setting up or conduct of the business of the assessee;

(*c*) where the assessee is a company, also expenditure—

(*i*) by way of legal charges for drafting the Memorandum and Articles of Association of the company;

(*ii*) on printing of the Memorandum and Articles of Association;

(*iii*) by way of fees for registering the company under the provisions of the Companies Act, 1956 (1 of 1956);

(*iv*) in connection with the issue, for public subscription, of shares in or debentures of the company, being underwriting commission, brokerage and charges for drafting, typing, printing and advertisement of the prospectus;

(*d*) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed.

(*3*) Where the aggregate amount of the expenditure referred to in sub-section (*2*) exceeds an amount calculated at two and one-half per cent—

(*a*) of the cost of the project, or

(*b*) where the assessee is an Indian company, at the option of the company, of the capital employed in the business of the company,

the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (*1*):

[1][Provided that where the aggregate amount of expenditure referred to in sub-section (*2*) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words "two and one-half per cent", the words "five per cent" had been substituted.]

Explanation.—In this sub-section—

(*a*) "cost of the project" means—

(*i*) in a case referred to in clause (*i*) of sub-section (*1*), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the business of the assessee commences;

(*ii*) in a case referred to in clause (*ii*) of sub-section (*1*), the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings), which are shown in the books of the assessee as on the last day of the previous year in which the extension of the [2][undertaking] is

1. Ins. by Act 21 of 1998, s. 14 (w.e.f. 1-4-1999).
2. Subs. by Act 18 of 2008, s. 8, for "industrial undertaking" (w.e.f. 1-4-2009).

completed or, as the case may be, the new [1][unit] commences production or operation, in so far as such fixed assets have been acquired or developed in connection with the extension of the [2][undertaking] or the setting up of the new [1][unit] of the assessee;

(*b*) "capital employed in the business of the company" means—

(*i*) in a case referred to in clause (*i*) of sub-section (*1*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences;

(*ii*) in a case referred to in clause (*ii*) of sub-section (*1*), the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the [2][undertaking] is completed or, as the case may be, the new [1][unit] commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the [2][undertaking] or the setting up of the new [2][unit] of the company;

(*c*) "long-term borrowings" means—

(*i*) any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution[3][which is eligible for deduction under clause (*viii*) of sub-section (*1*) of section 36] or any banking institution (not being a financial institution referred to above), or

(*ii*) any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the terms under which such moneys are borrowed or the debt is incurred provide for the repayment thereof during a period of not less than seven years.

(*4*) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (*2*) is incurred have been audited by an accountant as defined in the Explanation below sub-section (*2*) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(*5*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period of ten years specified in sub-section (*1*), to another Indian company in a scheme of amalgamation,—

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

[4][(*5A*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period specified in sub-section (1), to another company in a scheme of demerger,—

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the demerged company for the previous year in which the demerger takes place; and

1. Subs. by Act of 18 of 2008, s. 8, for "industrial unit" (w.e.f. 1-4-2009).
2. Subs. by s. 8, *ibid*., for "industrial undertaking" (w.e.f. 1-4-2009).
3. Subs. by Act 10 of 2000, s. 17, for "which is for the time being approved by the Central Government for the purposes of clause (*viii*) of sub-section (*1*) of section 36" (w.e.f. 1-4-2000).
4. Ins. by Act 27 of 1999, s. 19 (w.e.f. 1-4-2000).

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.]

(*6*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (*2*), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.

[1][**35DD. Amortisation of expenditure in case of amalgamation or demerger.**—(*1*) Where an assessee, being an Indian company, incurs any expenditure, on or after the 1st day of April, 1999, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking, the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive previous years beginning with the previous year in which the amalgamation or demerger takes place.

(*2*) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (*1*) under any other provision of this Act.]

[2][**35DDA. Amortisation of expenditure incurred under voluntary retirement scheme.**—(*1*) Where an assessee incurs any expenditure in any previous year by way of payment of any sum to an employee [3][in connection with his voluntary retirement], in accordance with any scheme or schemes of voluntary retirement, one-fifth of the amount so paid shall be deducted in computing the profits and gains of the business for that previous year, and the balance shall be deducted in equal instalments for each of the four immediately succeeding previous years.]

[4][(*2*) Where the assessee, being an Indian company, is entitled to the deduction under sub-section (*1*) and the undertaking of such Indian company entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period specified in that sub-section, to another Indian company in a scheme of amalgamation, the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(*3*) Where the undertaking of an Indian company entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period specified in that sub-section, to another company in a scheme of demerger, the provisions of this section shall, as far as may be, apply to the resulting company, as they would have applied to the demerged company, if the demerger had not taken place.

(*4*) Where there has been reorganisation of business, whereby a firm is succeeded by a company fulfilling the conditions laid down in clause (*xiii*) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (*xiv*) of section 47, the provisions of this section shall, as far as may be, apply to the successor company, as they would have applied to the firm or the proprietary concern, if reorganisation of business had not taken place.

[5][(*4A*) Where there has been reorganisation ofbusiness, whereby a private company or unlisted public company is succeeded by a limited liability partnership fulfilling the conditions laid down in the proviso to clause (*xiiib*) of section 47, the provisions of this section shall, as far as may be, apply to the successor limited liability partnership, as they would have applied to the said company, if reorganisation of business had not taken place.

(*5*) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (*1*) in the case of the amalgamating company referred to in sub-section (*2*), in the case of demerged company referred to in [6][sub-section (*3*), in the case of a firm or proprietary concern referred to in sub-section (*4*)

1. Ins. by Act 27 of 1999, s. 20 (w.e.f. 1-4-2000).
2. Ins. by Act 14 of 2001, s. 24 (w.e.f. 1-4-2001).
3. Subs. by Act 18 of 2005, s. 11, for "at the time of his voluntary retirement" (w.e.f. 1-4-2004).
4. Subs. by Act 20 of 2002, s. 18, for sub-section (*2*) (w.e.f. 1-4-2001).
5. Ins. by Act 14 of 2010, s. 11 (w.e.f. 1-4-2011).
6. Subs. by s. 11, *ibid*., for "sub-section (*3*) and in the case of a firm or proprietary concern referred to in sub-section (*4*)" (w.e.f. 1-4-2011).

and in the case of a company referred to in sub-section (*4A*)] of this section, for the previous year in which amalgamation, demerger or succession, as the case may be, takes place.

(*6*) No deduction shall be allowed in respect of the expenditure mentioned in sub-section (*1*) under any other provision of this Act.]

35E. Deduction for expenditure on prospecting, etc., for certain minerals.—(*1*) Where an assessee, being an Indian company or a person (other than a company) who is resident in India, is engaged in any operations relating to prospecting for, or extraction or production of, any mineral and incurs, after the 31st day of March, 1970, any expenditure specified in sub-section (*2*), the assessee shall, in accordance with and subject to the provisions of this section, be allowed for each one of the relevant previous years a deduction of an amount equal to one-tenth of the amount of such expenditure.

(*2*) The expenditure referred to in sub-section (*1*) is that incurred by the assessee after the date specified in that sub-section at any time during the year of commercial production and any one or more of the four years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals :

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(*3*) Any expenditure—

(*i*) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (*2*) or of any rights in or over such site;

(*ii*) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(*iii*) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the assessee for any of the purposes specified in sub-section (*2*).

(*4*) The deduction to be allowed under sub-section (*1*) for any relevant previous year shall be—

(*a*) an amount equal to one-tenth of the expenditure specified in sub-section (*2*) (such one-tenth being hereafter in this sub-section referred to as the instalment); or

(*b*) such amount as is sufficient to reduce to nil the income (as computed before making the deduction under this section) of that previous year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-section (*2*)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid in respect of which the expenditure was incurred,

whichever amount is less:

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production.

(*5*) For the purposes of this section,—

(*a*) "operation relating to prospecting" means any operation undertaken for the purposes of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive;

(*b*) "year of commercial production" means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences;

(*c*) "relevant previous years" means the ten previous years beginning with the year of commercial production.

(*6*) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless the accounts of the assessee for the year or years in which the expenditure specified in sub-section (*2*) is incurred have been audited by an accountant as defined in the Explanation below sub-section (*2*) of section 288, and the assessee furnishes, along with his return of income for the first year in which the deduction under this section is claimed, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(*7*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period of ten years specified in sub-section (*1*), to another Indian company in a scheme of amalgamation—

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(*ii*) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

[1][(*7A*) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (*1*) is transferred, before the expiry of the period of ten years specified in sub-section (*1*), to another Indian company in a scheme of demerger,—

(*i*) no deduction shall be admissible under sub-section (*1*) in the case of the demerged company for the previous year in which the demerger takes place; and

(*ii*) the provisions of this section shall, as far as may be, apply to the resulting company as they would have applied to the demerged company, if the demerger had not taken place.]

(*8*) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure specified in sub-section (*2*), the expenditure in respect of which deduction is so allowed shall not qualify for deduction under any other provision of this Act for the same or any other assessment year.]

1. Ins. by 27 of 1999, s. 21 (w.e.f. 1-4-2000).

36. Other deductions.—(*1*) The deductions provided for in the following clauses shall be allowed in respect of the matters dealt with therein, in computing the income referred to in section 28—

(*i*) the amount of any premium paid in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of the business or profession;

[1][(*ia*) the amount of any premium paid by a federal milk co-operative society to effect or to keep in force an insurance on the life of the cattle owned by a member of a co-operative society, being a primary society engaged in supplying milk raised by its members to such federal milk co-operative society;]

[2][(*ib*) the amount of any premium paid by any mode of payment other than cash by the assessee as an employer to effect or to keep in force an insurance on the health of his employees under a scheme framed in this behalf by—

(*A*) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) and approved by the Central Government; or

(*B*) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (*1*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);]

(*ii*) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission;

[3]* * * * *

[4]* * * * *

(*iii*) the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession:

[5][Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset [6]*** (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.

Explanation.—Recurring subscriptions paid periodically by shareholders, or subscribers in Mutual Benefit Societies which fulfill such conditions as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause;

[7][(*iiia*) the pro rata amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner as may be prescribed.

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1. Ins. by Act 21 of 1979, s. 6 (w.e.f. 1-4-1980).
2. Subs. by Act 21 of 2006, s. 9, for clause (*ib*) (w.e.f. 1-4-2007).
3. The provisos omitted by Act 4 of 1988, s. 11 (w.e.f. 1-4-1989).
4. Clause (*iia*) omitted by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).
5. Ins. by Act 32 of 2003, s. 18 (w.e.f. 1-4-2004).
6. The words "for extension of existing business or profession" omitted by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).
7. Ins. by Act 18 of 2005, s. 12 (w.e.f. 1-4-2006).

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

(*i*) "discount" means the difference between the amount received or receivable by the infrastructure capital company or infrastructure capital fund or public sector company [1][or scheduled bank] issuing the bond and the amount payable by such company or fund or public sector company [1][or scheduled bank] on maturity or redemption of such bond;

(*ii*) "period of life of the bond" means the period commencing from the date of issue of the bond and ending on the date of the maturity or redemption of such bond;

[2]* * * * *]

(*iv*) any sum paid by the assessee as an employer by way of contribution towards a recognised provident fund or an approved superannuation fund, subject to such limits as may be prescribed for the purpose of recognising the provident fund or approving the superannuation fund, as the case may be; and subject to such conditions as the Board may think fit to specify in cases where the contributions are not in the nature of annual contributions of fixed amounts or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or to the contributions or to the number of members of the fund;

[3][(*iva*) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed ten per cent of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;]

(*v*) any sum paid by the assessee as an employer by way of contribution towards an approved gratuity fund created by him for the exclusive benefit of his employees under an irrevocable trust;

[4][(*va*) any sum received by the assessee from any of his employees to which the provisions of sub-clause (*x*) of clause (*24*) of section 2 apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date.

Explanation.—For the purposes of this clause, "due date" means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise;]

(*vi*) in respect of animals which have been used for the purposes of the business or profession otherwise than as stock-in-trade and have died or become permanently useless for such purposes, the difference between the actual cost to the assessee of the animals and the amount, if any, realised in respect of the carcasses or animals;

(*vii*) subject to the provisions of sub-section (*2*), the amount of [5][any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:]

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1. Ins. by Act 33 of 2009, s. 14 (w.e.f. 1-4-2009).

2. Clause (*iii*) omitted by Act 21 of 2006, s. 9 (w.e.f. 1-4-2007).

3. Ins. by Act 8 of 2011, s. 5 (w.e.f. 1-4-2012).

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

5. Subs. by Act 4 of 1988, s. 11, for "any debt, or part thereof, which is established to have become a bad debt in the previous year" (w.e.f. 1-4-1989).

[1][Provided that in the case of [2][an assesse] to which clause (*viia*) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause:]

[3][Provided further that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (*2*) of section 145 without recording the same in the accounts, then, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.]

[4][[5][E*xplanation*1].—For the purposes of this clause, any bad debt or part thereof written off as irrecoverable in the accounts of the assessee shall not include any provision for bad and doubtful debts made in the accounts of the assessee;]

[6][*Explanation* 2.—For the removal of doubts, it is hereby clarified that for the purposes of the proviso to clause (vii) of this sub-section and clause (*v*) of sub-section (*2*), the account referred to therein shall be only one account in respect of provision for bad and doubtful debts under clause (*viia*) and such account shall relate to all types of advances, including advances made by rural branches;]

[7][(*viia*) [8][in respect of any provision for bad and doubtful debts made by—

(*a*) a scheduled bank [not being [9]*** a bank incorporated by or under the laws of a country outside India] or a non-scheduled bank [10][or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank], an amount [11][not exceeding [12][eight and one-half per cent.]] of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding [13][ten per cent.] of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner:

[14][Provided that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed in any of the relevant assessment years, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, for an amount not exceeding five per cent of the amount of such assets shown in the books of account of the bank on the last day of the previous year:]

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1. Ins. by Act 32 of 1985, s. 10 (w.e.f. 1-4- 1985).
2. Subs. by Act 26 of 1997, s. 7, for "a bank" (w.e.f. 1-4-1992).
3. Ins. by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).
4. Ins. by Act 14 of 2001, s. 25 (w.e.f. 1-4-1989).
5. *Explanation* renumbered as *Explanation* 1 thereof by Act 17 of 2013, s. 7 (w.e.f. 1-4-2014).
6. Ins. by s. 7, *ibid.* (w.e.f. 1-4-2014).
7. Ins. by Act 21 of 1979, s. 6 (w.e.f. 1-4-1980).
8. Subs. by Act 26 of 1986, s. 2, for certain words (w.e.f. 1-4-1987).
9. The words "a bank approved by the Central Government for the purpose of clause (*viiia*) or" omitted by Act 32 of 1994, s. 14 (w.e.f. 1-4-1995).
10. Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2007).
11. Subs. by Act 20 of 2002, s. 19, for "not exceeding five per cent." (w.e.f. 1-4-2003).
12. Subs. by Act 7 of 2017, s. 14 for "seven and one-half per cent." (w.e.f. 1-4-2018).
13. Subs. by Act 32 of 1994, s. 14, for "four per cent." (w.e.f. 1-4-1995).
14. Ins. by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).

[1][Provided further that for the relevant assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, the provisions of the first proviso shall have effect as if for the words "five per cent", the words "ten per cent." had been substituted:]

[2][Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession.]

Explanation.—For the purposes of this sub-clause, "relevant assessment years" means the five consecutive assessment years commencing on or after the 1st day of April, 2000 and ending before the 1st day of April, 2005;]

(*b*) a bank, being a bank incorporated by or under the laws of a country outside India, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A);]

[3][(*c*) a public financial institution or a State financial corporation or a State industrial investment corporation, an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A):]

[1][Provided that a public financial institution or a State financial corporation or a State industrial investment corporation referred to in this sub-clause shall, at its option, be allowed in any of the two consecutive assessment years commencing on or after the 1st day of April, 2003 and ending before the 1st day of April, 2005, deduction in respect of any provision made by it for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it in this behalf, of an amount not exceeding ten per cent of the amount of such assets shown in the books of account of such institution or corporation, as the case may be, on the last day of the previous year.]

[4][(*d*) a non-banking financial company, an amount not exceeding five per cent. of the total income (computed before making any deduction under this clause and Chapter VI-A).]

Explanation.—For the purposes of this clause,—

[5][(*i*) "non-scheduled bank" means a banking company as defined in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949), which is not a scheduled bank;

[6][(*ia*)]"rural branch" means a branch of a scheduled bank [7][or a non-scheduled bank] situated in a place which has a population of not more than ten thousand according to the last preceding census of which the relevant figures have been published before the first day of the previous year;

1. Ins. by Act 20 of 2002, s. 19 (w.e.f 1-4-2003).
2. Ins. by Act 32 of 2003, s. 18 (w.e.f. 1-4-2004).
3. Ins. by Act 49 of 1991, s. 14 (w.e.f. 1-4-1992).
4. Ins. by Act 28 of 2016, s. 21 (w.e.f. 1-4-2017).
5. Ins. by Act 14 of 1982, s. 10 (w.e.f. 1-4-983).
6. Clause (*i*) renumbered as clause (*ia*) thereof by Act 14 of 1982, s. 10 (w.e.f. 1-4-1983).
7. Ins. by s. 10, *ibid*. (w.e.f. 1-4-1983).

[1][(*ii*) "scheduled bank" means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any other bank being a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) [2]***;]

[3][(*iii*) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

(*iv*) "State financial corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(*v*) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects and [4][eligible for deduction under clause (*viii*) of this sub-section];]

[5][(*vi*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the *Explanation* to sub-section (*4*) of section 80P;]

[6][(*vii*) "non-banking financial company" shall have the meaning assigned to it in clause (*f*) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);]

[7][(*viii*) in respect of any special reserve created and maintained by a specified entity, an amount not exceeding twenty per cent of the profits derived from eligible business computed under the head "Profits and gains of business or profession" (before making any deduction under this clause) carried to such reserve account:

Provided that where the aggregate of the amounts carried to such reserve account from time to time exceeds twice the amount of the paid up share capital and of the general reserves of the specified entity, no allowance under this clause shall be made in respect of such excess.

Explanation.—In this clause,—

(*a*) "specified entity" means,—

(*i*) a financial corporation specified in section 4A of the Companies Act, 1956 (1 of 1956);

(*ii*) a financial corporation which is a public sector company;

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1. Subs. by Act 4 of 1988, s. 10, for clause (*ii*) (w.e.f. 1-4-1989).
2. The words "but does not include a co-operative bank" omitted by Act 22 of 2007, s. 11 (w.e.f. 1-4-2007).
3. Ins. by Act 49 of 1991, s. 12 (w.e.f. 1-4-1992).
4. Subs. by Act 10 of 2000, s. 18, for "a sum equal to one and one-fourth times of the expenditure" (w.e.f. 1-4-2000).
5. Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2007).
6. Ins. by Act 28 of 2016, s. 21 (w.e.f. 1-4-2017).
7. Subs. by Act 22 of 2007, s. 13, for clause (*viii*) (w.e.f. 1-4-2008).

(*iii*) a banking company;

(*iv*) a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank;

(*v*) a housing finance company; and

(*vi*) any other financial corporation including a public company;

(*b*) "eligible business" means,—

[1][(*i*) in respect of the specified entity referred to in sub-clause (*i*) or sub-clause (*ii*) or sub-clause (*iii*) or sub-clause (*iv*) of clause (*a*), the business of providing long-term finance for—

(*A*) industrial or agricultural development;

(*B*) development of infrastructure facility in India; or

(*C*) development of housing in India;]

(*ii*) in respect of the specified entity referred to in sub-clause (*v*) of clause (*a*), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(*iii*) in respect of the specified entity referred to in sub-clause (*vi*) of clause (*a*), the business of providing long-term finance for development of infrastructure facility in India;

(*c*) "banking company" means a company to which the Banking Regulation Act, 1949 (10 of 1949) applies and includes any bank or banking institution referred to in section 51 of that Act;

(*d*) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (*4*) of section 80P;

(*e*) "housing finance company" means a public company formed or registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes;

(*f*) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956 (1 of 1956);

(*g*) "infrastructure facility" means—

(*i*) an infrastructure facility as defined in the *Explanation* to clause (*i*) of sub-section (*4*) of section 80-IA, or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions as may be prescribed;

(*ii*) an undertaking referred to in clause (*ii*) or clause (*iii*) or clause (*iv*) or clause (*vi*) of sub-section (*4*) of section 80-IA; and

1. Subs. by Act 33 of 2009, s. 14, for clause (*i*) (w.e.f. 1-4-2010).

(*iii*) an undertaking referred to in sub-section (*10*) of section 80-IB;

(*h*) "long-term finance" means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;]

[1]* * * * *

[2][(*ix*) any expenditure bona fide incurred by a company for the purpose of promoting family planning amongst its employees :

Provided that where such expenditure or any part thereof is of a capital nature, one-fifth of such expenditure shall be deducted for the previous year in which it was incurred; and the balance thereof shall be deducted in equal instalments for each of the four immediately succeeding previous years:

Provided further that the provisions of sub-section (*2*) of section 32 and of sub-section (*2*) of section 72 shall apply in relation to deductions allowable under this clause as they apply in relation to deductions allowable in respect of depreciation :

Provided further that the provisions of clauses (*ii*), (*iii*), (*iv*) and (*v*) of [3][sub-section (*2*) and sub-section (*5*) of section 35], of sub-section (*3*) of section 41 and of *Explanation* 1 to clause (*1*) of section 43 shall, so far as may be, apply in relation to an asset representing expenditure of a capital nature for the purposes of promoting family planning as they apply in relation to an asset representing expenditure of a capital nature on scientific research;]

[4]* * * * *

[5][(*xi*) any expenditure incurred by the assessee, on or after the 1st day of April, 1999 but before the 1st day of April, 2000, wholly and exclusively in respect of a non-Y2K compliant computer system, owned by the assessee and used for the purposes of his business or profession, so as to make such computer system Y2K compliant computer system:

Provided that no such deduction shall be allowed in respect of such expenditure under any other provisions of this Act:

Provided further that no such deduction shall be admissible unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (*2*) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this clause.

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1. Clause (*viiia*) omitted by Act 32 of 1994, s. 14 (w.e.f. 1-4-1995).

2. Ins. by Act 10 of 1965, s. 11 (w.e.f. 1-4-1965).

3. Subs. by Act 20 of 1967, s. 15, for "sub-section (*2*) of section 35" (w.e.f. 1-4-1967).

4. Clause (*x*) omitted by Act 22 of 2007, s. 13 (w.e.f. 1-4-2008).

5. Ins. by Act 27 of 1999, s. 22 (w.e.f. 1-4-2000).

Explanation.—For the purposes of this clause,—

(*a*) "computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;

(*b*) "Y2K compliant computer system" means a computer system capable of correctly processing, providing or receiving data relating to date within and between the twentieth and twenty-first century;]

[1][(*xii*) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, if,—

(*a*) it is constituted or established by gjma Central, State or Provincial Act;

(*b*) such corporation or body corporate, having regard to the objects and purposes of the Act referred to in sub-clause (*a*), is notified by the Central Government in the Official Gazette for the purposes of this clause; and

(*c*) the expenditure is incurred for the objects and purposes authorised by the Act under which it is constituted or established;]

[2][(*xiii*) any amount of banking cash transaction tax paid by the assessee during the previous year on the taxable banking transactions entered into by him.

Explanation.—For the purposes of this clause, the expressions "banking cash transaction tax" and "taxable banking transaction" shall have the same meanings respectively assigned to them under Chapter VII of the Finance Act, 2005;]

[3][(*xiv*) any sum paid by a public financial institution by way of contribution to such credit guarantee fund trust for small industries as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—For the purposes of this clause, "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);]

[4][(*xv*) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head "Profits and gains of business or profession".

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1. Subs. by Act 22 of 2007, s. 13, for clause (*xii*) (w.e.f. 1-4-2008).

2. Ins. by Act 18 of 2005, s. 12 (w.e.f. 1-4-2006).

3. Ins. by Act 22 of 2007, s. 13 (w.e.f. 1-4-2008).

4. Ins. by Act 18 of 2008, s. 9 (w.e.f. 1-4-2009).

Explanation.—For the purposes of this clause, the expressions "securities transaction tax" and "taxable securities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004);

[1][(*xvi*) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Explanation.—For the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013;]]

[2][(*xvii*) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government.]

[3][(*xviii*) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (*2*) of section 145.]

(*2*) In making any deduction for a bad debt or part thereof, the following provisions shall apply—

[4][(*i*) no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;]

(*ii*) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;

(*iii*) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year [5][(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)], but the [6][Assessing Officer] had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;

(*iv*) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year [5][(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)] and the [6][Assessing Officer] is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (*6*) of section 155 shall apply;

[7][(*v*) where such debt or part of debt relates to advances made by an assessee to which clause (*viia*) of sub-section (*1*) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.]

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1. Ins. by Act 17 of 2013, s. 7 (w.e.f. 1-4-2014).
2. Ins. by Act 20 of 2015, s. 13 (w.e.f. 1-4-2016).
3. Ins. by Act 13 of 2018, s. 10 (w.r.e.f. 1-4-2017).
4. Subs. by Act 4 of 1988, s. 11, for clause (*i*) (w.e.f. 1-4-1989).
5. Ins. by s. 11, *ibid*. (w.e.f. 1-4-1989).
6. Subs. by s. 11, *ibid.*, for "Income-tax Officer" (w.e.f. 1-4-1988).
7. Subs. by Act 26 of 1997, s. 7, for clause (*v*) (w.e.f. 1-4-1992).

37. General.—(*1*) Any expenditure (not being expenditure of the nature described in **sections 30 to 36** [1]*** and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

[2][[3][*Explanation 1*.]—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.]

[4][*Explanation 2*.—For the removal of doubts, it is hereby declared that for the purposes of sub-section (*1*), any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 (18 of 2013) shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession.]

[5]* * * * *

[6][(*2B*) Notwithstanding anything contained in sub-section (*1*), no allowance shall be made in respect of expenditure incurred by an assessee on advertisement in any souvenir, brochure, tract, pamphlet or the like published by a political party.]

[7]* * * * *

[8]* * * * *

[9]* * * * *

38. Building, etc., partly used for business, etc., or not exclusively so used.— (*1*) Where a part of any premises is used as dwelling house by the assessee,—

(*a*) the deduction under sub-clause (*i*) of clause (*a*) of section 30, in the case of rent, shall be such amount as the [10][Assessing Officer] may determine having regard to the proportionate annual value of the part used for the purpose of the business or profession, and in the case of any sum paid for repairs, such sum as is proportionate to the part of the premises used for the purpose of the business or profession;

(*b*) the deduction under clause (*b*) of section 30 shall be such sum as the [8][Assessing Officer] may determine having regard to the part so used.

(*2*) Where any building, machinery, plant or furniture is not exclusively used for the purposes of the business or profession, the deductions under sub-clause (*ii*) of clause (*a*) and clause (*c*) of section 30,

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1. The words "and section 80VV" omitted by Act 32 of 1985, s. 11 (w.e.f. 1-4-1986).

2. Ins. by Act 21 of 1998, s. 15 (w.e.f. 1-4-1962).

3. *Explanation* numbered as *Explanation 1* thereof by Act 25 of 2014, s. 13 (w.e.f. 1-4-2015).

4. Ins. by s. 13, *ibid*. (w.e.f. 1-4-2015).

5. Sub-section (*2*) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

6. Ins. by Act 29 of 1978, s. 2 (w.e.f. 1-4-1979).

7. Sub-section (*3*) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

8. Sub-sections (*3A*), (*3B*), (*3C*) and (*3D*) omitted by Act 32 of 1985, s. 11 (w.e.f. 1-4-1986).

9. Sub-sections (*4*) and (*5*) omitted by Act 26 of 1997, s. 8 (w.e.f. 1-4-1998).

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

clauses (*i*) and (*ii*) of section 31 and [1][clause (*ii*) of sub-section (*1*)] of section 32 shall be restricted to a fair proportionate part thereof which the [2][Assessing Officer] may determine, having regard to the user of such building, machinery, plant or furniture for the purposes of the business or profession.

39. Managing agency commission.—*Omitted by the Direct Tax Laws* (*Amendment*) *Act*, 1987 (4 *of* 1988), *s*. 12, (*w.e.f.* 1-4-1989).

40. Amounts not deductible.—Notwithstanding anything to the contrary in [3][section 30 to 38], the following amounts shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession",—

(*a*) in the case of any assessee—

[4][(*i*) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(*A*) outside India; or

(*B*) in India to a non-resident, not being a company or to a foreign company,

on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, has not been paid [5][on or before the due date specified in sub-section (*1*) of section 139]:

[6][Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (*1*) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.]

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

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

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

(*ia*) [7][thirty per cent of any sum payable to a resident], on which tax is deductible at source under Chapter XVII-B and such tax has not been deducted or, after deduction, [8][has not been paid on or before the due date specified in sub-section (*1*) of section 139:]

[9][Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted during the previous year but paid after the due date specified in sub-section (*1*) of section 139, [10][thirty per cent of] such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid:]

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1. Subs. by Act 46 of 1986, s. 32, for "clause (*i*), (*ii*), (*iia*) and (*iii*) of sub-section (*1*) and sub-section (*1A*)" (w.e.f. 1-4-1988).
2. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
3. Subs. by s. 13, *ibid*., for "section 30 to 39" (w.e.f. 1-4-1989).
4. Subs. by Act 23 of 2004, s. 11, for sub-clause (*i*) (w.e.f. 1-4-2005).
5. Subs. by Act 25 of 2014, s. 14, for certain words, brackets and figures (w.e.f. 1-4-2015).
6. Subs. by s. 14, *ibid*., for the proviso (w.e.f. 1-4-2015).
7. Subs. by s. 14, *ibid*., for certain words and brackets (w.e.f. 1-4-2015).
8. Subs. by Act 14 of 2010, s. 12, for certain words, brackets and figures (w.e.f. 1-4-2010).
9. Subs. by s. 12, *ibid*., for proviso (w.e.f. 1-4-2010).
10. Ins. by Act 25 of 2014, s. 14 (w.e.f. 1-4-2015).

[1][Provided further that where an assessee fails to deduct the whole or any part of the tax in accordance with the provisions of Chapter XVII-B on any such sum but is not deemed to be an assessee in default under the first proviso to sub-section (*1*) of section 201, then, for the purpose of this sub-clause, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee referred to in the said proviso.]

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

(*i*) "commission or brokerage" shall have the same meaning as in clause (*i*) of the *Explanation* to section 194H;

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

(*iii*) "professional services" shall have the same meaning as in clause (*a*) of the *Explanation* to section 194J;

(*iv*) "work" shall have the same meaning as in *Explanation III* to section 194C;

[2][(*v*) "rent" shall have the same meaning as in clause (*i*) to the *Explanation* to section 194-I;

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

[3][(*ib*) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under the provisions of Chapter VIII of the Finance Act, 2016, and such levy has not been deducted or after deduction, has not been paid on or before the due date specified in sub-section (*1*) of section 139:

Provided that where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in sub-section (*1*) of section 139, such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid;]]

[4][(*ic*) any sum paid on account of fringe benefit tax under Chapter XIIH;]

(*ii*) any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains.

[5][*Explanation 1*.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes and shall be deemed always to have included any sum eligible for relief of tax under section 90 or, as the case may be, deduction from the Indian income-tax payable under section 91.]

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1. Ins. by Act 23 of 2012, s. 11 (w.e.f. 1-4-2013).
2. Ins. by Act 29 of 2006, s. 8 (w.e.f. 1-4-2006).
3. Ins. by Act 28 of 2016, s. 22 (w.e.f. 1-6-2016).
4. Ins. by Act 18 of 2005, s. 13 (w.e.f. 1-4-2006).
5. Ins. by Act 21 of 2006, s. 10 (w.e.f. 1-4-2006).

[1][*Explanation 2*.—For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, any sum paid on account of any rate or tax levied includes any sum eligible for relief of tax under section 90A;]

[2][(*iia*) any sum paid on account of wealth-tax.

Explanation.—For the purposes of this sub-clause, "wealth-tax" means wealth-tax chargeable under the Wealth-tax Act, 1957 (27 of 1957), or any tax of a similar character chargeable under any law in force in any country outside India or any tax chargeable under such law with reference to the value of the assets of, or the capital employed in, a business or profession carried on by the assessee, whether or not the debts of the business or profession are allowed as a deduction in computing the amount with reference to which such tax is charged, but does not include any tax chargeable with reference to the value of any particular asset of the business or profession;]

[3][(*iib*) any amount—

(*A*) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(*B*) which is appropriated, directly or indirectly, from, a State Government undertaking by the State Government.

Explanation.—For the purposes of this sub-clause, a State Government undertaking includes—

(*i*) a corporation established by or under any Act of the State Government;

(*ii*) a company in which more than fifty per cent of the paid-up equity share capital is held by the State Government;

(*iii*) a company in which more than fifty per cent of the paid-up equity share capital is held by the entity referred to in clause (*i*) or clause (*ii*) (whether singly or taken together);

(*iv*) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(*v*) an authority, a board or an institution or a body established or constituted by or under any Act of the State Government or owned or controlled by the State Government;]

[4][(*iii*) any payment which is chargeable under the head "Salaries", if it is payable—

(*A*) outside India; or

(*B*) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;]

1. Ins. by Act 21 of 2006, s. 10 (w.e.f. 1-6-2006).
2. Ins. by Act 41 of 1972, s. 2 (w.e.f. 1-4-1962).
3. Ins. by Act 17 of 2013, s. 8 (w.e.f. 1-4-2014).
4. Subs. by Act 32 of 2003, s. 19, for sub-clause (*iii*) (w.e.f. 1-4-2004).

(*iv*) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargeable to tax under the head "Salaries";

[1][(*v*) any tax actually paid by an employer referred to in clause (*10CC*) of section 10;]

[2][(*b*) in the case of any firm assessable as such,—

(*i*) any payment of salary, bonus, commission or remuneration, by whatever name called (hereinafter referred to as "remuneration") to any partner who is not a working partner; or

(*ii*) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is not authorised by, or is not in accordance with, the terms of the partnership deed; or

(*iii*) any payment of remuneration to any partner who is a working partner, or of interest to any partner, which, in either case, is authorised by, and is in accordance with, the terms of the partnership deed, but which relates to any period (falling prior to the date of such partnership deed) for which such payment was not authorised by, or is not in accordance with, any earlier partnership deed, so, however, that the period of authorisation for such payment by any earlier partnership deed does not cover any period prior to the date of such earlier partnership deed; or

(*iv*) any payment of interest to any partner which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as such amount exceeds the amount calculated at the rate of [3][twelve per cent.] simple interest per annum; or

(*v*) any payment of remuneration to any partner who is a working partner, which is authorised by, and is in accordance with, the terms of the partnership deed and relates to any period falling after the date of such partnership deed in so far as the amount of such payment to all the partners during the previous year exceeds the aggregate amount computed as hereunder:—

[4][(*a*) on the first Rs. 3,00,000 of the book-profit or in case of a loss	Rs. 1,50,000 or at the rate of 90 per cent. of the book-profit, whichever is more;
(*b*) on the balance of the book-profit	at the rate of 60 per cent:]

Provided that in relation to any payment under this clause to the partner during the previous year relevant to the assessment year commencing on the 1st day of April, 1993, the terms of the partnership deed may, at any time during the said previous year, provide for such payment.

Explanation 1.—Where an individual is a partner in a firm on behalf, or for the benefit, of any other person (such partner and the other person being hereinafter referred to as "partner in a representative capacity" and "person so represented", respectively),—

(*i*) interest paid by the firm to such individual otherwise than as partner in a representative capacity, shall not be taken into account for the purposes of this clause;

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

2. Subs. by Act 18 of 1992, s. 16, for clause (*b*) (w.e.f. 1-4-1993). Earlier amended by Act 67 of 1984, s. 10 (w.e.f. 1-4-1985), Act 4 of 1988, s. 13 and 3 of 1989, s. 95 (w.e.f. 1-4-1989).

3. Subs. by Act 20 of 2002, s. 20, for "eighteen per cent." (w.e.f. 1-6-2002).

4. Subs. by Act 33 of 2009, s. 15, for Items (*1*) and (*2*) (w.e.f. 1-4-2010).

(*ii*) interest paid by the firm to such individual as partner in a representative capacity and interest paid by the firm to the person so represented shall be taken into account for the purposes of this clause.

Explanation 2.—Where an individual is a partner in a firm otherwise than as partner in a representative capacity, interest paid by the firm to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.

Explanation 3.—For the purposes of this clause, "book-profit" means the net profit, as shown in the profit and loss account for the relevant previous year, computed in the manner laid down in Chapter IV-D as increased by the aggregate amount of the remuneration paid or payable to all the partners of the firm if such amount has been deducted while computing the net profit.

Explanation 4.—For the purposes of this clause, "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;]

[1][(*ba*) in the case of an association of persons or body of individuals [other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such association or body to a member of such association or body.

Explanation 1.—Where interest is paid by an association or body to any member thereof who has also paid interest to the association or body, the amount of interest to be disallowed under this clause shall be limited to the amount by which the payment of interest by the association or body to the member exceeds the payment of interest by the member to the association or body.

Explanation 2.—Where an individual is a member of an association or body on behalf, or for the benefit, of any other person (such member and the other person being hereinafter referred to as "member in a representative capacity" and "person so represented", respectively),—

(*i*) interest paid by the association or body to such individual or by such individual to the association or body otherwise than as member in a representative capacity, shall not be taken into account for the purposes of this clause;

(*ii*) interest paid by the association or body to such individual or by such individual to the association or body as member in a representative capacity and interest paid by the association or body to the person so represented or by the person so represented to the association or body, shall be taken into account for the purposes of this clause.

Explanation 3.—Where an individual is a member of an association or body otherwise than as member in a representative capacity, interest paid by the association or body to such individual shall not be taken into account for the purposes of this clause, if such interest is received by him on behalf, or for the benefit, of any other person.]

[2]* * * * *

[3]* * * * *

1. Ins. by Act 3 of 1989, s. 9 (w.e.f. 1-4-1989).

2. Clause (*c*) omitted by Act 4 of 1988, s. 13 (w.e.f. 1-4-1989).

3. Clause (*d*) omitted by Act 26 of 1988, s. 11 (w.e.f. 1-4-1989).

[1]**[40A. Expenses or payments not deductible in certain circumstances**.—(*1*) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other provision of this Act relating to the computation of income under the head "Profits and gains of business or profession".

(*2*) (*a*) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (*b*) of this sub-section, and the [2][Assessing Officer] is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction:

[3][Provided that [4][for an assessment year commencing on or before the 1st day of April, 2016] no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (*ii*) of section 92F.]

(*b*) The persons referred to in clause (*a*) are the following, namely:—

(*i*) where the assessee is an individual	any relative of the assessee;
(*ii*) where the assessee is a company, firm, association of persons or Hindu un-divided family	any director of the company, partner of the firm, or member of the association or family, or any relative of such director, partner or member;

(*iii*) any individual who has a substantial interest in the business or profession of the assessee, or any relative of such individual;

(*iv*) a company, firm, association of persons or Hindu undivided family having a substantial interest in the business or profession of the assessee or any director, partner or member of such company, firm, association or family, or any relative of such director, partner or member [5][or any other company carrying on business or profession in which the first mentioned company has substantial interest;]

(*v*) a company, firm, association of persons or Hindu undivided family of which a director, partner or member, as the case may be, has a substantial interest in the business or profession of the assessee; or any director, partner or member of such company, firm, association or family or any relative of such director, partner or member;

(*vi*) any person who carries on a business or profession,—

(*A*) where the assessee being an individual, or any relative of such assessee, has a substantial interest in the business or profession of that person; or

1. Ins. by Act 19 of 1968, s. 7 (w.e.f 1-4-1968).
2. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
3. Ins. by Act 23 of 2012, s. 12 (w.e.f. 1-4-2013).
4. Ins. by Act 7 of 2017, s. 15 (w.e.f. 1-4-2017).
5. Ins. by Act 23 of 2012, s. 12 (w.e.f. 1-4-2013).

(*B*) where the assessee being a company, firm, association of persons or Hindu undivided family, or any director of such company, partner of such firm or member of the association or family, or any relative of such director, partner or member, has a substantial interest in the business or profession of that person.

Explanation.—For the purposes of this sub-section, a person shall be deemed to have a substantial interest in a business or profession, if,—

(*a*) in a case where the business or profession is carried on by a company, such person is, at any time during the previous year, the beneficial owner of shares (not being shares entitled to a fixed rate of dividend whether with or without a right to participate in profits) carrying not less than twenty per cent of the voting power; and

(*b*) in any other case, such person is, at any time during the previous year, beneficially entitled to not less than twenty per cent of the profits of such business or profession.

[1][(*3*) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, [2][or use of electronic clearing system through a bank account, exceeds ten thousand rupees], no deduction shall be allowed in respect of such expenditure.

(*3A*) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft [3][or use of electronic clearing system through a bank account], the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds [4][ten thousand rupees]:

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (*3*) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, [2][or use of electronic clearing system through a bank account, exceeds ten thousand rupees], in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors:]

[5][Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (*3*) and (*3A*) shall have effect as if for the words [4][ten thousand rupees], the words "thirty-five thousand rupees" had been substituted.]

[6][(*4*) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by [7][an account payee cheque drawn on a bank or account payee bank draft] [3][or use of electronic clearing system through a bank account] in order that such expenditure may not be disallowed as a deduction under sub-section (*3*), then the payment may be made by such cheque or draft; [8][or electronic clearing system] and where the

1. Subs. by Act 18 of 2008, s. 11, for sub-section (*3*) (w.e.f. 1-4-2009).
2. Subs. by Act 7 of 2017, s. 15, for "exceeds twenty thousand rupees" (w.e.f. 1-4-2018).
3. Ins. by s. 15, *ibid.* (w.e.f. 1-4-2018).
4. Subs. by s. 15, *ibid.*, for "twenty thousand rupees" (w.e.f. 1-4-2018).
5. Ins. by Act 33 of 2009, s. 16 (w.e.f. 1-10-2009).
6. Ins. by Act 14 of 1969, s. 5 (w.e.f. 1-4-1969).
7. Subs. by Act 29 of 2006, s. 9, for the words "a crossed cheque drawn on a bank or by a crossed bank draft" (w.e.f. 13-7-2006).
8. Ins. by Act 7 of 2017, s. 15 (w.e.f 1-4-2018).

payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner.]

[1]* * * * *

[2][(*7*) (*a*) Subject to the provisions of clause (*b*), no deduction shall be allowed in respect of any provision (whether called as such or by any other name) made by the assessee for the payment of gratuity to his employees on their retirement or on termination of their employment for any reason.

(*b*) Nothing in clause (*a*) shall apply in relation to any provision made by the assessee for the purpose of payment of a sum by way of any contribution towards an approved gratuity fund, or for the purpose of payment of any gratuity, that has become payable during the previous year.

Explanation.—For the removal of doubts, it is hereby declared that where any provision made by the assessee for the payment of gratuity to his employees on their retirement or termination of their employment for any reason has been allowed as a deduction in computing the income of the assessee for any assessment year, any sum paid out of such provision by way of contribution towards an approved gratuity fund or by way of gratuity to any employee shall not be allowed as a deduction in computing the income of the assessee of the previous year in which the sum is so paid.]

[3]* * * * *

[4][(*9*) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards the setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860 (21 of 1860), or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under clause (*iv*) [5][or clause (*iva*)] or clause (*v*) of sub-section (*1*) of section 36, or as required by or under any other law for the time being in force.

(*10*) Notwithstanding anything contained in sub-section (*9*), where the [6][Assessing Officer] is satisfied that the fund, trust, company, association of persons, body of individuals, society or other institution referred to in that sub-section has, before the 1st day of March, 1984, bona fide laid out or expended any expenditure (not being in the nature of capital expenditure) wholly and exclusively for the welfare of the employees of the assessee referred to in sub-section (*9*) out of the sum referred to in that sub-section, the amount of such expenditure shall, in case no deduction has been allowed to the assessee in respect of such sum and subject to the other provisions of this Act, be deducted in computing the income referred to in section 28 of the assessee of the previous year in which such expenditure is so laid out or expended, as if such expenditure had been laid out or expended by the assessee.

(*11*) Where the assessee has, before the 1st day of March, 1984, paid any sum to any fund, trust, company, association of persons, body of individuals, society or other institution referred to in sub-section (*9*), then, notwithstanding anything contained in any other law or in any instrument, he shall be entitled—

(*i*) to claim that so much of the amount paid by him as has not been laid out or expended by such fund, trust, company, association of persons, body of individuals, society or other institution (such amount being hereinafter referred to as the unutilised amount) be repaid to him, and where any claim is so made, the unutilised amount shall be repaid, as soon as may be, to him;

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1. Sub-sections (*5*) and (*6*) omitted by Act 4 of 1988, s. 14 (w.e.f. 1-4-1989).
2. Subs. by Act 27 of 1999, s. 23, for sub-section (*7*) (w.e.f. 1-4-2000).
3. Sub-section (*8*) omitted by Act 32 of 1985, s. 12 (w.e.f. 1-4-1986).
4. Ins. by Act 21 of 1984, s. 10 (w.e.f. 1-4-1980).
5. Ins. by Act 8 of 2011, s. 8 (w.e.f. 1-4-2012).
6. Subs. by Act 4 of 1988, s. 2 for "income-tax officer"(w.e.f. 1-4-1988).

(*ii*) to claim that any asset, being land, building, machinery, plant or furniture acquired or constructed by the fund, trust, company, association of persons, body of individuals, society or other institution out of the sum paid by the assessee, be transferred to him, and where any claim is so made, such asset shall be transferred, as soon as may be, to him.]

[1]* * * * *

[2][(*13*) No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as allowable under clause (*xviii*) of sub-section (*1*) of section 36.]

41. Profits chargeable to tax.— [3][(*1*) Where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure or trading liability incurred by the assessee (hereinafter referred to as the first-mentioned person) and subsequently during any previous year,—

(*a*) the first-mentioned person has obtained, whether in cash or in any other manner whatsoever, any amount in respect of such loss or expenditure or some benefit in respect of such trading liability by way of remission or cessation thereof, the amount obtained by such person or the value of benefit accruing to him shall be deemed to be profits and gains of business or profession and accordingly chargeable to income-tax as the income of that previous year, whether the business or profession in respect of which the allowance or deduction has been made is in existence in that year or not; or

(*b*) the successor in business has obtained, whether in cash or in any other manner whatsoever, any amount in respect of which loss or expenditure was incurred by the first-mentioned person or some benefit in respect of the trading liability referred to in clause (*a*) by way of remission or cessation thereof, the amount obtained by the successor in business or the value of benefit accruing to the successor in business shall be deemed to be profits and gains of the business or profession, and accordingly chargeable to income-tax as the income of that previous year.

[4][*Explanation* 1.—For the purposes of this sub-section, the expression "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause (*a*) or the successor in business under clause (*b*) of that sub-section by way of writing off such liability in his accounts.]

Explanation [5][2]—For the purposes of this sub-section, "successor in business" means,—

(*i*) where there has been an amalgamation of a company with another company, the amalgamated company;

(*ii*) where the first-mentioned person is succeeded by any other person in that business or profession, the other person;

(*iii*) where a firm carrying on a business or profession is succeeded by another firm, the other firm;]

[6][(*iv*) where there has been a demerger, the resulting company.]

[7][(*2*) Where any building, machinery, plant or furniture,—

(*a*) which is owned by the assessee;

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1. Sub-section (*12*) omitted by Act 18 of 1992, s. 17 (w.e.f. 1-4-1993.)
2. Ins. by Act 13 of 2018, s. 11 (w.r.e.f. 1-4-2017).
3. Subs. by Act 18 of 1992, s. 18, for sub-section (*1*) (w.e.f. 1-4-1993).
4. Ins. by Act 33 of 1996, s. 16 (w.e.f. 1-4-1997).
5. *Explanation* renumbered as *Explanation2* thereof by s. 16, *ibid.* (w.e.f. 1-4-1997).
6. Ins. by Act 27 of 1999, s. 24 (w.e.f. 1-4-2000).
7. Ins. by Act 21 of 1998, s. 16 (w.e.f. 1-4-1998).

(*b*) in respect of which depreciation is claimed under clause (*i*) of sub-section (*1*) of section 32; and

(*c*) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.]

[1]* * * * *

(*3*) Where an asset representing expenditure of a capital nature on scientific research within the meaning of [2][clause (*iv*) of sub-section (*1*), or clause (*c*) of sub-section (*2B*), of section 35], read with clause (*4*) of section 43, is sold, without having been used for other purposes, and the proceeds of the sale together with the total amount of the deductions made under clause (*i*) [3][or, as the case may be, the amount of the deduction under clause (*ia*) of sub-section (*2*), or clause (*c*) of sub-section (*2B*), of section 35] exceed the amount of the capital expenditure, the excess or the amount of the deductions so made, whichever is the less, shall be chargeable to income-tax as income of the business or profession of the previous year in which the sale took place.

Explanation.—Where the moneys payable in respect of any asset referred to in this sub-section become due in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(*4*) Where a deduction has been allowed in respect of a bad debt or part of debt under the provisions of clause (*vii*) of sub-section (*1*) of section 36, then, if the amount subsequently recovered on any such debt or part is greater than the difference between the debt or part of debt and the amount so allowed, the excess shall be deemed to be profits and gains of business or profession, and accordingly chargeable to income-tax as the income of the previous year in which it is recovered, whether the business or profession in respect of which the deduction has been allowed is in existence in that year or not.

[4][*Explanation*.—For the purposes of sub-section (*3*),—

(*1*) "moneys payable" in respect of any building, machinery, plant or furniture includes—

(*a*) any insurance, salvage or compensation moneys payable in respect thereof;

(*b*) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (*1*) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to

1. Sub-section (*2A*) omitted by Act 46 of 1986, s. 7 (w.e.f. 1-4-1988).
2. Subs. by Act 44 of 1980, s. 11, for the words, brackets and figures "clause (*iv*) of subsection (*1*) of section 35" (w.e.f. 1-4-1981).
3. Subs. by s. 11, *ibid.*,for "clause (*ia*) of sub-section (*2*) of section 35" (w.e.f. 1-4-1981). Earlier Quoted portion "or, as the case may be, the amount of the deduction under clause (*ia*)" inserted by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f 1-4-1968).
4. Subs. by Act 46 of 1986, s. 7, for the *Explanation* (w.e.f. 1-4-1988).

the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(*2*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company.]

[1][(*4A*) Where a deduction has been allowed in respect of any special reserve created and maintained under clause (*viii*) of sub-section (*1*) of section 36, any amount subsequently withdrawn from such special reserve shall be deemed to be the profits and gains of business or profession and accordingly be chargeable to income-tax as the income of the previous year in which such amount is withdrawn.

Explanation.—Where any amount is withdrawn from the special reserve in a previous year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.]

(*5*) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under sub-section (*1*), [2]*** sub-section (*3*) , [3][sub-section (*4*) or sub-section (*4A*)] in respect of that business or profession, any loss, not being a loss sustained in speculation [4]*** business, which arose in that business or profession during the previous year in which it ceased to exist and which could not be set off against any other income of that previous year shall, so far as may be, be set off against the income chargeable to tax under the sub-sections aforesaid.

[5][(*6*) References in sub-section (*3*) to any other provision of this Act which has been amended or omitted by the Direct Tax Laws (Amendment) Act, 1987 shall, notwithstanding such amendment or omission, be construed, for the purposes of that sub-section, as if such amendment or omission had not been made.]

42. Special provision for deductions in the case of business for prospecting, etc., for mineral oil.—[6][(*1*)] For the purpose of computing the profits or gains of any business consisting of the prospecting for or extraction or production of mineral oils in relation to which the Central Government has entered into an agreement with any person for the [7][association or participation of the Central Government or any person authorised by it in such business] (which agreement has been laid on the Table of each House of Parliament), there shall be made in lieu of, or in addition to, the allowances admissible under this Act, such allowances as are specified in the agreement in relation—

(*a*) to expenditure by way of infructuous or abortive exploration expenses in respect of any area surrendered prior to the beginning of commercial production by the assessee;

(*b*) after the beginning of commercial production, to expenditure incurred by the assessee, whether before or after such commercial production, in respect of drilling or exploration activities or services or in respect of physical assets used in that connection, except assets on which allowance for depreciation is admissible under section 32: [8]***

[9][Provided that in relation to any agreement entered into after the 31st day of March, 1981, this clause shall have effect subject to the modification that the words and figures "except assets on which allowance for depreciation is admissible under section 32" had been omitted; and]

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1. Ins. by Act 26 of 1997, s. 9 (w.e.f. 1-4-1998).
2. The words, brackets and figures "sub-section (*2*), sub-section (*2A*)"omitted by Act 46 of 1986, s. 7 (w.e.f. 1-4-1988).
3. Subs. by Act 26 of 1997, s. 9, for "or sub-section (*4*)" (w.e.f. 1-4-1998).
4. The words "or under the head Capital gains" omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1988).
5. Ins. by Act 4 of 1988, s. 126(w.e.f. 1-4-1989).
6. Section 42 renumbered as sub-section (*1*) thereof by Act 21 of 1998, s. 17 (w.e.f. 1-4-1999).
7. Subs. by Act 16 of 1981, s. 8, for "the association or participation in such business of the Central Government" (w.e.f. 1-4-1981).
8. The word "and" omitted bys. 8, *ibid*.(w.e.f. 1-4-1981).
9. Ins. by s. 8, *ibid*. (w.e.f. 1-4-1981)

(*c*) to the depletion of mineral oil in the mining area in respect of the assessment year relevant to the previous year in which commercial production is begun and for such succeeding year or years as may be specified in the agreement;

and such allowances shall be computed and made in the manner specified in the agreement, the other provisions of this Act being deemed for this purpose to have been modified to the extent necessary to give effect to the terms of the agreement.

[1][(*2*) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (*1*), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(*a*) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;

(*b*) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred:

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(*c*) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

[2][Provided that where in a scheme of amalgamation or demerger, the amalgamating or the demerged company sells or otherwise transfers the business to the amalgamated or the resulting company (being an Indian company), the provisions of this sub-section—

(*i*) shall not apply in the case of the amalgamating or the demerged company; and

(*ii*) shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the latter had not transferred the business or interest in the business.]]

[3][*Explanation*.—For the purposes of this section, "mineral oil" includes petroleum and natural gas.]

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1. Ins. by Act 21 of 1998, s. 17 (w.e.f. 1-4-1999).

2. Subs. by Act 27 of 1999, s. 25, for "the proviso" (w.e.f. 1-4-2000).

3. Ins. by Act 16 of 1981, s. 8 (w.e.f. 1-4-1981).

43. Definitions of certain terms relevant to income from profits and gains of business or profession.—In section 28 to 41 and in this section, unless the context otherwise requires—

(*1*) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority:

[1][Provided that where the actual cost of an asset, being a motor car which is acquired by the assessee after the 31st day of March, 1967 [2][, but before the 1st day of March, 1975,] and is used otherwise than in a business of running it on hire for tourists, exceeds twenty-five thousand rupees, the excess of the actual cost over such amount shall be ignored, and the actual cost thereof shall be taken to be twenty-five thousand rupees:]

[3][Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost.]

Explanation 1.—Where an asset is used in the business after it ceases to be used for scientific research related to that business and a deduction has to be made under [4][clause (*ii*) of sub-section (*1*)] of section 32 in respect of that asset, the actual cost of the asset to the assessee shall be the actual cost to the assessee as reduced by the amount of any deduction allowed under clause (*iv*) of sub-section (*1*) of section 35 or under any corresponding provision of the Indian Income-tax Act, 1922 (11 of 1922).

[5][*Explanation* 1A.—Where a capital asset referred to in clause (*via*) of section 28 is used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value which has been taken into account for the purposes of the said clause.]

[6][*Explanation* 2.—Where an asset is acquired by the assessee by way of gift or inheritance, the actual cost of the asset to the assessee shall be the actual cost to the previous owner, as reduced by—

(*a*) the amount of depreciation actually allowed under this Act and the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(*b*) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets.]

Explanation 3.—Where, before the date of acquisition by the assessee, the assets were at any time used by any other person for the purposes of his business or profession and the [7][Assessing Officer] is satisfied that the main purpose of the transfer of such assets, directly or indirectly to the assessee, was the reduction of a liability to income-tax (by claiming depreciation with reference to an enhanced cost), the actual cost to the assessee shall be such an amount as the [7][Assessing Officer] may, with the previous approval of the [8][Joint Commissioner], determine having regard to all the circumstances of the case.

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1. Ins. by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).
2. Ins. by Act 25 of 1975, s. 7 (w.e.f. 1-4-1975).
3. Ins. by Act 7 of 2017, s. 16 (w.e.f. 1-4-2018).
4. Subs. by Act 46 of 1986, s. 8, for "clause (*i*), clause (*ii*) or clause (*iii*) or sub-section (*1*) or sub-section (*1A*)" (w.e.f. 1-4-1988).
5. Ins. by Act 13 of 2018, s. 12 (w.e.f. 1-4-2019).
6. Subs. by Act 46 of 1986, s. 8, for *Explanation* 2 (w.e.f. 1-4-1988).
7. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
8. Subs. by Act 21 of 1998, s. 3, for "Deputy Commissioner" (w.e.f. 1-10-1998).

[1][*Explanation* 4.—Where any asset which had once belonged to the assessee and had been used by him for the purposes of his business or profession and thereafter ceased to be his property by reason of transfer or otherwise, is re-acquired by him, the actual cost to the assessee shall be—

(*i*) the actual cost to him when he first acquired the asset as reduced by—

(*a*) the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

(*b*) the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988, as if the asset was the only asset in the relevant block of assets; or

(*ii*) the actual price for which the asset is re-acquired by him,

whichever is less.]

[2][*Explanation* 4A.—Where before the date of acquisition by the assessee (hereinafter referred to as the first mentioned person), the assets were at any time used by any other person (hereinafter referred to as the second mentioned person) for the purposes of his business or profession and depreciation allowance has been claimed in respect of such assets in the case of the second mentioned person and such person acquires on lease, hire or otherwise assets from the first mentioned person, then, notwithstanding anything contained in *Explanation* 3, the actual cost of the transferred assets, in the case of first mentioned person, shall be the same as the written down value of the said assets at the time of transfer thereof by the second mentioned person.]

Explanation 5.—Where a building previously the property of the assessee is brought into use for the purpose of the business or profession after the 28th day of February, 1946, the actual cost to the assessee shall be the actual cost of the building to the assessee, as reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee.

[3][*Explanation* 6.—When any capital asset is transferred by a holding company to its subsidiary company or by a subsidiary company to its holding company, then, if the conditions of clause (iv) or, as the case may be, of clause (v) of section 47 are satisfied, the actual cost of the transferred capital asset to the transferee-company shall be taken to be the same as it would have been if the transferor-company had continued to hold the capital asset for the purposes of its business.]

[4][*Explanation* 7.—Where, in a scheme of amalgamation, any capital asset is transferred by the amalgamating company to the amalgamated company and the amalgamated company is an Indian company, the actual cost of the transferred capital asset to the amalgamated company shall be taken to be the same as it would have been if the amalgamating company had continued to hold the capital asset for the purposes of its own business.]

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1. Subs. by Act 46 of 1986, s. 8, for *Explanation* 8 (w.e.f. 1-4-1988).
2. Ins. by Act 33 of 1996, s. 17 (w.e.f. 1-10-1996).
3. Ins. by Act 10 of 1965, s. 14 (w.e.f. 1-4-1965).
4. Ins. by Act 20 of 1967, s. 16 (w.e.f. 1-4-1967).

[1][*Explanation* 7A.—Where, in a demerger, any capital asset is transferred by the demerged company to the resulting company and the resulting company is an Indian company, the actual cost of the transferred capital asset to the resulting company shall be taken to be the same as it would have been if the demerged company had continued to hold the capital asset for the purpose of its own business:

Provided that such actual cost shall not exceed the written down value of such capital asset in the hands of the demerged company.]

[2][*Explanation* 8.—For the removal of doubts, it is hereby declared that where any amount is paid or is payable as interest in connection with the acquisition of an asset, so much of such amount as is relatable to any period after such asset is first put to use shall not be included, and shall be deemed never to have been included, in the actual cost of such asset.]

[3][*Explanation* 9.—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.]

[4][E*xplanation* 10.—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee:

Provided that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.]

[1][*Explanation* 11.—Where an asset which was acquired outside India by an assessee, being a non-resident, is brought by him to India and used for the purposes of his business or profession, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used in India for the said purposes since the date of its acquisition by the assessee.]

[5][*Explanation* 12.—Where any capital asset is acquired by the assessee under a scheme for corporatisation of a recognised stock exchange in India, approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the actual cost of the asset shall be deemed to be the amount which would have been regarded as actual cost had there been no such corporatization.]

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1. Ins. by Act 27of 1999, s. 26 (w.e.f. 1-4-2000).

2. Ins. by Act 23 of 1986, s. 9 (w.e.f. 1-4-1974).

3. Ins. by Act 21 of 1998, s. 18 (w.e.f. 1-4-1994).

4. Ins. by s. 18, *ibid.* (w.e.f. 1-4-1999).

5. Ins. by Act 14 of 2001, s. 26 (w.e.f. 1-4-2002).

[1][*Explanation* 13.—The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as '*nil*',—

(*a*) in the case of such assessee; and

(*b*) in any other case if the capital asset is acquired or received,—

(*i*) by way of gift or will or an irrevocable trust;

(*ii*) on any distribution on liquidation of the company; and

(*iii*) by such mode of transfer as is referred to in clauses (*i*), (*iv*), (*v*), (*vi*), (*vib*), [2][(*xiii*), (*xiiib*) and (*xiv*)] of section 47:]

[3][Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (*7B*) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business since the date of its acquisition.]

(*2*) "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";

(*3*) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the purposes of the business or profession [4][but does not include tea bushes or livestock][5][or buildings or furniture and fittings];

(*4*) (*i*) "scientific research" means any activities for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries;

(*ii*) references to expenditure incurred on scientific research include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research;

(*iii*) references to scientific research related to a business or class of business include—

(*a*) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class;

(*b*) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, all businesses of that class;

(*5*) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips:

Provided that for the purposes of this clause—

(*a*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchanting business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured by him or merchandise sold by him; or

1. Ins. by Act 33 of 2009, s. 17 (w.e.f. 1-4-2010).
2. Subs. by Act 14 of 2010, s. 13, for "(*xiii*) and (*xiv*)" (w.e.f. 1-4-2011).
3. The proviso ins by Act 7 of 2017, s. 16 (w.e.f. 1-4-2018).
4. Ins. by Act 22 of 1995, s. 12 (w.e.f. 1-4-1962).
5. Ins. by Act 32 of 2003, s. 20 (w.e.f. 1-4-2004).

(*b*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; or

(*c*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member; [1][or]

[1][(*d*) an eligible transaction in respect of trading in derivatives referred to in clause [2][(*ac*)] of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) carried out in a recognised stock exchange; [3][or]]

[3][(*e*) an eligible transaction in respect of trading in commodity derivatives carried out in a recognised association [4][, which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 (17 of 2013),]

shall not be deemed to be a speculative transaction.

[5][Provided further that for the purposes of clause (*e*) of the first proviso, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 shall not apply.]

[1] [[6][*Explanation* 1].—For the purposes of [7][clause (*d*)], the expressions—

(*i*) "eligible transaction" means any transaction,—

(*A*) carried out electronically on screen-based systems through a stock broker or sub-broker or such other intermediary registered under section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) or the Securities and Exchange Board of India Act, 1992 (15 of 1992) or the Depositories Act, 1996 (22 of 1996) and the rules, regulations or bye-laws made or directions issued under those Acts or by banks or mutual funds on a recognised stock exchange; and

(*B*) which is supported by a time stamped contract note issued by such stock broker or sub-broker or such other intermediary to every client indicating in the contract note the unique client identity number allotted under any Act referred to in sub-clause (*A*) and permanent account number allotted under this Act;

(*ii*) "recognised stock exchange" means a recognised stock exchange as referred to in clause (*f*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.]

[8][*Explanation* 2.—For the purposes of clause (*e*), the expressions—

(*i*) "commodity derivative" shall have the meaning as assigned to it in Chapter VII of the Finance Act, 2013;

1. Ins. by Act 18 of 2005, s. 14 (w.e.f. 1-4-2006).
2. Subs. by Act 21 of 2006, s. 11, for "(*aa*)" (w.e.f. 1-4-2006).
3. Ins. by Act 17 of 2013, s. 9 (w.e.f. 1-4-2014).
4. Subs. by Act 25 of 2014, s. 15, for "recognised association" (w.e.f. 1-4-2014).
5. Ins. by Act 13 of 2018, s. 12 (w.e.f. 1-4-2019).
6. The *Explanation* renumbered as *Explanation* 1 by Act 17 of 2013, s. 9 (w.e.f. 1-4-2014).
7. Subs. by s. 9, *ibid*., "this clause" (w.e.f. 1-4-2013).
8. Ins. by s. 9, *ibid*. (w.e.f. 1-4-2014).

(*ii*) "eligible transaction" means any transaction,—

(*A*) carried out electronically on screen-based systems through member or an intermediary, registered under the bye-laws, rules and regulations of the recognised association for trading in commodity derivative in accordance with the provisions of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and the rules, regulations or bye-laws made or directions issued under that Act on a recognised association; and

(*B*) which is supported by a time stamped contract note issued by such member or intermediary to every client indicating in the contract note, the unique client identity number allotted under the Act, rules, regulations or bye-laws referred to in sub-clause (*A*), unique trade number and permanent account number allotted under this Act;

(*iii*) "recognised association" means a recognised association as referred to in clause (*j*) of section 2 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) and which fulfils such conditions as may be prescribed and is notified by the Central Government for this purpose;]

(*6*) "written down value" means—

(*a*) in the case of assets acquired in the previous year, the actual cost to the assessee;

(*b*) in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation actually allowed to him under this Act, or under the Indian Income-tax Act, 1922 (11 of 1922), or any Act repealed by that Act, or under any executive orders issued when the Indian Income-tax Act, 1886 (2 of 1886), was in force:

[1][Provided that in determining the written down value in respect of buildings, machinery or plant for the purposes of clause (*ii*) of sub-section (*1*) of section 32, "depreciation actually allowed" shall not include depreciation allowed under sub-clauses (*a*), (*b*) and (*c*) of clause (*vi*) of sub-section (*2*) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), where such depreciation was not deductible in determining the written down value for the purposes of the said clause (*vi*);]

[2][(*c*) in the case of any block of assets,—

(*i*) in respect of any previous year relevant to the assessment year commencing on the 1st day of April, 1988, the aggregate of the written down values of all the assets falling within that block of assets at the beginning of the previous year and adjusted,—

(*A*) by the increase by the actual cost of any asset falling within that block, acquired during the previous year;

(*B*) by the reduction of the moneys payable in respect of any asset falling within that block, which is sold or discarded or demolished or destroyed during that previous year together with the amount of the scrap value, if any, so, however, that the amount of such reduction does not exceed the written down value as so increased; and

[3][(*C*) in the case of a slump sale, decrease by the actual cost of the asset falling within that block as reduced—

(*a*) by the amount of depreciation actually allowed to him under this Act or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922) in respect of any previous year relevant to the assessment year commencing before the 1st day of April, 1988; and

1. Ins. by Act 15 of 1965, s. 6 (w.e.f. 1-4-1962).
2. Ins. by Act 46 of 1986, s. 8 (w.e.f. 1-4-1988).
3. Ins. by Act 27 of 1999, s. 26 (w.e.f. 1-4-2000).

(*b*) by the amount of depreciation that would have been allowable to the assessee for any assessment year commencing on or after the 1st day of April, 1988 as if the asset was the only asset in the relevant block of assets, so, however, that the amount of such decrease does not exceed the written down value;]

(*ii*) in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 1989, the written down value of that block of assets in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets in relation to the said preceding previous year and as further adjusted by the increase or the reduction referred to in item (*i*).]

Explanation 1.—When in a case of succession in business or profession, an assessment is made on the successor under sub-section (*2*) of section 170 the written down [1][value of any asset or any block of assets] shall be the amount which would have been taken as its written down value if the assessment had been made directly on the person succeeded to.

[2][*Explanation* 2.—Where in any previous year, any block of assets is transferred,—

(*a*) by a holding company to its subsidiary company or by a subsidiary company to its holding company and the conditions of clause (*iv*) or, as the case may be, of clause (*v*) of section 47 are satisfied; or

(*b*) by the amalgamating company to the amalgamated company in a scheme of amalgamation, and the amalgamated company is an Indian company,

then, notwithstanding anything contained in clause (*1*), the actual cost of the block of assets in the case of the transferee-company or the amalgamated company, as the case may be, shall be the written down value of the block of assets as in the case of the transferor-company or the amalgamating company for the immediately preceding previous year as reduced by the amount of depreciation actually allowed in relation to the said preceding previous year.]

[3][*Explanation* 2A.—Where in any previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (*1*), the written down value of the block of assets of the demerged company for the immediately preceding previous year shall be reduced by the [4][written down value of the assets] transferred to the resulting company pursuant to the demerger.

Explanation 2B.—Where in a previous year, any asset forming part of a block of assets is transferred by a demerged company to the resulting company, then, notwithstanding anything contained in clause (*1*), the written down value of the block of assets in the case of the resulting company shall be the [5][written down value of the transferred assets [6]***] of the demerged company immediately before the demerger.

1. Subs. by Act 46 of 1986, s. 8, for "any asset" (w.e.f. 1-4-1988).

2. Subs. by s. 8, *ibid.*, for *Explanation* 2 and *Explanation* 2A (w.e.f. 1-4-1988).

3. Ins. by Act 27 of 1999, s. 26 (w.e.f. 1-4-2000).

4. Subs. by Act 10 of 2000, s. 19, for "book value of the assets" (w.e.f. 1-4-2000).

5. Subs. by s. 19, *ibid.*, for "value of the assets as appearing in the books of account" (w.e.f. 1-4-2000).

6. The words "as appearing in the books of account" omitted by Act 32 of 2003, s. 20 (w.e.f. 1-4-2004).

[1][*Explanation* 2C.—Where in any previous year, any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions specified in the proviso to clause (*xiiib*) of section 47 are satisfied, then, notwithstanding anything contained in clause (*1*), the actual cost of the block of assets in the case of the limited liability partnership shall be the written down value of the block of assets as in the case of the said company on the date of conversion of the company into the limited liability partnership.]

[2]* * * * *

Explanation 3.—Any allowance in respect of any depreciation carried forward under sub-section (*2*) of section 32 shall be deemed to be depreciation "actually allowed".

[3][*Explanation* 4.—For the purposes of this clause, the expressions "moneys payable" and "sold" shall have the same meanings as in the *Explanation* below sub-section (*4*) of section 41.]

[4][*Explanation* 5.—Where in a previous year, any asset forming part of a block of assets is transferred by a recognised stock exchange in India to a company under a scheme for corporatisation approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the written down value of the block of assets in the case of such company shall be the written down value of the transferred assets immediately before such transfer.]

[5][*Explanation* 6.—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(*a*) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(*b*) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(*c*) the depreciation actually allowed under clause (*b*) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.]

[6][*Explanation* 7.—For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act.]

1. Ins. by Act 14 of 2010, s. 13 (w.e.f. 1-4-2011).
2. The proviso omitted by Act 10 of 2000, s. 19 (w.e.f. 1-4-2000).
3. Ins. by Act 46 of 1986, s. 8 (w.e.f 1-4-1988).
4. Ins. by Act 14 of 2001, s. 26 (w.e.f. 1-4-2002).
5. Ins. by Act 18 of 2008, s. 12 (w.e.f. 1-4-2003).
6. Ins. by Act 33 of 2009, s. 17 (w.e.f. 1-4-2010).