[1][**43A. Special provisions consequential to changes in rate of exchange ofcurrency.—** Notwithstanding anything contained in any other provision of this Act, where an assessee has acquired any asset in any previous year from a country outside India for the purposes of his business or profession and, in consequence of a change in the rate of exchange during any previous year after the acquisition of such asset, there is an increase or reduction in the liability of the assessee as expressed in Indian currency (as compared to the liability existing at the time of acquisition of the asset) at the time of making payment—

(*a*) towards the whole or a part of the cost of the asset; or

(*b*) towards repayment of the whole or a part of the moneys borrowed by him from any person, directly or indirectly, in any foreign currency specifically for the purpose of acquiring the asset along with interest, if any,

the amount by which the liability as aforesaid is so increased or reduced during such previous year and which is taken into account at the time of making the payment, irrespective of the method of accounting adopted by the assessee, shall be added to, or, as the case may be, deducted from—

(*i*) the actual cost of the asset as defined in clause (*1*) of section 43; or

(*ii*) the amount of expenditure of a capital nature referred to in clause (*iv*) of sub-section (*1*) of section 35; or

(*iii*) the amount of expenditure of a capital nature referred to in section 35A; or

(*iv*) the amount of expenditure of a capital nature referred to in clause (*ix*) of sub-section (*1*) of section 36; or

(*v*) the cost of acquisition of a capital asset (not being a capital asset referred to in section 50) for the purposes of section 48,

and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset as aforesaid:

Provided that where an addition to or deduction from the actual cost or expenditure or cost of acquisition has been made under this section, as it stood immediately before its substitution by the Finance Act, 2002, on account of an increase or reduction in the liability as aforesaid, the amount to be added to, or, as the case may be, deducted under this section from, the actual cost or expenditure or cost of acquisition at the time of making the payment shall be so adjusted that the total amount added to, or, as the case may be, deducted from, the actual cost or expenditure or cost of acquisition, is equal to the increase or reduction in the aforesaid liability taken into account at the time of making payment.

Explanation 1.—In this section, unless the context otherwise requires,—

(*a*) "rate of exchange" means the rate of exchange determined or recognised by the Central Government for the conversion of Indian currency into foreign currency or foreign currency into Indian currency;

(*b*) "foreign currency" and "Indian currency" have the meanings respectively assigned to them in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

Explanation 2.—Where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of this section.

1. Subs. by Act 20 of 2002, s. 21, for section 43A (w.e.f. 1-4-2003).

Explanation 3.—Where the assessee has entered into a contract with an authorised dealer as defined in section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999), for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from, the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this section shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein.]

[1][**43AA. Taxation of foreign exchange fluctuation.—**(*1*) Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under sub-section (*2*) of section 145.

(*2*) For the purposes of sub-section (*1*), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to—

(*i*) monetary items and non-monetary items;

(*ii*) translation of financial statements of foreign operations;

(*iii*) forward exchange contracts;

(*iv*) foreign currency translation reserves.]

[2][**43B. Certain deductions to be only on actual payment.—**Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—

[3][(*a*) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force, or]

(*b*) any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees, [4][or]

[4][(*c*) any sum referred to in clause (*ii*) of sub-section (*1*) of section 36,] [5][or]

[5][(*d*) any sum payable by the assessee as interest on any loan or borrowing from any public financial institution [6][or a State financial corporation or a State industrial investment corporation], in accordance with the terms and conditions of the agreement [7][governing such loan or borrowing; or]

[8][(*e*) any sum payable by the assessee as interest on any [9][loan or advances] from a 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] in accordance with the terms and conditions of the agreement governing [11][such loan or advances], [12][or]

[12][(*f*) any sum payable by the assessee as an employer in lieu of any leave at the credit of his [13][employee, or]]

[14][(*g*) any sum payable by the assessee to the Indian Railways for the use of railway assets,]

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1. Ins. by Act 13 of 2018, s. 13 (w.r.e.f. 1-4-2017).
2. Ins. by Act 11 of 1983, s. 18 (we.f. 1-4-1984).
3. Subs. by Act 26 of 1988, s. 12, for clause (*a*) (w.e.f. 1-4-1989).
4. Ins. by Act 4 of 1988, s. 15 (w.e.f. 1-4-1989).
5. Ins. by Act 26 of 1988, s. 12 (w.e.f. 1-4-1989).
6. Ins. by Act 12 of 1990, s. 13 (w.e.f. 1-4-1991).
7. Subs. by Act 33 of 1996, s. 18, for "governing such loan or borrowing" (w.e.f. 1-4-1997).
8. Ins. by s. 18, *ibid*. (w.e.f. 1-4-1997).
9. Subs. by Act 32 of 2003, s. 21, for "term loan" (w.e.f. 1-4-2004).
10. Ins. by Act 7 of 2017, s. 17 (w.e.f. 1-4-2018).
11. Subs. by Act 32 of 2003, s. 21, for "such loan" (w.e.f. 1-4-2004).
12. Ins. by Act 14 of 2001, s. 27 (w.e.f. 1-4-2002).
13. Subs. by Act 28 of 2016, s. 23, for "employee" (w.e.f. 1-4-2017).
14. Ins. by s. 23, *ibid*. (w.e.f. 1-4-2017).

shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid by him:

[1][Provided that nothing contained in this section shall apply in relation to any sum [2]*** which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (*1*) of section 139 in respect of the previous year in whichthe liability to pay such sum was incurred as aforesaid and the evidence of such payment is furnished by the assessee along with such return.

[3]* * * * *]

Explanation [4][1].—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (*a*) or clause (*b*) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1983, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him:]

[5][*Explanation* 2.—For the purposes of clause (*a*), as in force at all material times, "any sum payable" means a sum for which the assessee incurred liability in the previous year even though such sum might not have been payable within that year under the relevant law.]

[6][*Explanation*[7][3].—For the removal of doubts it is hereby declared that where a deduction in respect of any sum referred to in clause (*c*)[8][or clause (*d*)] of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

[9][*Explanation* 3A.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (*e*) of this section is allowed in computing the income referred to in section 28 of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 1996, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

[10][*Explanation* 3B.—For the removal of doubts, it is hereby declared that where a deduction in respect of any sum referred to in clause (*f*) of this section is allowed in computing the income, referred to in section 28, of the previous year (being a previous year relevant to the assessment year commencing on the 1st day of April, 2001, or any earlier assessment year) in which the liability to pay such sum was incurred by the assessee, the assessee shall not be entitled to any deduction under this section in respect of such sum in computing the income of the previous year in which the sum is actually paid by him.]

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1. Ins. by Act 11 of 1987, s. 10 (w.e.f. 1-4-1988).
2. The words "referred to in clause (*a*) or clauses (*c*) or clause (*d*) or clause (*f*)" omitted by Act 32 of 2003, s. 21 (w.e.f. 1-4-2004).
3. The second proviso omitted by s. 21, *ibid*. (w.e.f. 1-4-2004).
4. The *Explanation* numbered as *Explanation* 1 thereof by Act 4 of 1988, s. 15 (w.e.f. 1-4-1989).
5. Ins. by Act 13 of 1989, s. 9 (w.e.f. 1-4-1984).
6. Ins. by Act 4 of 1988, s. 15 (w.e.f 1-4-1989).
7. *Explanation* 2 renumbered as *Explanation* 3 thereof by Act 13 of 1989, s. 9 (w.e.f. 1-4-1984).
8. Ins. by Act 26 of 1988, s. 12 (w.e.f. 1-4-1989).
9. Ins. by Act 33 of 1996, s. 18 (w.e.f. 1-4-1997).
10. Ins. by Act 14 of 2001, s. 27 (w.e.f. 1-4-2002).

[1][*Explanation 3C*.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (*d*) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or borrowing shall not be deemed to have been actually paid.]

[2][*Explanation 3D*.—For the removal of doubts, it is hereby declared that a deduction of any sum, being interest payable under clause (*e*) of this section, shall be allowed if such interest has been actually paid and any interest referred to in that clause which has been converted into a loan or advance shall not be deemed to have been actually paid.]

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

(*a*) "public financial institutions" shall have the meaning assigned to it in section 4A of the Companies Act, 1956 (1 of 1956);

[4][(*aa*) "scheduled bank" shall have the meaning assigned to it in the *Explanation* to clause (*iii*) of sub-section (*5*) of section 11;]

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

(*c*) "State industrial investment corporation" means a Government 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 [5][eligible for deduction under clause (*viii*) of sub-section (*1*) ofsection 36].]

[6][(*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.]

[7][**43C. Special provision for computation of cost of acquisition of certain assets.—**(*1*) Where an asset [not being an asset referred to in sub-section (*2*) of section 45] which becomes the property of an amalgamated company under a scheme of amalgamation, is sold after the 29th day of February, 1988, by the amalgamated company as stock-in-trade of the business carried on by it, the cost of acquisition of the said asset to the amalgamated company in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the amalgamating company, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer by the amalgamating company.

(*2*) Where an asset [not being an asset referred to in sub-section (*2*) of section 45] which becomes the property of the assessee on the total or partial partition of a Hindu undivided family or under a gift or will or an irrevocable trust, is sold after the 29th day of February, 1988, by the assessee as stock-in-trade of the business carried on by him, the cost of acquisition of the said asset to the assessee in computing the profits and gains from the sale of such asset shall be the cost of acquisition of the said asset to the transferor or the donor, as the case may be, as increased by the cost, if any, of any improvement made thereto, and the expenditure, if any, incurred, wholly and exclusively in connection with such transfer (by way of effecting the partition, acceptance of the gift, obtaining probate in respect of the will or the creation of the trust), including the payment of gift-tax, if any, incurred by the transferor or the donor, as the case may be.]

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1. Ins. by Act 21 of 2006, s. 12 (w.e.f. 1-4-1989).
2. Ins. by s. 12, *ibid*. (w. e. f. 1-4-1997).
3. Ins. by Act 12 of 1990, s. 13 (w.e.f. 1-4-1991).
4. Subs. by Act 27 of 1999, s. 27 (w.e.f. 1-4-2000).
5. Subs. by Act 10 of 2000, s. 20 (w.e.f. 1-4-2000).
6. Ins. by Act 7 of 2017, s. 17 (w.e.f. 1-4-2018).
7. Ins. by Act 26 of 1988, s. 13 (w.e.f. 1-4-1988).

[1]**[43CA. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases**.—(*1*) Where the consideration received or accruing as a result of the transfer by an assessee of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer.

[2][Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and five per cent. of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.]

(*2*) The provisions of sub-section (*2*) and sub-section (*3*) of section 50C shall, so far as may be, apply in relation to determination of the value adopted or assessed or assessable under sub-section (*1*).

(*3*) Where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the value referred to in sub-section (*1*) may be taken as the value assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer on the date of the agreement.

(*4*) The provisions of sub-section (*3*) shall apply only in a case where the amount of consideration or a part thereof has been received [3][by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account] on or before the date of agreement for transfer of the asset.]

[4][**43CB. Computation of income from construction and service contracts.—**(*1*) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the income computation and disclosure standards notified under sub-section (*2*) of section 145:

Provided that profits and gains arising from a contract for providing services,—

(*i*) with duration of not more than ninety days shall be determined on the basis of project completion method;

(*ii*) involving indeterminate number of acts over a specific period of time shall be determined on the basis of straight line method.

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1. Ins. by Act 17 of 2013, s. 10 (w.e.f. 1-4-2014).

2. Ins. by Act 13 of 2018, s. 14 (w.e.f. 1-4-2019).

3. Subs. by s. 14, *ibid*., for "by any mode other than cash" (w.e.f. 1-4-2019).

4. Ins. by Act 13 of 2018, s. 15 (w.r.e.f. 1-4-2017).

(*2*) For the purposes of percentage of completion method, project completion method or straight line method referred to in sub-section (*1*)—

(*i*) the contract revenue shall include retention money;

(*ii*) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.]

[1]**[43D. Special provision in case of income of public financial institutions, public companies, etc.—**Notwithstanding anything to the contrary contained in any other provision of this Act,—

(*a*) in the case of a public financial institution or a scheduled bank or [2][a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or] a State financial corporation or a State industrial investment corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(*b*) in the case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the National Housing Bank in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or [2][a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or] the State financial corporation or the State industrial investment corporation or the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Explanation.—For the purposes of this section,—

(*a*) "National Housing Bank" means the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987);

(*b*) "public company" means a company,—

(*i*) which is a public company within the meaning of section 3 of the Companies Act, 1956 (1 of 1956);

(*ii*) whose main object is carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes; and

(*iii*) which is registered in accordance with the Housing Finance Companies (NHB) Directions, 1989 given under section 30 and section 31 of the National Housing Bank Act, 1987 (53 of 1987);

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1. Subs. by Act 27 of 1999, s. 28, for Section 43D (w.e.f. 1-4-2000).

2. Ins. by Act 7 of 2017, s. 18 (w.e.f. 1-4-2018).

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

(*d*) "scheduled bank" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* to clause (*viia*) of sub-section (*1*) of section 36;

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

(*f*) "State industrial investment corporation" means a Government company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956), engaged in the business of providing long-term finance for industrial projects.]

[1][(*g*) "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.]

44. Insurance business.—Notwithstanding anything to the contrary contained in the provisions of this Act relating to the computation of income chargeable under the head "Interest on securities", "Income from house property", "Capital gains" or "Income from other sources", or in section 199 or in [2][section 28 to 43B], the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed in accordance with the rules contained in the First Schedule.

[3][**44A. Special provision for deduction in the case of trade, professional or similar association.**—(*1*) Notwithstanding anything to the contrary contained in this Act, where the amount received during a previous year by any trade, professional or similar association (other than an association or institution referred to in clause (*23A*) of section 10) from its members, whether by way of subscription or otherwise (not being remuneration received for rendering any specific services to such members) falls short of the expenditure incurred by such association during that previous year (not being expenditure deductible in computing the income under any other provision of this Act and not being in the nature of capital expenditure) solely for the purposes of protection or advancement of the common interests of its members, the amount so fallen short (hereinafter referred to as deficiency) shall, subject to the provisions of this section, be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under the head "Profits and gains of business or profession" and if there is no income assessable under that head or the deficiency allowable exceeds such income, the whole or the balance of the deficiency, as the case may be, shall be allowed as a deduction in computing the income of the association assessable for the relevant assessment year under any other head.

(*2*) In computing the income of the association for the relevant assessment year under sub-section (*1*), effect shall first be given to any other provision of this Act under which any allowance or loss in respect of any earlier assessment year is carried forward and set off against the income for the relevant assessment year.

(*3*) The amount of deficiency to be allowed as a deduction under this section shall in no case exceed one-half of the total income of the association as computed before making any allowance under this section.

(*4*) This section applies only to that trade, professional or similar association the income of which or any part thereof is not distributed to its members except as grants to any association or institution affiliated to it.]

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1. Ins. by Act 7 of 2017, s. 18 (w.e.f. 1-4-2018).

2. Subs. by Act 4 of 1988, s. 126, for "section 28 to 43A" (w.e.f 1-4-1989).

3. Ins. by Act 5 of 1964, s. 11 (w.e.f. 1-4-1964).

[1]**[44AA. Maintenance of accounts by certain persons carrying on profession or business**.—(*1*) Every person carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette shall keep and maintain such books of account and other documents as may enable the [2][Assessing Officer] to compute his total income in accordance with the provisions of this Act.

(*2*) Every person carrying on business or profession [not being a profession referred to in sub-section (*1*)] shall,—

(*i*) if his income from business or profession exceeds [3][one lakh twenty thousand] rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession exceed or exceeds [4][ten lakh] rupees in any one of the three years immediately preceding the previous year; or

(*ii*) where the business or profession is newly set up in any previous year, if his income from business or profession is likely to exceed [3][one lakh twenty thousand] rupees or his total sales, turnover or gross receipts, as the case may be, in business or profession are or is likely to exceed [4][ten lakh] rupees, [5][during such previous year; or

(*iii*) where the profits and gains from the business are deemed to be the profits and gains of the assessee under [6][section 44AE] [7][or section 44BB or section 44BBB], as the case may be, and the assessee has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, during such [8][previous year; or]]

[9][(*iv*) where the provisions of sub-section (*4*) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,]

keep and maintain such books of account and other documents as may enable the [2][Assessing Officer] to compute his total income in accordance with the provisions of this Act.

[10][Provided that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (*i*) and clause (*ii*) shall have effect, as if for the words "one lakh twenty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted:

Provided further that in the case of a person being an individual or a Hindu undivided family, the provisions of clause (*i*) and clause (*ii*) shall have effect, as if for the words "ten lakh rupees", the words "twenty-five rupees" had been substituted.]

(*3*) The Board may, having regard to the nature of the business or profession carried on by any class of persons, prescribe, by rules, the books of account and other documents (including inventories, wherever necessary) to be kept and maintained under sub-section (*1*) or sub-section (*2*), the particulars to be contained therein and the form and the manner in which and the place at which they shall be kept and maintained.

(*4*) Without prejudice to the provisions of sub-section (*3*), the Board may prescribe, by rules, the period for which the books of account and other documents to be kept and maintained under sub-section (*1*) or sub-section (*2*) shall be retained.]

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1. Ins. by Act 41 of 1975, s. 11 (w.e.f. 1-4-1976).
2. Subs. by Act 4 of 1988, s. 2, for Income-tax Officer" (w.e.f. 1-4-1988).
3. Subs. by Act 21 of 1998, s. 20, for "forty thousand" (w.e.f. 1-4-1999).
4. Subs. by s. 20, *ibid*., for "five hundred thousand" (w.e.f. 1-4-1999).
5. Subs. by Act 26 of 1997, s. 10, for "during such previous year" (w.e.f. 1-4-1998).
6. Subs. by Act 33 of 2009, s. 18, for "section 44AD or section 44AE or section 44AF" (w.e.f. 1-4-2011).
7. Ins. by Act 32 of 2003, s. 22 (w.e.f. 1-4-2004).
8. Subs. by Act 33 of 2009. S. 18, for "previous year" (w.e.f. 1-4-2011).
9. Subs. by Act 28 of 2016, s. 24, for clause (*iv*) (w.e.f. 1-4-2017).
10. Ins. by Act 7 of 2017, s. 19 (w.e.f. 1-4-2018).

[1]**[44AB. Audit of accounts of certain persons carrying on business or profession**.—Every person,—

(*a*) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds [2][one crore rupees] in any previous year [3]***; or

(*b*) carrying on profession shall, if his gross receipts in profession exceed [4][fifty lakh rupees] in any [5][previous year; or

(*c*) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under [6][section 44AE] [7][or section 44BB or section 44BBB], as the case may be, and he has claimed his income to be lower than the profits or gains so deemed to be the profits and gains of his business, as the case may be, in any [8][previous year; or] [3]***]

[9][(*d*) carrying on the [10][profession] shall, if the profits and gains from the [10][profession] are deemed to be the profits and gains of such person [11][under section 44ADA] and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his [10][profession] and his income exceeds the maximum amount which is not chargeable to income-tax in any [12][previous year; or]]

[13][(*e*) carrying on the business shall, if the provisions of sub-section (*4*) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,]

get his accounts of [14][such previous year] audited by an accountant before the specified date and [15][furnish by] that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed:

[16][Provided that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (*1*) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year:]

[17][[18][Provided further that] this section shall not apply to the person, who derives income of the nature referred to in [19]*** section 44B or [20][section 44BBA], on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later:

1. Ins. by Act 21 of 1984, s. 11 (w.e.f. 1-4-1985).
2. Subs. by Act 23 of 2012, s. 13, for "sixty lakh rupees" (w.e.f. 1-4-2013).
3. The words and figures "or years relevant to the assessment year commencing on the first day of April, 1985, or any subsequent assessment year" omitted by Act 26 of 1988, s. 14 (w.e.f. 1-4-1989).
4. Subs. by Act 28 of 2016, s. 25, for "twenty-five lakh rupees" (w.e.f. 1-4-2017).
5. Subs. by Act 26 of 1997, s. 11, for "previous year" (w.e.f. 1-4-1998).
6. Subs. by Act 33 of 2009, s. 19, for "section 44AD or section 44AE or section 44AF" (w.e.f. 1-4-2011).
7. Ins. by Act 32 of 2003, s. 23 (w.e.f. 1-4-2004).
8. Subs. by Act 33 of 2009, s. 19, for "previous year," (w.e.f. 1-4-2011).
9. Ins. by s. 19, *ibid.* (w.e.f. 1-4-2011).
10. Subs. by Act 28 of 2016, s. 25, for "Business" (w.e.f. 1-4-2017).
11. Subs. by s. 25, *ibid.*, for "under section 44AD" (w.e.f. 1-4-2017).
12. Subs. by s. 25, *ibid.*, for "previous year" (w.e.f. 1-4-2017).
13. Ins. by s. 25, *ibid.* (w.e.f. 1-4-2017).
14. Subs. by Act 26 of 1988, s. 14, for "such previous year or years" (w.e.f. 1-4-1989).
15. Subs. by Act 22 of 1995, s. 13, for "obtain before" (w.e.f. 1-7-1995).
16. Ins. by Act 7 of 2017, s. 20 (w.e.f. 1-4-2017).
17. Subs. by Act 18 of 1992, s. 20, for "Provided that" (w.e.f. 1-4-1985).
18. Subs. by Act 7 of 2017, s. 20, for "Provided that" (w.e.f. 1-4-2017).
19. The words, figures and letters "section 44AC or" omitted by Act 22 of 1995, s. 13 (w.e.f. 1-7-1995).
20. Subs. by Act 32 of 2003, s. 23, for "section 44BB or section 44BBA or section 44BBB" (w.e.f. 1-4-2004).

[1][Provided also] that] in a case where such person is required by or under any other law to get his accounts audited [2]***, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and [3][furnishes by] that date the report of the audit as required under such other law and a further report [4][by an accountant] in the form prescribed under this section.

Explanation.—For the purposes of this section,—

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

[5][(*ii*) "specified date", in relation to the accounts of the assessee of the previous year relevant to an assessment year, means [6][the due date for furnishing the return of income under sub-section (*1*) of section 139].]]

44AC. [**Special provision for computing profits and gains from the business of trading in certain goods**.] *Omitted by the Finance Act,* 1992 (18 *of* 1992), *s.* 21 (*w.e.f.* 1-4-1993).

[7][**44AD. Special provision for computing profits and gains of business on presumptive basis**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 43C,in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

[8][Provided that this sub-section shall have effect as if for the words "eight per cent.", the words "six per cent." had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (*1*) of section 139 in respect of that previous year.]

(*2*) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (*1*), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

[9]* * * * *

(*3*) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

[10][(*4*) Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (*1*), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (*1*).

1. Subs. by Act 7 of 2017, s. 20, for "Provided further" (w.e.f. 1-4-2017).
2. The words "by an accountant" omitted by Act 32 of 1985, s. 13 (w.e.f. 1-4-1985).
3. Subs. by Act 22 of 1995, s. 13, for "obtains before" (w.e.f. 1-7-1995).
4. Ins. by Act 14 of 2001, s. 28 (w.e.f. 1-4-2001).
5. Subs. by s. 28, *ibid*., for clause (*ii*) (w.e.f. 1-4-2001).
6. Subs. by Act 23 of 2012, s. 13, for "the 30th day of September of the assessment year" (w.e.f. 1-4-2012).
7. Subs. by Act 33 of 2009, s. 20, for section 44AD (w.e.f. 1-4-2011).
8. Ins. by Act 7 of 2017, s. 21 (w.e.f. 1-4-2017).
9. The proviso omitted by Act 28 of 2016, s. 26 (w.e.f. 1-4-2017).
10. Subs. by s. 26, *ibid*., for sub-sections (*4*) and (*5*) (w.e.f. 1-4-2017).

(*5*) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (*4*) are applicable and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (*2*) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.]

[1][(*6*) The provisions of this section, notwithstanding anything contained in the foregoing provisions, shall not apply to—

(*i*) a person carrying on profession as referred to in sub-section (*1*) of section 44AA;

(*ii*) a person earning income in the nature of commission or brokerage; or

(*iii*) a person carrying on any agency business.]

Explanation.—For the purposes of this section,—

(*a*) "eligibleassessee" means,—

(*i*) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (*n*) of sub-section (*1*) of section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); and

(*ii*) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BAor deduction under any provisions of Chapter VIA under the heading "C. - Deductions in respect of certain incomes" in the relevant assessment year;

(*b*) "eligible business" means,—

(*i*) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(*ii*) whose total turnover or gross receipts in the previous year does not exceed an amount of [2][two crore rupees].]

[3]**[44ADA. Special provision for computing profits and gains of profession on presumptive basis**.—(*1*) Notwithstanding anything contained in sections 28 to 43C, in the case of an assessee, being a resident in India, who is engaged in a profession referred to in sub-section (*1*) of section 44AAand whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty per cent. of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

(*2*) Any deduction allowable under the provisions of sections 30 to 38shall, for the purposes of sub-section (*1*), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed.

1. Ins. by Act 23 of 2012, s. 14 (w.e.f. 1-4-2011).

2. Subs. by Act 28 of 2016, s. 26, for "one crore rupees" (w.e.f. 1-4-2017).

3. Ins. by s. 27, *ibid*. (w.e.f. 1-4-2017).

(*3*) The written down value of any asset used for the purposes of profession shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(*4*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee who claims that his profits and gains from the profession are lower than the profits and gains specified in sub-section (*1*) and whose total income exceeds the maximum amount which is not chargeable to income-tax, shall be required to keep and maintain such books of account and other documents as required under sub-section (*1*) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.]

[1]**[44AE. Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, who owns not more than ten goods carriages [2][at any time during the previous year] and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" shall be deemed to be the aggregate of the profits and gains, from all the goods carriages owned by him in the previous year, computed in accordance with the provisions of sub-section (*2*).

[3][(*2*) For the purposes of sub-section (*1*), the profits and gains from each goods carriage,—

(*i*) being a heavy goods vehicle, shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

(*ii*) other than heavy goods vehicle, shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.]

(*3*) Any deduction allowable under the provisions of sections 30 to 38shall, for the purposes of sub-section (*1*), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

[4][Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (*1*) subject to the conditions and limits specified in clause (*b*) of section 40.]

(*4*) The written down value of any asset used for the purpose of the business referred to in sub-section (*1*) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(*5*) The provisions of sections 44AA and 44ABshall not apply in so far as they relate to the business referred to in sub-section (*1*) and in computing the monetary limits under those sections, the gross receipts or, as the case may be, the income from the said business shall be excluded.

[5][(*6*) Nothing contained in the foregoing provisions of this section shall apply, where the assessee claims and produces evidence to prove that the profits and gains from the aforesaid business during the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or any earlier assessment year, are lower than the profits and gains specified in sub-sections (*1*) and (*2*), and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee and determine the sum payable by the assessee on the basis of assessment made under sub-section (*3*) of section 143.]

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1. Ins. by Act 32 of 1994, s. 16 (w.e.f. 1-4-1994).
2. Ins. by Act 32 of 2003, s. 24 (w.e.f. 1-4-2004).
3. Subs. by Act 13 of 2018, s. 16, for sub-section (*2*) (w.e.f. 1-4-2019). Earlier it was substituted by Act 25 of 2014, s. 16 (w.e.f. 1-4-2015).
4. Ins. by Act 26 of 1997, s. 13 (w.e.f. 1-4-1994).
5. Ins. by Act 11 of 1999, s. 7 (w.e.f. 1-4-1997).

[1][(*7*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-sections (*1*) and (*2*), if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]

Explanation.—For the purposes of this section,—

[2][(*a*) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988;

(*aa*) the expression "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;']

(*b*) anassessee, who is in possession of a goods carriage, whether taken on hire purchase or on instalments and for which the whole or part of the amount payable is still due, shall be deemed to be the owner of such goods carriage.]

[3]**[44AF. Special provisions for computing profits and gains of retail business**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 43C,in the case of an assessee engaged in retail trade in any goods or merchandise, a sum equal to five per cent of the total turnover in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum as declared by the assessee in his return of income shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that nothing contained in this sub-section shall apply in respect of an assessee whose total turnover exceeds an amount of forty lakh rupees in the previous year.

(*2*) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (*1*), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

Provided that where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (*1*) subject to the conditions and limits specified in clause (*b*) of section 40.

(*3*) The written down value of any asset used for the purpose of the business referred to in sub-section (*1*) shall be deemed to have been calculated as if the assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(*4*) The provisions of sections 44AA and 44AB shall not apply in so far as they relate to the business referred to in sub-section (*1*) and in computing the monetary limits under those sections, the total turnover or, as the case may be, the income from the said business shall be excluded.]

[4][(*5*) Notwithstanding anything contained in the foregoing provisions of this section, an assessee may claim lower profits and gains than the profits and gains specified in sub-section (*1*), if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB.]

[5][(*6*) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011.]

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1. Ins. by Act 27 of 1999, s. 30 (w.e.f. 1-4-1998).
2. Subs. by Act 13 of 2018, s. 16, for clause (*a*) (w.e.f. 1-4-2019) which was earlier substituted by Act 25 of 2014, s. 16 (w.e.f. 1-4-2015).
3. Ins. by Act 26 of 1997, s. 14 (w.e.f. 1-4-1998).
4. Ins. by Act 27 of 1999, s. 31 (w.e.f. 1-4-1998).
5. Ins. by Act 33 of 2009, s. 22 (w.e.f. 1-4-2009).

[1]**[44B. Special provision for computing profits and gains of shipping business in the case of non-residents**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of ships, a sum equal to seven and a half per cent of the aggregate of the amounts specified in sub-section (*2*) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(*2*) The amounts referred to in sub-section (*1*) shall be the following, namely:—

(*i*) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods shipped at any port in India; and

(*ii*) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods shipped at any port outside India.]

[2][*Explanation*.—For the purposes of this sub-section, the amount referred to in clause (*i*) or clause (*ii*) shall include the amount paid or payable or received or deemed to be received, as the case may be, by way of demurrage charges or handling charges or any other amount of similar nature.]

[3][**44BB. Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 41 and sections 43 and 43A, [4][in the case of an assessee, being a non-resident,] engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils, a sum equal to ten per cent of the aggregate of the amounts specified in sub-section (*2*) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession":

Provided that this sub-section shall not apply in a case where the provisions of section 42 or section 44D or [5][section 44DA or] section 115A or section 293A apply for the purposes of computing profits or gains or any other income referred to in those sections.

(*2*) The amounts referred to in sub-section (*1*) shall be the following, namely:—

(*a*) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils in India; and

(*b*) the amount received or deemed to be received in India by or on behalf of the assessee on account of the provision of services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils outside India.

[6][(*3*) Notwithstanding anything contained in sub-section (*1*), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing

1. Ins. by Act 25 of 1975, s. 8 (w.e.f. 1-4-1976).
2. Ins. by Act 26 of 1997, s. 15 (w.e.f. 1-4-1976).
3. Ins. by Act 11 of 1987, s. 11 (w.e.f. 1-4-1983).
4. Subs. by Act 26 of 1988, s. 16, for "in the case of an assessee" (w.e.f. 1-4-1983).
5. Ins. by Act 14 of 2010, s. 16 (w.e.f. 1-4-2011).
6. Ins. by Act 32 of 2003, s. 25 (w.e.f. 1-4-2004).

Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (*3*) of section 143 and determine the sum payable by, or refundable to, the assessee.]

Explanation.—For the purposes of this section,—

(*i*) "plant" includes ships, aircraft, vehicles, drilling units, scientific apparatus and equipment, used for the purposes of the said business;

(*ii*) "mineral oil" includes petroleum and natural gas.]

[1]**[44BBA. Special provision for computing profits and gains of the business of operation of aircraft in the case of non-residents**.—(*1*) Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, engaged in the business of operation of aircraft, a sum equal to five per cent. of the aggregate of the amounts specified in sub-section (*2*) shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(*2*) The amounts referred to in sub-section (*1*) shall be the following, namely:—

(*a*) the amount paid or payable (whether in or out of India) to the assessee or to any person on his behalf on account of the carriage of passengers, livestock, mail or goods from any place in India; and

(*b*) the amount received or deemed to be received in India by or on behalf of the assessee on account of the carriage of passengers, livestock, mail or goods from any place outside India.]

[2][**44BBB. Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects**.—[3][(*1*)] Notwithstanding anything to the contrary contained insections 28 to 44AA, in the case of an assessee, being a foreign company, engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government in this behalf [4]***, a sum equal to ten per cent. of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of such civil construction, erection, testing or commissioning shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".]

[5][(*2*) Notwithstanding anything contained in sub-section (*1*), an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section (*2*) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (*3*) of section 143 and determine the sum payable by, or refundable to, the assessee.]

[6]**[44C. Deduction of head office expenditure in the case of non-residents**.—Notwithstanding anything to the contrary contained in sections 28 to 43A, in the case of an assessee, being a non-resident, no allowance shall be made, in computing the income chargeable under the head "Profits and gains of business or profession", in respect of so much of the expenditure in the nature of head office expenditure as is in excess of the amount computed as hereunder, namely:—

(*a*) an amount equal to five per cent of the adjusted total income; or

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1. Ins. by Act 11 of 1987, s. 12 (w.e.f. 1-4-1988).
2. Ins. by Act 13 of 1989, s. 10 (w.e.f. 1-4-1990).
3. The existing section numbered as sub-section (*1*) thereof by Act 32 of 2003, s. 26 (w.e.f. 1-4-2004).
4. The words "and financed under any international aid programme" omitted by s. 26, *ibid.* (w.e.f. 1-4-2004).
5. Ins. by s. 26, *ibid*. (w.e.f. 1-4-2004).
6. Ins. by Act 66 of 1976, s. 10 (w.e.f. 1-6-1976).

[1]* * * * *

(*c*) the amount of so much of the expenditure in the nature of head office expenditure incurred by the assessee as is attributable to the business or profession of the assessee in India,

whichever is the least:

Provided that in a case where the adjusted total income of the assessee is a loss, the amount under clause (*a*) shall be computed at the rate of five per cent.of the average adjusted total income of the assessee.

Explanation.—For the purposes of this section,—

(*i*) "adjusted total income" means the total income computed in accordance with the provisions of this Act, without giving effect to the allowance referred to in this section or in sub-section (*2*) of section 32or the deduction referred to in section 32Aor section 33or section 33A or the first proviso to clause (*ix*) of sub-section (*1*) of section 36 or any loss carried forward under sub-section (*1*) of section 72 or sub-section (*2*) of section 73 or [2][sub-section (*1*) or sub-section (*3*) of section 74] or sub-section (*3*) of section 74A or the deductions under Chapter VI-A;

(*ii*) "average adjusted total income" means,—

(*a*) in a case where the total income of the assessee is assessable for each of the three assessment years immediately preceding the relevant assessment year, one-third of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid three assessment years;

(*b*) in a case where the total income of the assessee is assessable only for two of the aforesaid three assessment years, one-half of the aggregate amount of the adjusted total income in respect of the previous years relevant to the aforesaid two assessment years;

(*c*) in a case where the total income of the assessee is assessable only for one of the aforesaid three assessment years, the amount of the adjusted total income in respect of the previous year relevant to that assessment year;

[3]* * * * *

(*iv*) "head office expenditure" means executive and general administration expenditure incurred by the assessee outside India, including expenditure incurred in respect of—

(*a*) rent, rates, taxes, repairs or insurance of any premises outside India used for the purposes of the business or profession;

(*b*) salary, wages, annuity, pension, fees, bonus, commission, gratuity, perquisites or profits in lieu of or in addition to salary, whether paid or allowed to any employee or other person employed in, or managing the affairs of, any office outside India;

(*c*) travelling by any employee or other person employed in, or managing the affairs of, any office outside India; and

(*d*) such other matters connected with executive and general administration as may be prescribed.]

1. Clause (*b*) omitted by Act 38 of 1993, s. 11 (w.e.f. 1-4-1993).
2. Subs. by Act 11 of 1987, s. 74, for "sub-section (*1*) of section 74" (w.e.f. 1-4-1988).
3. Clause (*iii*) omitted by Act 38 of 1993, s. 11 (w.e.f. 1-4-1993).

[1]**[44D. Special provisions for computing income by way of royalties, etc., in the case of foreign companies.—**Notwithstanding anything to the contrary contained in sections 28 to 44C, in the case of an assessee, being a foreign company,—

(*a*) the deductions admissible under the said sections in computing the income by way of royalty or fees for technical services received [2][from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern] before the 1st day of April, 1976, shall not exceed in the aggregate twenty per cent of the gross amount of such royalty or fees as reduced by so much of the gross amount of such royalty as consists of lump sum consideration for the transfer outside India of, or the imparting of information outside India in respect of, any data, documentation, drawing or specification relating to any patent, invention, model, design, secret formula or process or trade mark or similar property;

(*b*) no deduction in respect of any expenditure or allowance shall be allowed under any of the said sections in computing the income by way of royalty or fees for technical services received [from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern] after the 31st day of March, 1976 [3][but before the 1st day of April, 2003;]

[4]* * * * *

Explanation.—For the purposes of this section,—

(*a*) "fees for technical services" shall have the same meaning as in [5][*Explanation* 2 to clause (*vii*) of sub-section (*1*) of section 9] ;

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

(*c*) "royalty" shall have the same meaning as in [6][*Explanation* 2 to clause (*vi*) of sub-section (*1*) of section 9];

(*d*) royalty received [2][from Government or an Indian concern in pursuance of an agreement made by a foreign company with Government or with the Indian concern] after the 31st day of March, 1976, shall be deemed to have been received in pursuance of an agreement made before the 1st day of April, 1976, if such agreement is deemed, for the purposes of the proviso to clause (*vi*) of sub-section (*1*) of section 9, to have been made before the 1st day of April, 1976.]

[7]**[44DA. Special provision for computing income by way of royalties, etc., in case of non-residents.**— (*1*) The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of

1. Ins. by Act 66 of 1976, s. 10 (w.e.f. 1-6-1976).
2. Subs. by Act 11 of 1983, s. 19, for certain words (w.e.f. 1-6-1983).
3. Ins. by Act 32 of 2003, s. 27 (w.e.f. 1-4-2004).
4. Clause (*c*) and (*d*) omitted by Act 32 of 1994, s. 17 (w.e.f. 1-4-1995).
5. Subs. by Act 29 of 1977, s. 29, for "the *Explanation* to, clause (*vii*) of sub-section (*1*) of section 9" (w.e.f. 1-4-1977).
6. Subs. by s. 29, *ibid*., for "the *Explanation* to clause (*vi*) of sub- section (*1*) of section 9" (w.e.f 1-4-1977).
7. Ins. by Act 32 of 2003, s. 28 (w.e.f 1-4-2004).

profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act :

Provided that no deduction shall be allowed,—

(*i*) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(*ii*) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices :

[1][Provided further that the provisions of section 44BB shall not apply in respect of the income referred to in this section.]

(*2*) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and furnish along with the return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

Explanation.—For the purposes of this section,—

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

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

(*c*) "permanent establishment" shall have the same meaning as in clause (*iiia*) of section 92F.]

[2]**[44DB. Special provision for computing deductions in the case of business reorganization of co-operative banks.—**(*1*) The deduction under section 32, section 35D, section 35DD or section 35DDA shall, in a case where business reorganisation of a co-operative bank has taken place during the financial year, be allowed in accordance with the provisions of this section.

(*2*) The amount of deduction allowable to the predecessor co-operative bank under section 32, section 35D, section 35DD or section DDA shall be determined in accordance with the formula—

$$A \quad X \quad \frac{B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the 1st day of the financial year and ending on the day immediately preceding the date of business reorganisation; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

1. Ins. by Act 14 of 2010, s. 17 (w.e.f. 1-4-2011).
2. Ins. by Act 22 of 2007, s. 15 (w.e.f. 1-4-2008).

(3) The amount of deduction allowable to the successor co-operative bank under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

$$A \quad X \quad \frac{B}{C}$$

where A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

(*4*) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank on account of business reorganisation, apply to the successor co-operative bank in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

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

(*a*) "amalgamated co-operative bank" means—

(*i*) a co-operative bank with which one or more amalgamating co-operative banks merge; or

(*ii*) a co-operative bank formed as a result of merger of two or more amalgamating co-operative banks;

(*b*) "amalgamating co-operative bank" means—

(*i*) a co-operative bank which merges with another co-operative bank; or

(*ii*) every co-operative bank merging to form a new co-operative bank;

(*c*) "amalgamation" means the merger of an amalgamating co-operative bank or banks with an amalgamated co-operative bank, in such manner that—

(*i*) all the assets and liabilities of the amalgamating co-operative bank or banks immediately before the merger (other than the assets transferred, by sale or distribution on winding up, to the amalgamated co-operative bank) become the assets and liabilities of the amalgamated co-operative bank;

(*ii*) the members holding seventy-five per cent or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(*iii*) the shareholders holding seventy-five per cent or more in value of the shares in the amalgamating co-operative bank (other than the shares held by the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

(*d*) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank;

(*e*) "co-operative bank" shall have the meaning assigned to it in clause (*cci*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(*f*) "demerger" means the transfer by a demerged co-operative bank of one or more of its undertakings to any resulting co-operative bank, in such manner that—

(*i*) all the assets and liabilities of the undertaking or undertakings immediately before the transfer become the assets and liabilities of the resulting co-operative bank;

(*ii*) the assets and the liabilities are transferred to the resulting co-operative bank at values (other than change in the value of assets consequent to their revaluation) appearing in its books of account immediately before the transfer;

(*iii*) the resulting co-operative bank issues, in consideration of the transfer, its membership to the members of the demerged co-operative bank on a proportionate basis;

(*iv*) the shareholders holding seventy-five per cent or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting co-operative bank, otherwise than as a result of the acquisition of the assets of the demerged co-operative bank or any undertaking thereof by the resulting co-operative bank;

(*v*) the transfer of the undertaking is on a going concern basis; and

(*vi*) the transfer is in accordance with the conditions specified by the Central Government, by notification in the Official Gazette, having regard to the necessity to ensure that the transfer is for genuine business purposes;

(*g*) "demerged co-operative bank" means the co-operative bank whose undertaking is transferred, pursuant to a demerger, to a resulting bank;

(*h*) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, as the case may be;

(*i*) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank, as the case may be;

(*j*) "resulting co-operative bank" means—

(*i*) one or more co-operative banks to which the undertaking of the demerged co-operative bank is transferred in a demerger; or

(*ii*) any co-operative bank formed as a result of demerger.]

E. — Capital gains

45. Capital gains. — [1][(*1*)] Any profits or gains arising from the transfer of a capital asset effected in previous year shall, save as otherwise provided in [2][sections [3]*** 54, [4]*** [5][54B, [6][54D, [7][54E, [8][54EA, 54EB,] 54F, [9][54G and 54H]]]]], be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place.

[10][(*1A*) Notwithstanding anything contained in sub-section (*1*), where any person receives at any time during any previous year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of—

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

(*ii*) riot or civil disturbance; or

(*iii*) accidental fire or explosion; or

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

then, any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such money or other asset was received and for the purposes of section 48, value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

Explanation.—For the purposes of this sub-section, the expression "insurer" shall have the meaning assigned to it in clause (*9*) of section 2 of the Insurance Act, 1938 (4 of 1938).]

[11][(*2*) Notwithstanding anything contained in sub-section (*1*), the profits or gains arising from the transfer by way of conversion by the owner of a capital asset into, or its treatment by him as stock-in-trade of a business carried on by him shall be chargeable to income-tax as his income of the previous year in which such stock-in-trade is sold or otherwise transferred by him and, for the purposes of section 48, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.]

[12][(*2A*) Where any person has had at any time during previous year any beneficial interest in any securities, then, any profits or gains arising from transfer made by the depository or participant of such beneficial interest in respect of securities shall be chargeable to income-tax as the income of the beneficial owner of the previous year in which such transfer took place and shall not be regarded as

1. Sub-section (*I*) renumbered as sub-section (*1*) thereof by Act 5 of 1964, s. 12 (w.e.f. 1-4-1964).
2. Subs. by Act 19 of 1970, s. 11, for "sections 53 and 54" (w.e.f. 1-4-1970).
3. The figures "53," omitted by Act 18 of 1992, s. 22 (w.e.f. 1-4-1993).
4. The figures and letter "54C" omitted by Act 66 of 1976, s. 26 (w.e.f. 1-4-1976).
5. Subs. by Act 29 of 1977, s. 29, for "54B and 54D" (w.e.f. 1-4-1978).
6. Subs. by Act 14 of 1982, s. 32 for "54D and 54E" (w.e.f. 1-4-1983)
7. Subs. by Act 11 of 1987, s. 13, for "54E and 54F (w.e.f. 1-10-1987).
8. Subs. by Act 33 of 1996, s. 19, for "54E" (w.e.f. 1-10-1996).
9. Subs. by Act 49 of 1991, s. 17, for "and 54G" (w.e.f. 1-4-1991).
10. Ins. by Act 27 of 1999, s. 32 (w.e.f. 1-4-2000).
11. Ins. by Act 67 of 1984, s. 12 (w.e.f. 1-4-1985).
12. Ins. by Act 22 of 1996, s. 30 and the Schedule (w.e.f. 20-9-1995).

income of the depository who is deemed to be the registered owner of securities by virtue of sub-section (*1*) of section 10 of the Depositories Act, 1996, and for the purposes of—

(*i*) section 48; and

(*ii*) proviso to clause (*42A*) of section 2,

the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

Explanation.—For the purposes of this sub-section, the expressions "beneficial owner", "depository" and "security" shall have the meanings respectively assigned to them in clauses (*a*), (*e*) and (*l*) of sub-section (*1*) of section 2 of the Depositories Act, 1996.]

[1][(*3*) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

(*4*) The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.]

(*5*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain shall be dealt with in the following manner, namely:—

(*a*) the capital gain computed with reference to the compensation awarded in the first instance or, as the case may be, the consideration determined or approved in the first instance by the Central Government or the Reserve Bank of India shall be chargeable as [2][income under the head "Capital gains" of the previous year in which such compensation or part thereof, or such consideration or part thereof, was first received]; and

(*b*) the amount by which the compensation or consideration is enhanced or further enhanced by the court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which such amount is received by the assessee:

[3][Provided that any amount of compensation received in pursuance of an interim order of a court, Tribunal or other authority shall be deemed to be income chargeable under the head "Capital gains" of the previous year in which the final order of such court, Tribunal or other authority is made;]

1. Ins. by Act 11 of 1987, s. 13 (w.e.f. 1-4-1988).
2. Subs. by Act 49 of 1991, s. 17, for "income under the head "Capital gains" of the previous year in which the transfer took place" (w.e.f. 1-4-1988).
3. Ins. by Act 25 of 2014, s. 17 (w.e.f. 1-4-2015).

[1][(*c*) where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause (*a*) or, as the case may be, enhanced compensation or consideration referred to in clause (*b*), and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.]

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

(*i*) in relation to the amount referred to in clause (*b*), the cost of acquisition and the cost of improvement shall be taken to be nil;

(*ii*) the provisions of this sub-section shall apply also in a case where the transfer took place prior to the 1st day of April, 1988;

(*iii*) where by reason of the death of the person who made the transfer, or for any other reason, the enhanced compensation or consideration is received by any other person, the amount referred to in clause (*b*) shall be deemed to be the income, chargeable to tax under the head "Capital gains", of such other person.]

[2][(*5A*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

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

(*i*) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(*ii*) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(*iii*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.'.]

[3][(*6*) Notwithstanding anything contained in sub-section (*1*), the difference between the repurchase price of the units referred to in sub-section (*2*) of section 80CCB and the capital value of such units shall be deemed to be the capital gains arising to the assessee in the previous year in which such repurchase takes place or the plan referred to in that section is terminated and shall be taxed accordingly.

Explanation.—For the purposes of this sub-section, "capital value of such units" means any amount invested by the assessee in the units referred to in sub-section (*2*) of section 80CCB.]

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1. Ins. by Act 32 of 2003, s. 29 (w.e.f. 1-4-2004).
2. Ins. by Act 7 of 2017, s. 22 (w.e.f 1-4-2018).
3. Ins. by Act 12 of 1990, s. 15 (w.e.f. 1-4-1991).

46. Capital gains on distribution of assets by companies in liquidation.—(*1*) Notwithstanding anything contained in section, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of section 45.

(*2*) Where a shareholder on the liquidation of a company receives any money or other assets from the company, he shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of sub-clause (c) of clause (22) of section 2 and the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 48.

[1][**46A. Capital gains on purchase by company of its own shares or other specified securities.—** Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholder or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

Explanation.—For the purposes of this section, "specified securities" shall have the meaning assigned to it in *Explanation* to section 77A of the Companies Act, 1956 (1 of 1956).]

47. Transactions not regarded as transfer.—Nothing contained in section 45 shall apply to the following transfers:—

(*i*) any distribution of capital assets on the total or partial partition of a Hindu undivided family;

[2]* * * * *

(*iii*) any transfer of a capital asset under a gift or will or an irrevocable trust :

[3][Provided that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under [4][any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf];]

(*iv*) any transfer of a capital asset by a company to its subsidiary company, if—

(*a*) the parent company or its nominees hold the whole of the share capital of the subsidiary company, and

(*b*) the subsidiary company is an Indian company;

[5][(*v*) any transfer of a capital asset by a subsidiary company to the holding company, if—

(*a*) the whole of the share capital of the subsidiary company is held by the holding company, and

(*b*) the holding company is an Indian company:]

1. Ins. by Act 27 of 1999, s. 33 (w.e.f. 1-4-2000).
2. Clause (*ii*) omitted by Act 11 of 1987, s. 14 (w.e.f. 1-4-1988).
3. Ins. by Act 10 of 2000, s. 21 (w.e.f. 1-4-2001).
4. Subs. by Act 14 of 2001, s. 29, for "the Employees' Stock option Plan or Scheme" (w.e.f. 1-4-2001).
5. Ins. by Act 10 of 1965, s. 15 (w.e.f. 1-4-1965).

[1][Provided that nothing contained in clause (*iv*) or clause (*v*) shall apply to the transfer of a capital asset made after the 29th day of February, 1988, as stock-in-trade;]

[2][(*vi*) any transfer, in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company if the amalgamated company is an Indian company;

[3][(*via*) any transfer, in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(*a*) at least twenty-five per cent of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company, and

(*b*) such transfer does not attract tax on capital gains in the country, in which the amalgamating company is incorporated;]

[4][(*viaa*) any transfer, in a scheme of amalgamation of a banking company with a banking institution sanctioned and brought into force by the Central Government under sub-section (*7*) of section 45 of the Banking Regulation Act, 1949 (10 of 1949), of a capital asset by the banking company to the banking institution.

Explanation.—For the purposes of this clause,—

(*i*) "banking company" shall have the same meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

(*ii*) "banking institution" shall have the same meaning assigned to it in sub-section (*15*) of section 45 of the Banking Regulation Act, 1949 (10 of 1949);]

[5][(*viab*) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in the *Explanation* 5 to clause (*i*) of sub-section (*1*) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(*A*) at least twenty-five per cent. of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

(*B*) such transfer does not attract tax on capital gains in the country in which the amalgamating company is incorporated;]

[6][(*vib*) any transfer, in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

(*vic*) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(*a*) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

1. Ins. by Act 26 of 1988, s. 17 (w.e.f. 1-4-1988).
2. Ins. by Act 20 of 1967, s. 19 (w.e.f. 1-4-1967).
3. Ins. by Act 18 of 1992, s. 23 (w.e.f. 1-4-1993).
4. Ins. by Act 18 of 2005, s. 15 (w.e.f. 1-4-2005).
5. Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).
6. Ins. by Act 27 of 1999, s. 34 (w.e.f. 1-4-2000).

(*b*) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated:

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

[1][(*vica*) any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank;

(*vicb*) any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank.

Explanation.—For the purposes of clauses (*vica*) and (*vicb*), the expressions "business reorganisation", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 44DB;]

[2][(*vicc*) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in the *Explanation* 5 to clause (*i*) of sub-section (*1*) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if—

(*a*) the shareholders, holding not less than three-fourths in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

(*b*) such transfer does not attract tax on capital gains in the country in which the demerged foreign company is incorporated:

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;]

(*vid*) any transfer or issue of shares by the resulting company, in a scheme of demerger to the shareholders of the demerged company if the transfer or issue is made in consideration of demerger of the undertaking;]

(*vii*) any transfer by a shareholder, in a scheme of amalgamation, of a capital asset being a share or shares held by him in the amalgamating company, if—

(*a*) the transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company except where the shareholder itself is the amalgamated company, and

(*b*) the amalgamated company is an Indian company;

[3][(*viia*) any transfer of a capital asset, being bonds or [4][Global Depository Receipts] referred to in sub-section (*1*) of section 115AC, made outside India by a non-resident to another non-resident;

[5][(*viiaa*) any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company outside India, by a non-resident to another non-resident;]

[6][(*viiab*) any transfer of a capital asset, being—

(*a*) bond or Global Depository Receipt referred to in sub-section (*1*) of section 115AC; or

(*b*) rupee denominated bond of an Indian company; or

(*c*) derivative,

made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

1. Ins. by Act 22 of 2007, s. 16 (w.e.f. 1-4-2008).
2. Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).
3. Ins. by Act 18 of 1992, s. 23 (w.e.f. 1-6-1992).
4. Subs. by Act 14 of 2001, s. 29, for "shares" (w.e.f. 1-4-2002).
5. Ins. by Act 7 of 2017, s. 23 (w.e.f. 1-4-2018).
6. Ins. by Act 13 of 2018, s. 17 (w.e.f. 1-4-2019).

Explanation.—For the purposes of this clause,—

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

(*b*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation* 1 to clause (*5*) of section 43;

(*c*) "derivative" shall have the meaning assigned to it in clause (*ac*) of section 2 of the Securities Contracts (Regulation) Act, 1956.]

[1][(*viib*) any transfer of a capital asset, being a Government Security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident.

Explanation.—For the purposes of this clause, "Government Security" shall have the meaning assigned to it in clause (*b*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);]

[2][(*viic*) any transfer of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an assessee being an individual;]

[3][(*viii*) any transfer of agricultural land in India effected before the 1st day of March, 1970;]

[4][(*ix*) any transfer of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to the Government or a University or the National Museum, National Art Gallery, National Archives or any such other public museum or institution as may be notified by the Central Government in the Official Gazette to be of national importance or to be of renown throughout any State or States.

Explanation.—For the purposes of this clause, "University" means a University established or incorporated by or under a Central, State or Provincial Act and includes an institution declared under section 3 of the University Grants Commission Act, 1956 (3 of 1956), to be a University for the purposes of that Act;]

[5][(*x*) any transfer by way of [6][conversion of bonds or debentures], debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;]

[7][(*xa*) any transfer by way of conversion of bonds referred to in clause (*a*) of sub-section (*1*) of section 115AC into shares or debentures of any company;]

[8][(*xb*) any transfer by way of conversion of preference shares of a company into equity shares of that company;]

[9][(*xi*) any transfer made on or before the [10][31st day of December, 1998] by a person (not being a company) of a capital asset being membership of a recognised stock exchange to a company in exchange of shares allotted by that company to the transferor.

Explanation.—For the purposes of this clause, the expression "membership of a recognised stock exchange" means the membership of a stock exchange in India which is recognised under the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(*xii*) any transfer of a capital asset, being land of a sick industrial company, made under a scheme prepared and sanctioned under section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) where such sick industrial company is being managed by its workers' co-operative:

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1. Ins. by Act 25 of 2014, s. 18 (w.e.f. 1-4-2015).
2. Ins. by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).
3. Ins. by Act 19 of 1970, s. 11 (w.e.f. 1-4-1970).
4. Ins. by Act 66 of 1976, s. 11 (w.e.f. 1-4-1977).
5. Ins. by Act 49 of 1991, s. 18 (w.e.f. 1-4-1962).
6. Subs. by Act 18 of 1992, s. 23 for "conversion of debentures" (w.e.f. 1-4-1962).
7. Ins. by Act 18 of 2008, s. 14 (w.e.f. 1-4-2008).
8. Ins. by Act 7 of 2017, s. 23 (w.e.f. 1-4-2018).
9. Ins. by Act 26 of 1997, s. 16 (w.e.f. 1-4-1998).
10. Subs. by Act 21 of 1998, s. 21 for "31st day of December, 1997" (w.e.f. 1-4-1998).

Provided that such transfer is made during the period commencing from the previous year in which the said company has become a sick industrial company under sub-section (*1*) of section 17 of that Act and ending with the previous year during which the entire net worth of such company becomes equal to or exceeds the accumulated losses.

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

[1][(*xiii*) [2][any transfer of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, or any transfer of a capital asset to a company in the course of [3][demutualisation or corporatisation] of a recognised stock exchange in India as a result of which an association of persons or body of individuals is succeeded by such company:]

Provided that—

(*a*) all the assets and liabilities of the firm or of the association of persons or body of individuals relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of the succession;

(*c*) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(*d*) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

[4][(*e*) the [3][demutualisation or corporatisation] of a recognised stock exchange in India is carried out in accordance with a scheme for [3][demutualisation or corporatisation] which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

[5][(*xiiia*) any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

[6][(*xiiib*) any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership or any transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership in accordance with the provisions of section 56 or section 57 of the Limited Liability Partnership Act, 2008 (6 of 2009):

1. Ins. by Act 21 of 1998, s. 21 (w.e.f.1-4-1999).
2. Subs. by Act 14 of 2001, s. 29, for certain words (w.e.f. 1-4-2002).
3. Subs. by Act 32 of 2003, s. 30, for "corporatisation" (w.e.f. 1-4-2004).
4. Ins. by Act 14 of 2001, s. 29 (w.e.f. 1-4-2002).
5. Ins. by Act 32 of 2003, s. 30 (w.e.f. 1-4-2004).
6. Ins. by Act 14 of 2010, s. 18 (w.e.f. 1-4-2011).

Provided that—

(*a*) all the assets and liabilities of the company immediately before the conversion become the assets and liabilities of the limited liability partnership;

(*b*) all the shareholders of the company immediately before the conversion become the partners of the limited liability partnership and their capital contribution and profit sharing ratio in the limited liability partnership are in the same proportion as their shareholding in the company on the date of conversion;

(*c*) the shareholders of the company do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of share in profit and capital contribution in the limited liability partnership;

(*d*) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than fifty per cent at any time during the period of five years from the date of conversion;

(*e*) the total sales, turnover or gross receipts in the business of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed sixty lakh rupees; [1]***

[2][(*ea*) the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed five crore rupees; and]

(*f*) no amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the accounts of the company on the date of conversion for a period of three years from the date of conversion.

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

(*xiv*) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company :

Provided that—

(*a*) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(*b*) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(*c*) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

1. The word "and" omitted by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).
2. Ins. by s. 28, *ibid*. (w.e.f. 1-4-2017).

(*xv*) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992) [1][or the Reserve Bank of India constituted under sub-section (*1*) of section 3 of the Reserve Bank of India Act, 1934 (2 of 1934)], in this regard;

[2][(*xvi*) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government;]

[3][(*xvii*) any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.

Explanation.—For the purposes of this clause, the expression "special purpose vehicle" shall have the meaning assigned to it in the *Explanation* to clause (*23FC*) of section 10;]

[4][(*xviii*) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund:

Provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.

Explanation.—For the purposes of this clause,—

(*a*) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;

(*b*) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*c*) "equity oriented fund" shall have the meaning assigned to it in clause (*38*) of section 10;

(*d*) "mutual fund" means a mutual fund specified under clause (23D) of section 10.]

[5][(*xix*) any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund.

Explanation.—For the purposes of this clause,—

(*a*) "consolidating plan" means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund in accordance

1. Ins. by Act 20 of 2002, s. 23 (w.e.f. 1-4-2003).
2. Ins. by Act 18 of 2008, s. 14 (w.e.f. 1-4-2008).
3. Ins. by Act 25 of 2014, s. 18 (w.e.f. 1-4-2015).
4. Ins. by Act 20 of 2015, s. 14 (w.e.f. 1-4-2016).
5. Ins. by Act 28 of 2016, s. 28 (w.e.f. 1-4-2017).

with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(*b*) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger;

(*c*) "mutual fund" means a mutual fund specified under clause (*23D*) of section 10.]

[1][**47A. Withdrawal of exemption in certain cases**.—(*1*) Where at any time before the expiry of a period of eight years from the date of the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (v) of section 147,—

(*i*) such capital asset is converted by the transferee company into, or is treated by it as, stock-in-trade of its business; or

(*ii*) the parent company or its nominees or, as the case may be, the holding company ceases or cease to hold the whole of the share capital of the subsidiary company,

the amount of profits or gains arising from the transfer of such capital asset not charged under section 45 by virtue of the provisions contained in clause (*iv*) or, as the case may be, clause (*v*) of section 47 shall, notwithstanding anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the previous year in which such transfer took place.]

[2][(*2*) Where at any time, before the expiry of a period of three years from the date of the transfer of a capital asset referred to in clause (*xi*) of section 47, any of the shares allotted to the transferor in exchange of a membership in a recognised stock exchange are transferred, the amount of profits and gains not charged under section 45 by virtue of the provisions contained in clause (*xi*) of section 47 shall, notwithstanding anything contained in the said clause, be deemed to be the income chargeable under the head "Capital gains" of the previous year in which such shares are transferred.]

[3][(*3*) Where any of the conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (*xiii*) or the proviso to clause (*xiv*) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (*xiii*) or the proviso to clause (*xiv*), as the case may be, are not complied with.]

[4][(*4*) Where any of the conditions laid down in the proviso to clause (*xiiib*) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 45 by virtue of conditions laid down in the said proviso shall be deemed to be the profits and gains chargeable to tax of the successor limited liability partnership or the shareholder of the predecessor company, as the case may be, for the previous year in which the requirements of the said proviso are not complied with.]

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1. Ins. by Act 67 of 1984, s. 13 (w.e.f. 1-4-1985).
2. Ins. by Act 26 of 1997, s. 17 (w.e.f. 1-4-1998).
3. Ins.by Act 21 of 1998, s. 22 (w.e.f. 1-4-1999).
4. Ins. by Act 14 of 2010, s. 19 (w.e.f. 1-4-2011).

[1][**48. Mode of computation.**—The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely:—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer;

(*ii*) the cost of acquisition of the asset and the cost of any improvement thereto:

Provided that in the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company shall be computed by converting the cost of acquisition, expenditure incurred wholly and exclusively in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures, and the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the aforesaid manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company:

Provided further that where long-term capital gain arises from the transfer of a long-term capital asset, other than capital gain arising to a non-resident from the transfer of shares in, or debentures of, an Indian company referred to in the first proviso, the provisions of clause (*ii*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted:

[2][Provided also that nothing contained in the first and second provisos shall apply to the capital gains arising from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A:]

[3][Provided also that nothing contained in the second proviso shall apply to the long-term capital gain arising from the transfer of a long-term capital asset, being a bond or debenture other than—

(*a*) capital indexed bonds issued by the Government; or

(*b*) Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015:

Provided also that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company [4][held] by him, shall be ignored for the purposes of computation of full value of consideration under this section:]

[5][Provided also that where shares, debentures or warrants referred to in the proviso to clause (*iii*) of section 47 are transferred under a gift or an irrevocable trust, the market value on the date of such transfer shall be deemed to be the full value of consideration received or accruing as a result of transfer for the purposes of this section:]

[6][Provided also that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004).]

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1. Subs. by Act 18 of 1992, s. 24, for section 48 (w.e.f. 1-4-1993).
2. Ins. by Act 13 of 2018, s. 18 (w.e.f. 1-4-2018).
3. Subs. by Act 28 of 2016, s. 29, for the third proviso (w.e.f. 1-4-2017) which was earlier inserted by Act 26 of 1997, s. 18 (w.e.f. 1-4-1998).
4. Subs. by Act 7 of 2017, s. 24 to read as "subscribed" (w.e.f. 1-4-2018).
5. Ins. by Act 10 of 2000, s. 22 (w.e.f. 1-4-2001).
6. Ins. by Act 23 of 2004, s. 12 (w.e.f. 1-4-2005).

Explanation.—For the purposes of this section,—

(*i*) "foreign currency" and "Indian currency" shall have the meanings respectively assigned to them in section 2 of [1][the Foreign Exchange Management Act, 1999 (42 of 1999);]

(*ii*) the conversion of Indian currency into foreign currency and the reconversion of foreign currency into Indian currency shall be at the rate of exchange prescribed in this behalf;

(*iii*) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the [2][1st day of April, 2001,] whichever is later;

(*iv*) "indexed cost of any improvement" means an amount which bears to the cost of improvement the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the year in which the improvement to the asset took place;

[3][(*v*) "Cost Inflation Index", in relation to a previous year, means such Index as the Central Government may, having regard to seventy-five per cent of average rise in the [4][Consumer Price Index (urban)] for the immediately preceding previous year to such previous year, by notification in the Official Gazette, specify, in this behalf.]]

49. Cost with reference to certain modes of acquisition.—[5][(*1*)] Where the capital asset became the property of the assessee—

(*i*) on any distribution of assets on the total or partial partition of a Hindu undivided family;

(*ii*) under a gift or will;

(*iii*) (*a*) by succession, inheritance or devolution, or

[6][(*b*) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or]

(*c*) on any distribution of assets on the liquidation of a company, or

(*d*) under a transfer to a revocable or an irrevocable trust, or

(*e*) under any such transfer as is referred to in clause (*iv*) [7][or clause (*v*)] [8][or clause (*vi*)] [9][or clause (*via*)] [10][or clause (*viaa*) or clause (*viab*) or clause (*vib*) [11][or clause (*vic*)] or clause (*vica*) or clause (*vicb*) or clause (*vicc*)] [12][or clause (*xiii*) or clause (*xiiib*) or clause (*xiv*) of section 47];

[13][(*iv*) such assessee being a Hindu undivided family, by the mode referred to in sub-section (*2*) of section 64 at any time after the 31st day of December, 1969,]

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1. Subs. by Act 17 of 2013, s. 4, for "the Foreign Exchange Regulation Act, 1973 (46 of 1973)" (w.e.f. 1-4-2013).
2. Subs. by Act 7 of 2017, s. 24 for "1st day of April, 1981" (w.e.f. 1-4-2018).
3. Subs. by Act 10 of 2000, s. 22, for clause (*v*) (w.e.f. 1-4-1993).
4. Subs. by Act 25 of 2014, s. 19, for "Consumer Price Index for Urban non-manual employees" (w.e.f. 1-4-2016).
5. Section 49 re-numbered as sub-section (*1*) thereof by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).
6. Subs. by Act 11 of 1987, s. 16, for sub-clause (*b*) (w.e.f. 1-4-1988).
7. Ins. by Act 10 of 1965, s. 16 (w.e.f. 1-4-1965).
8. Ins. by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).
9. Ins. by Act 18 of 1992, s. 25 (w.e.f. 1-4-1993).
10. Subs. by Act 20 of 2015, s. 15, for "or clause (*viaa*) or clause (*vica*) or clause (*vicb*)" (w.e.f. 1-4-2016).
11. Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).
12. Subs. by Act 23 of 2012, s. 16, for "clause (*xiiib*) of section 47" (w.e.f. 1-4-1999).
13. Ins. by Act 41 of 1975, s. 12 (w.e.f. 1-4-1976).

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

[1][*Explanation*.—In this [2][sub-section] the expression "previous owner of the property" in relation to any capital asset owned by an assessee means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in clause (*i*) or [3][clause (*ii*) or clause (*iii*) or clause (*iv*)] of this [2][sub-section].]

[4][(*2*) Where the capital asset being a share or shares in an amalgamated company which is an Indian company became the property of the assessee in consideration of a transfer referred to in clause (*vii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the amalgamating company.]

[5][(*2A*) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (*x*) or clause (*xa*) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.]

[6][(*2AA*) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (*vi*) of clause (*2*) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause.]

[7][(*2AAA*) Where the capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), became the property of the assessee on conversion as referred to in clause (*xiiib*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share or shares in the company immediately before its conversion.]

[8][(*2AB*) Where the capital gain arises from the transfer of specified security or sweat equity shares, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account while computing the value of fringe benefits under clause (*ba*) of sub-section (*1*) of section 115WC.]

[9][(*2ABB*) Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause (*b*) of sub-section (*1*) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognised stock exchange on the date on which a request for such redemption was made.

Explanation.—For the purposes of this sub-section, "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of the *Explanation* 1 to sub-section (*5*) of section 43.]

[10][(*2AC*) Where the capital asset, being a unit of a business trust, became the property of the assessee in consideration of a transfer as referred to in clause (*xvii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the share referred to in the said clause.]

[9][(*2AD*) Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (*xviii*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.]

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1. Ins. by Act 10 of 1965, s. 16 (w.e.f. 1-4-1965).
2. Subs. by Act 20 of 1967, s. 20, for "section" (w.e.f. 1-4-1967).
3. Subs. by Act 41 of 1975, s. 12, for "clause (*ii*) or clause (*iii*)" (w.e.f. 1-4-1976).
4. Ins. by Act 20 of 1967, s. 20 (w.e.f. 1-4-1967).
5. Subs. by Act 18 of 2008, s. 15, for sub-section (*2A*) (w.e.f. 1-4-2008).
6. Subs. by Act 33 of 2009, s. 23, for sub-section (*2AA*) (w.e.f. 1-4-2010).
7. Ins. by Act 14 of 2010, s. 20 (w.e.f. 1-4-2011).
8. Ins. by Act 22 of 2007, s. 17 (w.e.f 1-4-2008).
9. Ins. by Act 20 of 2015, s. 15 (w.e.f. 1-4-2015).
10. Ins. by Act 25 of 2014, s. 20 (w.e.f. 1-4-2015).

[1][(*2AE*) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee.]

[2][(*2AF*) Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.]

[3]* * * * *

[4][(*2C*) The cost of acquisition of the shares in the resulting company shall be the amount which bears to the cost of acquisition of shares held by the assessee in the demerged company the same proportion as the net book value of the assets transferred in a demerger bears to the net worth of the demerged company immediately before such demerger.

(*2D*) The cost of acquisition of the original shares held by the shareholder in the demerged company shall be deemed to have been reduced by the amount as so arrived at under sub-section (*2C*).]

[5][(*2E*) The provisions of sub-section (*2*), sub-section (*2C*) and sub-section (*2D*) shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 44DB.]

Explanation.—For the purposes of this section, "net worth" shall mean the aggregate of the paid up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger.]

[6][(*3*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arising from the transfer of a capital asset referred to in clause (*iv*) or, as the case may be, clause (*v*) of section 47 is deemed to be income chargeable under the head "Capital gains" by virtue of the provisions contained in section 47A, the cost of acquisition of such asset to the transferee-company shall be the cost for which such asset was acquired by it.]

[7][(*4*) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (*vii*) [8][or clause (*viia*)] [2][or clause (*x*)] of sub-section (*2*) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (*vii*) [8][or clause (*viia*)] [2][or clause (*x*)].]

[9][(*5*) Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme, the cost of acquisition of the asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme.]

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1. Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).
2. Ins. by s. 25, *ibid*. (w.e.f. 1-4-2017).
3. Sub-section (*2B*) omitted by Act 10 of 2000, s. 23 (w.e.f. 1-4-2000).
4. Ins. by Act 27 of 1999, s. 35 (w.e.f. 1-4-2000).
5. Ins. by Act 22 of 2007, s. 17 (w.e.f. 1-4-2008).
6. Ins. by Act 67 of 1984, s. 14 (w.e.f. 1-4-1985).
7. Ins. by Act 33 of 2009, s. 23 (w.e.f. 1-10-2009).
8. Ins. by Act 14 of 2010, s. 20 (w.e.f. 1-6-2010).
9. Ins. by Act 28 of 2016, s. 30 (w.e.f. 1-4-2017).

[1][(*6*) Where the capital gain arises from the transfer of a specified capital asset referred to in clause (*c*) of the *Explanation* to clause (*37A*) of section 10, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such asset was handed over to the assessee, the cost of acquisition of such specified capital asset shall be deemed to be its stamp duty value as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Explanation.—For the purposes of this sub-section, "stamp duty value" means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property.

(*7*) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (*5A*) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section;]

[2][(*8*) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (*2*) of section 115TD.".]

[3][(*9*) Where the capital gain arises from the transfer of a capital asset referred to in clause (*via*) of section 28, the cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of the said clause.]

[4]**[50. Special provision for computation of capital gains in case of depreciable assets.**—Notwithstanding anything contained in clause (*42A*) of section 2, where the capital asset is an asset forming part of a block of assets in respect of which depreciation has been allowed under this Act or under the Indian Income-tax Act, 1922 (11 of 1922), the provisions of sections 48 and 49 shall be subject to the following modifications:—

(*1*) where the full value of the consideration received or accruing as a result of the transfer of the asset together with the full value of such consideration received or accruing as a result of the transfer of any other capital asset falling within the block of the assets during the previous year, exceeds the aggregate of the following amounts, namely:—

(*i*) expenditure incurred wholly and exclusively in connection with such transfer or transfers;

(*ii*) the written down value of the block of assets at the beginning of the previous year; and

(*iii*) the actual cost of any asset falling within the block of assets acquired during the previous year,

such excess shall be deemed to be the capital gains arising from the transfer of short-term capital assets;

(*2*) where any block of assets ceases to exist as such, for the reason that all the assets in that block are transferred during the previous year, the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the previous year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the previous year and the income received or accruing as a result of such transfer or transfers shall be deemed to be the capital gains arising from the transfer of short-term capital assets.]

[5]**[50A. Special provision for cost of acquisition in case of depreciable asset**.—Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (*i*) of sub-section (*1*) of section 32 has been obtained by the assessee in any previous year, the provisions of section 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (*6*) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.]

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1. Ins. by Act 7 of 2017, s. 25 (w.e.f. 1-4-2018).
2. Ins. by s. 25, *ibid*. (w.e.f. 1-6-2016).
3. Ins. by Act 13 of 2018, s. 19 (w.e.f. 1-4-2019).
4. Subs. by Act 46 of 1986, s. 9, for section 50 (w.e.f. 1-4-1988).
5. Ins. by Act 21 of 1998, s. 23 (w.e.f. 1-4-1998).

[1]**[50B. Special provision for computation of capital gains in case of slump sale.**—(*1*) Any profits or gains arising from the slump sale effected in the previous year shall be chargeable to income-tax as capital gains arising from the transfer of long-term capital assets and shall be deemed to be the income of the previous year in which the transfer took place:

Provided that any profits or gains arising from the transfer under the slump sale of any capital asset being one or more undertakings owned and held by an assessee for not more than thirty-six months immediately preceding the date of its transfer shall be deemed to be the capital gains arising from the transfer of short-term capital assets.

(*2*) In relation to capital assets being an undertaking or division transferred by way of such sale, the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of section 48 and 49 and no regard shall be given to the provisions contained in the second proviso to section 48.

(3) Every assessee, in the case of slump sale, shall furnish in the prescribed form along with the return of income, a report of an accountant as defined in the *Explanation* below sub-section (*2*) of section 288, indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

[2][*Explanation* 1.—For the purposes of this section, "net worth" shall be the aggregate value of total assets of the undertaking or division as reduced by the value of liabilities of such undertaking or division as appearing in its books of account:

Provided that any change in the value of assets on account of revaluation of assets shall be ignored for the purposes of computing the net worth.

Explanation 2.—For computing the net worth, the aggregate value of total assets shall be,—

(*a*) in the case of depreciable assets, the written down value of the block of assets determined in accordance with the provisions contained in sub-item (*C*) of item (*i*) of sub-clause (*c*) of clause (*6*) of section 43; [3]***

[4][(*b*) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, nil; and

(*c*) in the case of other assets, the book value of such assets.]]]

[5]**[50C. Special provision for full value of consideration in certain cases.**—(*1*) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being land or building or both, is less than the value adopted [6][or assessed or assessable] by any authority of a State Government (hereafter in this section referred to as the "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted [6][or assessed or assessable] shall, for the purposes of section 48, be deemed to be the full value of the consideration received or accruing as a result of such transfer.]

[7][Provided that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer:

1. Ins. by Act 27 of 1999, s. 36 (w.e.f. 1-4-2000).
2. Subs. by Act 10 of 2000, s. 24, for the *Explanation* (w.e.f. 1-4-2000).
3. The word "and" omitted by Act 33 of 2009, s. 24 (w.e.f. 1-4-2010).
4. Subs. by s. 24, *ibid*., for clause (*b*) (w.e.f. 1-4-2010).
5. Ins. by Act 20 of 2002, s. 24 (w.e.f. 1-4-2003).
6. Subs. by Act 33 of 2009, s. 25, for "or assessed" (w.e.f. 1-10-2009).
7. Ins. by Act 28 of 2016, s. 31 (w.e.f. 1-4-2017).

Provided further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement for transfer.]

[1][Provided also that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and five per cent. of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration.]

(*2*) Without prejudice to the provisions of sub-section (*1*), where—

(*a*) the assessee claims before any Assessing Officer that the value adopted [2][or assessed or assessable] by the stamp valuation authority under sub-section (*1*) exceeds the fair market value of the property as on the date of transfer;

(*b*) the value so adopted [2][or assessed or assessable] by the stamp valuation authority under sub-section (*1*) has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court,

the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer and where any such reference is made, the provisions of sub-sections (*2*), (*3*), (*4*), (*5*) and (*6*) of section 16A, clause (*i*) of sub-section (*1*) and sub-sections (*6*) and (*7*) of section 23A, sub-section (*5*) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall, with necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the Assessing Officer under sub-section (*1*) of section 16A of that Act.

[3][*Explanation* 1.]—For the purposes of this section, "Valuation Officer" shall have the same meaning as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).

[4][*Explanation* 2.—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.]

(*3*) Subject to the provisions contained in sub-section (*2*), where the value ascertained under sub-section (*2*) exceeds the value adopted [2][or assessed or assessable] by the stamp valuation authority referred to in sub-section (*1*), the value so adopted [2][or assessed or assessable] by such authority shall be taken as the full value of the consideration received or accruing as a result of the transfer.]

[5][**50CA. Special provision for full value of consideration for transfer of share other than quoted share.—**(*1*) Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.]

[6]**[50D. Fair market value deemed to be full value of consideration in certain cases.** —Where the consideration received or accruing as a result of the transfer of a capital asset by an assessee is not ascertainable or cannot be determined, then, for the purpose of computing income chargeable to tax as capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.]

1. Ins. by Act 13 of 2018, s. 20 (w.e.f. 1-4-2019).
2. Subs. by Act 33 of 2009, s. 25, for "or assessed" (w.e.f. 1-10-2009).
3. The *Explanation* renumbered as *Explanation* 1 thereof by s. 25, *ibid.* (w.e.f. 1-10-2009).
4. Ins. by s. 25, *ibid*. (w.e.f. 1-10-2009).
5. Ins. by Act 7 of 2017, s. 26 (w.e.f. 1-4-2018).
6. Ins. by Act 23 of 2012, s. 17 (w.e.f. 1-4-2013).

51. Advance money received.—Where any capital asset was on any previous occasion the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition:

[1][Provided that where any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year in accordance with the provisions of clause (*ix*) of sub-section (*2*) of section 56, then, such sum shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition.]

52. [*Consideration for transfer in cases of understatement*.]—*Omitted by the Finance Act,* 1987 (11 *of* 1987), *s.* 17 (*w.e.f.* 1-4-1988). *Earlier amended by Act* 5 *of* 1964, *s*. 13 (*w.e.f*. 1-4-1964), *Act* 25 *of* 1975, s. 9 (*w.e.f.* 1-4-1974) *and Act* 19 *of* 1978, *s*. 9 (*w.e.f.* 1-4-1974).

53. [*Exemption of capital gains from a residential house*.]—*Omitted by the Finance Act,* 1992 (18 *of* 1992), *s.* 26 (*w.e.f.* 1-4-1993). *Earlier substituted by Act* 67 *of* 1984, *s.* 15 (*w.e.f.* 1-4-1985) *and amended by Act* 11 *of* 1987, *s*. 18 (*w.e.f*. 1-4-1988).

54. Profit on sale of property used for residence.—[2][(*1*)] [3][[4][Subject to the provisions of sub-section (*2*), where, in the case of an assessee being an individual or a Hindu undivided family], the capital gain arises from the transfer of a long-term capital asset [5]***, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of [6][one year before or two years after the date on which the transfer took place purchased], or has within a period of three years after that date [7][constructed, one residential house in India], then], instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain [8][is greater than the cost of [9][the residential house] so purchased or constructed (hereafter in this section referred to as the new asset)], the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

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1. Ins. by Act 25 of 2014, s. 21 (w.e.f. 1-4-2015).
2. Section 54 renumbered as sub-section (*1*) thereof by Act 19 of 1978, s. 10 (w.e.f. 1-4-1974).
3. Subs. by Act 14 of 1982, s. 11, for certain words (w.e.f. 1-4-1983).
4. Subs. by Act 11 of 1987, s. 19, for "Where, in the case of an assessee being an individual" (w.e.f. 1-4-1988).
5. The words and figures "to which the provisions of section 53 are not applicable" omitted by Act 32 of 1985, s. 14 (w.e.f. 1-4-1985).
6. Subs. by Act 23 of 1986, s. 11, for "one year before or after the date on which the transfer took place purchased" (w.e.f. 1-4-1987).
7. Subs. by Act 25 of 2014, s. 22, for "constructed, a residential house" (w.e.f. 1-4-2015).
8. Subs. by Act 19 of 1978, s. 10, for "is greater than the cost of the new asset" (w.e.f. 1-4-1974).
9. Subs. by Act 14 of 1982, s. 11, for "the house property" (w.e.f. 1-4-1983).

[1][Provided that where the amount of the capital gain does not exceed two crore rupees, the assessee, may at his option, purchase or construct two residential houses in India, and where such an option has been exercised,—

(*a*) the provisions of this sub-section shall have effect as if for the words "one residential house in India", the words "two residential houses in India" had been substituted;

(*b*) any reference in this sub-section and sub-section (*2*) to "new asset" shall be construed as a reference to the two residential houses in India: Provided further that where during any assessment year, the assessee has exercised the option referred to in the first proviso, he shall not be subsequently entitled to exercise the option for the same or any other assessment year.]

[2]* * * * *

[3][(*2*) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (*1*), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

[4]* * * * *

54A. [*Relief of tax on capital gains in certain cases*.]—*Omitted by the Finance* (*No.* 2) *Act,* 1971 (32 *of* 1971), *s.* 11 (*w.e.f.* 1-4-1972). *Earlier inserted by Act* 10 *of* 1965, *s.* 17 (1-4-1965). *Again inserted by Act* 4 *of* 1988, *s.* 16 (*w.e.f.* 1-4-1988) *and omitted by Act* 3 *of* 1989, *s.* 95 (*w.e.f.* 1-4-1989).

[5]**[54B. Capital gain on transfer of land used for agricultural purposes not to be charged in certain cases.**—[6][(*1*)] [7][Subject to the provisions of sub-section (*2*), where the capital gain arises] from

1. Ins. by Act 7 of 2019, s. 6 (w.e.f. 1-4-2020).

2. The *Explanation* omitted by Act 11 of 1987, s. 19 (w.e.f. 1-4-1988).

3. Subs. by s. 19, *ibid.*, for sub-section (*2*) (w.e.f. 1-4-1988).

4. The *Explanation* omitted by Act 18 of 1992, s. 27 (w.e.f. 1-4-1993).

5. Ins. by Act 19 of 1970, s. 11 (w.e.f. 1-4-1970).

6. Section 54B renumbered as sub-section (*1*) thereof by Act 19 of 1978, s. 11 (w.e.f. 1-4-1974).

7. Subs. by Act 11 of 1987, s. 20, for "Where the capital gain arises" (w.e.f. 1-4-1988).

the transfer of a capital asset being land which, in the two years immediately preceding the date on which the transfer took place, was being used by [1][the assessee being an individual or his parent, or a Hindu undivided family] for agricultural purposes [2][(hereinafter referred to as the original asset)], and the assessee has, within a period of two years after that date, purchased any other land for being used for agricultural purposes, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land so purchased (hereinafter referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be nil; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase, the cost shall be reduced, by the amount of the capital gain.]

[3][(*2*) The amount of the capital gain which is not utilised by the assessee for the purchase of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (*1*), the amount, if any, already utilised by the assessee for the purchase of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase of the new asset within the period specified in sub-section (*1*), then,—

(*i*) the amount not so utilised shall be charged under section 45as the income of the previous year in which the period of two years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

[4]* * * * *

54C. [Capital gain on transfer of jewellery held for personal use not to be charged in certain cases.]—*Omitted by the Finance Act,* 1976 (66 *of* 1976) (*w.e.f.* 1-4-1976). *Earlier inserted by Act* 16 *of* 1972, *s.* 9 (*w.e.f.* 1-4-1973).

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1. Subs. by Act 23 of 2012, s. 18, for "the assessee or a parent of his" (w.e.f. 1-4-2013).

2. Ins. by Act 19 of 1978, s. 11 (w.e.f. 1-4-1974).

3. Subs. by Act 11 of 1987, s. 20, for sub-section (*2*) (w.e.f. 1-4-1988).

4. The *Explanation* omitted by Act 18 of 1992, s. 28 (w.e.f. 1-4-1993).

[1]**[54D. Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases.—**[2][(*1*)] [3][Subject to the provisions of sub-section (*2*), where the capital gain arises] from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking [4][(hereafter in this section referred to as the original asset)], and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(*ii*) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.]

[5][(*2*) The amount of the capital gain which is not utilised by the assessee for the purchase or construction of the new asset before the date of furnishing the return of income under section 139,shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (*1*), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*i*) the amount not so utilised shall be charged under section 45as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

[6]* * * * *

1. Ins. by Act 21 of 1973, s. 7 (w.e.f. 1-4-1974).
2. Section 54D numbered as sub-section (*1*) thereof by Act 19 of 1978, s. 12 (w.e.f. 1-4-1974).
3. Subs. by Act 11 of 1987, s. 21, for "Where the capital gain arises" (w.e.f. 1-4-1988).
4 Ins. by Act 19 of 1978, s. 12 (w.e.f. 1-4-1974).
5. Subs. by Act 11 of 1987, s. 21, for sub-section (*2*) (w.e.f. 1-4-1988).
6. The *Explanation* omitted by Act 18 of 1992, s. 29 (w.e.f. 1-4-1993).

[1]**[54E. Capital gain on transfer of capital not to be assets charged in certain cases**.—(*1*) Where the capital gain arises from the transfer of a [2][long-term capital asset] [3][before the 1st day of April, 1992], (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, within a period of six months after the date of such transfer, invested or deposited the [4][whole or any part of the net consideration] in any specified asset (such specified asset being hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the new asset is not less than the [5][net consideration] in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the new asset is less than the [5][net consideration] in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the new asset bears to the [6][net consideration] shall not be charged under section 45:

[7][Provided that in a case where the original asset is transferred after the 28th day of February, 1983, the provisions of this sub-section shall not apply unless the assessee has invested or deposited the whole or, as the case may be, any part of the net consideration in the new asset by initially subscribing to such new asset:]

[8][Provided further that in a case where the transfer of the original asset is by way of compulsory acquisition under any law and the full amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period of six months referred to in this sub-section shall, in relation to so much of such compensation as is not received on the date of the transfer, be reckoned from the date immediately following the date on which such compensation is received by the assessee [9][or the 31st day of March, 1992, whichever is earlier].]

Explanation 1.—[10][For the purposes of this sub-section, "specified asset" means,—

(*a*) in a case where the original asset is transferred before the 1st day of March, 1979, any of the following assets, namely:—]

(*i*) securities of the Central Government or a State Government;

(*ii*) savings certificates as defined in clause (*c*) of section 2 of the Government Savings Certificates Act, 1959 (46 of 1959);

(*iii*) units in the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963);

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1. Ins. by Act 29 of 1977, s. 13 (w.e.f. 1-4-1978).
2. Subs. by Act 11 of 1987, s. 22, for "capital asset, not being a short-term capital asset" (w.e.f. 1-4-1988).
3. Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).
4. Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of such transfer" (w.e.f. 1-4-1979).
5. Subs. by s. 8, *ibid*., for "full value of consideration received or accruing" (w.e.f. 1-4-1979).
6. Subs. by s. 8, *ibid*., for "full value of such consideration" (w.e.f. 1-4-1979).
7. Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).
8. Ins. by Act 67 of 1984, s. 16 (w.e.f. 1-4-1984).
9. Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).
10. Subs. by Act 21 of 1979, s. 8, for 'For the purposes of this sub-section and sub-section (*3*), "specified asset" means any of the following assets, namely:—'(w.e.f. 1-4-1979).

(*iv*) debentures specified by the Central Government for the purposes of clause (*ii*) of sub-section (*1*) of section 80L;

(*v*) shares in any Indian company which are issued to the public or are listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and any rules made thereunder, where the investment in such shares is made before the 1st day of March, 1978;

[1][(*va*) equity shares forming part of any eligible issue of capital, where the investment in such shares is made after the 28th day of February, 1978;]

(*vi*) deposits for a period of not less than three years with the State Bank of India established under the State Bank of India Act, 1955 (23 of 1955), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any nationalised bank, that is to say, any corresponding new bank, constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank);

[2][(*b*) in a case where the original asset is transferred after the 28th day of February, 1979 [3][but before the 1st day of March, 1983], such National Rural Development Bonds as the Central Government may notify in this behalf in the Official Gazette;]

[3][(*c*) in a case where the original asset is transferred after the 28th day of February, 1983 [4][but before the 1st day of April, 1986], any of the following assets, namely:—

(*i*) securities of the Central Government which that Government may, by notification in the Official Gazette, specify in this behalf;

(*ii*) special series of units of the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), which the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*iii*) such National Rural Development Bonds as have been notified under clause (*b*) of *Explanation* 1 or as may be notified in this behalf under this clause by the Central Government;

(*iv*) such debentures issued by the Housing and Urban Development Corporation Limited [a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956)], as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

[4][(*d*) in a case where the original asset is transferred after the 31st day of March, 1986, any of the assets specified in clause (*c*) and such bonds issued by any public sector company, as the Central Government may, by notification in the Official Gazette, specify in this behalf;]

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1. Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).
2. Ins. by Act 21 of 1979, s. 8 (w.e.f. 1-4-1979).
3. Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).
4. Ins. by Act 23 of 1986, s. 12 (w.e.f. 1-4-1987).

[1]* * * * *]

[2][(*e*) in a case where the original asset is transferred after the 31st day of March, 1989, any of the assets specified in clauses (*c*) and (*d*) and such debentures or bonds issued by the National Housing Bank established under section 3 of the National Housing Bank Act, 1987 (53 of 1987), as the Central Government may, by notification in the Official Gazette, specify in this behalf.]

[3][*Explanation* 2.—"Eligible issue of capital" shall have the meaning assigned to it in sub-section (*3*) of section 80CC.

Explanation 3.—An assessee shall not be deemed to have invested [4][the whole or any part of the net consideration in any equity shares referred to in sub-clause (*va*) of clause (*a*)] of *Explanation* 1, unless the assessee has subscribed to or purchased the shares in the manner specified in sub-section (*4*) of section 80CC.]

[5][*Explanation* 4].—"Cost", in relation to any new asset, being a deposit referred to in [6][sub-clause (*vi*) of clause (*a*)] of *Explanation* 1, means the amount of such deposit.

[7][*Explanation* 5.—"Net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.]

[8][(*1A*) Where the assessee deposits after the 27th day of April, 1978, the [9][whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit [10][referred to in sub-clause (*vi*) of clause (*a*)] of *Explanation* 1 below sub-section (*1*), the cost of such new asset shall not be taken into account for the purposes of that sub-section unless the following conditions are fulfilled, namely:—

(*a*) the assessee furnishes, along with the deposit, a declaration in writing, to the bank or the co-operative society referred to in the [11][said sub-clause (*vi*)] with which such deposit is made, to the effect that the assessee will not take any loan or advance on the security of such deposit during a period of three years from the date on which the deposit is made;

(*b*) the assessee furnishes, along with the return of income for the assessment year relevant to the previous year in which the transfer of the original asset was effected or within such further time as may be allowed by the [12][Assessing Officer], a copy of the declaration referred to in clause (*a*) duly attested by an officer not below the rank of sub-agent, agent or manager of such bank or an officer of corresponding rank of such co-operative society.

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1. The *Explanation* omitted by Act 11 of 1987, s. 74 (w.e.f. 1-4-1987).
2. Ins. by Act 13 of 1989, s. 12 (w.e.f. 1-4-1990).
3. Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).
4. Subs. by Act 21 of 1979, s. 8, for "the full value of the consideration or any part thereof in any equity shares referred to in clause (*va*)" (w.e.f. 1-4-1979).
5. *Explanation* 2 renumbered as *Explanation* 4 by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).
6. Subs. by Act 21 of 1979, s. 8, for "clause (*vi*)" (w.e.f. 1-4-1979).
7. Ins. by s. 8, *ibid*. (w.e.f. 1-4-1979).
8. Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).
9. Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of the transfer" (w.e.f. 1-4-1979).
10. Subs. by s. 8, *ibid*., for "referred to in clause (*vi*)" (w.e.f. 1-4-1979).
11. Subs. by s. 8, *ibid*., for "said clause (*vi*)" (w.e.f. 1-4-1979).
12. Subs. by Act 4 of 1988, s. 2, "Income-tax Officer" (w.e.f. 1-4-1988).

(*1B*) Where on the fulfilment of the conditions specified in sub-section (*1A*), the cost of the new asset referred to in that sub-section is taken into account for the purposes of sub-section (*1*), the assessee shall, within a period of ninety days from the expiry of the period of three years reckoned from the date of such deposit, furnish to the [1][Assessing Officer] a certificate from the officer referred to in clause (*b*) of sub-section (*1A*) to the effect that the assessee has not taken any loan or advance on the security of such deposit during the said period of three years.]

[2][(*1C*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises from the transfer of the original asset, made after the 31st day of March, 1992, in respect of which the assessee had received any amount by way of advance on or before the 29th day of February, 1992 and had invested or deposited the whole or any part of such amount in the new asset on or before the later date, then, the provisions of clauses (*a*) and (*b*) of sub-section (*1*) shall apply in the case of such investment or deposit as they apply in the case of investment or deposit under that sub-section.]

(*2*) Where the new asset is transferred, or converted (otherwise than by transfer) into money, within a period of three years from the date of its acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (*1*) shall be deemed to be income chargeable under the head "Capital gains" relating to [3][long-term capital assets] of the previous year in which the new asset is transferred or converted (otherwise than by transfer) into money.]

[4][[5][*Explanation1*].—Where the assessee deposits after the 27th day of April, 1978, the [6][whole or any part of the net consideration in respect] of the original asset in any new asset, being a deposit referred to in [7][sub-clause (*vi*) of clause (*a*)] of *Explanation* 1 below sub-section (*1*), and such assessee takes any loan or advance on the security of such deposit, he shall be deemed to have converted (otherwise than by transfer) such deposit into money on the date on which such loan or advance is taken.]

[8][*Explanation 2*.—In a case where the original asset is transferred after the 28th day of February, 1983 and the assessee invests the whole or any part of the net consideration in respect of the original asset in any new asset and such assessee takes any loan or advance on the security of such new asset, he shall be deemed to have converted (otherwise than by transfer) such new asset on the date on which such loan or advance is taken.]

[9]* * * * *

[10][(*3*)] Where the cost of the equity shares referred to in [11][sub-clause (*va*) of clause (*a*)] of *Explanation* 1 below sub-section (*1*) is taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*) [12]***, a deduction with reference to such cost shall not be allowed under section 80CC.

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1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 18 of 1992, s. 30 (w.e.f. 1-4-1992).
3. Subs. by Act 11 of 1987, s. 22, for "capital assets other than short-term capital assets" (w.e.f. 1-4-1988).
4. Ins. by Act 19 of 1978, s. 13 (w.e.f. 1-4-1978).
5. The *Explanation* numbered as *Explanation* 1 by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).
6. Subs. by Act 21 of 1979, s. 8, for "full value of the consideration or any part thereof received or accruing as a result of the transfer" (w.e.f. 1-4-1979).
7. Subs. by s. 8, *ibid*., for "clause (*vi*)" (w.e.f. 1-4-1979).
8. Ins. by Act 11 of 1983, s. 20 (w.e.f. 1-4-1983).
9. Sub-sections (*3*), (*4*) and (*5*) omitted by Act 11 of 1987, s. 22 (w.e.f. 1-4-1988).
10. Sub-section (*6*) renumbered as sub-section (*3*) by s. 22, *ibid*. (w.e.f. 1-4-1988).
11. Subs. by Act 21 of 1979, s. 8, for "clause (*va*)" (w.e.f. 1-4-1979).
12. The words, brackets, letters and figure "or clause (*a*) or clause (*b*) of sub-section (*3*)" omitted by Act 11 of 1987, s. 22 (w.e.f. 1-4-1988).

[1]**[54EA. Capital gain on transfer of long-term capital assets not to be charged in the case of investment in** [2]**[specified securities]**.—(*1*) Where the capital gain arises from the transfer of a long-term capital asset [3][before the 1st day of April, 2000] (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of the net consideration in any of the [4][bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (*23D*) of section 10,]specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the [2][specified securities]), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the [2][specified securities] is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the [2][specified securities] is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the [2][specified securities] bears to the net consideration shall not be charged under section 45.

(*2*) Where the [2][specified securities] are transferred or converted (otherwise than by transfer) into money at any time within a period of three years from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such [2][specified securities] as provided in clause (*a*) or clause (*b*) of sub-section (*1*) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which the [2][specified securities] are transferred or converted (otherwise than by transfer) into money.

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the net consideration in respect of the original asset in any [2][specified securities] and such assessee takes any loan or advance on the security of such [2][specified securities], he shall be deemed to have converted (otherwise than by transfer) such [2][specified securities] into money on the date on which such loan or advance is taken.

(*3*) Where the cost of the [2][specified securities] has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*), a rebate with reference to such cost shall not be allowed under section 88.

Explanation.—For the purposes of this section,—

(*a*) "cost", in relation to any [2][specified securities], means the amount invested in such [2][specified securities] out of the net consideration received or accruing as a result of the transfer of the original asset;

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

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1. Ins. by Act 33 of 1996, s. 20 (w.e.f. 1-10-1996).
2. Subs. by Act 14 of 1997, s. 2, for "specified bonds or debentures" (w.e.f. 1-10-1996).
3. Ins. by Act 10 of 2000, s. 25 (w.e.f. 1-4-2001).
4. Subs. by Act 14 of 1997, s. 2, for "bonds, debentures or units of any mutual fund referred to in clause (23D) of section 10" (w.e.f. 1-10-1996).

54EB. Capital gain on transfer of long-term capital assets not to be charged in certain cases.—(*1*) Where the capital gain arises from the transfer of a long-term capital asset [1][before the 1st day of April, 2000] (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, at any time within a period of six months after the date of such transfer invested the whole or any part of capital gains, in any of the assets specified by the Board in this behalf by notification in the Official Gazette (such assets hereafter in this section referred to as the long-term specified assets), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45.

Explanation.—"Cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset.

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

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

(*3*) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*), a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88.]

[2]**[54EC. Capital gain not to be charged on investment in certain bonds**.—(*1*) Where the capital gain arises from the transfer of a long-term capital asset [3][, being land or building or both,] (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

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1. Ins. by Act 10 of 2000, s. 26 (w.e.f. 1-4-2001).

2. Ins. by s. 27, *ibid.* (w.e.f. 1-4-2001).

3. Ins. by Act 13 of 2018, s. 21 (w.e.f. 1-4-2019).

(*b*) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:

[1][Provided that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees:]

[2][Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.]

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

[3][Provided that in case of long-term specified asset referred to in subclause (*ii*) of clause (*ba*) of the *Explanation* occurring after sub-section (*3*), this sub-section shall have effect as if for the words "three years", the words "five years" had been substituted.]

Explanation.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have converted (otherwise than by transfer) such specified asset into money on the date on which such loan or advance is taken.

[4][(*3*) Where the cost of the long-term specified asset has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*),—

(*a*) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(*b*) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]

Explanation.—For the purposes of this section,—

(*a*) "cost", in relation to any long-term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

[5][(*b*) "long-term specified asset" for making any investment under this section during the period commencing from the 1st day of April, 2006 and ending with the 31st day of March, 2007, means any bond, redeemable after three years and issued on or after the 1st day of April, 2006, but on or before the 31st day of March, 2007,—

1. Ins. by Act 22 of 2007, s. 18 (w.e.f. 1-4-2007).
2. Ins. by Act 25 of 2014, s. 23 (w.e.f. 1-4-2015).
3. Ins. by Act 13 of 2018, s. 21 (w.e.f. 1-4-2019).
4. Ins. by Act 18 of 2005, s. 17 (w.e.f. 1-4-2006).
5. Subs. by Act 22 of 2007, s. 18, for clause (*b*) (w.e.f. 1-4-2006).

(*i*) by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 (68 of 1988); or

(*ii*) by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 (1 of 1956),

and notified by the Central Government in the Official Gazette for the purposes of this section with such conditions (including the condition for providing a limit on the amount of investment by an assessee in such bond) as it thinks fit:]

[1][Provided that where any bond has been notified before the 1st day of April, 2007, subject to the conditions specified in the notification, by the Central Government in the Official Gazette under the provisions of clause (*b*) as they stood immediately before their amendment by the Finance Act, 2007 (22 of 2007), such bond shall be deemed to be a bond notified under this clause;]

[2][(*ba*) "long-term specified asset" for making any investment under this section,—

(*i*) on or after the 1st day of April, 2007 but before the 1st day of April, 2018, means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 but before the 1st day of April, 2018;

(*ii*) on or after the 1st day of April, 2018, means any bond, redeemable after five years and issued on or after the 1st day of April, 2018, by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 or any other bond notified in the Official Gazette by the Central Government in this behalf.]

[3][**54ED. Capital gain on transfer of certain listed securities or unit not to be charged in certain cases.—**(*1*) Where the capital gain arises [4][from the transfer before the 1st day of April, 2006, of a long-term capital asset,] being listed securities or unit (the capital asset so transferred being hereafter in this section referred to as the original asset), and the assessee has, within a period of six months after the date of such transfer, invested the whole or any part of the capital gain in acquiring equity shares forming part of an eligible issue of capital (such equity shares being hereafter in this section referred to as the specified equity shares), the said capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the specified equity shares is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the specified equity shares is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the specified equity shares acquired bears to the whole of the capital gain shall not be charged under section 45.

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

(*i*) "eligible issue of capital" means an issue of equity shares which satisfies the following conditions, namely:—

(*a*) the issue is made by a public company formed and registered in India;

(*b*) the shares forming part of the issue are offered for subscription to the public;

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1. Ins. by Act 22 of 2007, s. 18 (w.e.f. 1-4-2006).
2. Subs. by Act 13 of 2018, s. 21, for clause (*ba*) (w.e.f. 1-4-2019) which was earlier inserted by Act 22 of 2007, s. 18 (w.e.f. 1-4-2006) and later amended by Act 7 of 2017, s. 27 (w.e.f. 1-4-2018).
3. Ins. by Act 14 of 2001, s. 32 (w.e.f. 1-4-2002).
4. Subs. by Act 21 of 2006, s. 14, for "from the transfer of a long-term capital asset" (w.e.f. 1-4-2007).

(*ii*) "listed securities" shall have the same meaning as in clause (*a*) of the *Explanation* to sub-section (*1*) of section 112;

(*iii*) "unit" shall have the meaning assigned to it in clause (*b*) of the *Explanation* to section 115AB.

(*2*) Where the specified equity shares are sold or otherwise transferred within a period of one year from the date of their acquisition, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such specified equity shares as provided in clause (*a*) or, as the case may be, clause (*b*), of sub-section (*1*) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such equity shares are sold or otherwise transferred.

[1][(*3*) Where the cost of the specified equity shares has been taken into account for the purposes of clause (*a*) or clause (*b*) of sub-section (*1*),—

(*a*) a deduction from the amount of income-tax with reference to such cost shall not be allowed under section 88 for any assessment year ending before the 1st day of April, 2006;

(*b*) a deduction from the income with reference to such cost shall not be allowed under section 80C for any assessment year beginning on or after the 1st day of April, 2006.]]

[2]**[54EE. Capital gain not to be charged on investment in units of a specified fund**.—(*1*) Where the capital gain arises from the transfer of a long-term capital asset (herein in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section, namely:—

(*a*) if the cost of the long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45;

(*b*) if the cost of the long-term specified asset is less than the capital gain arising from the transfer of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:

Provided that the investment made on or after the 1st day of April, 2016, in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees:

Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from the transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

(*2*) Where the long-term specified asset is transferred by the assessee at any time within a period of three years from the date of its acquisition, the amount of capital gains arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such long-term specified asset as provided in clause (*a*) or, as the case may be, clause (*b*) of sub-section (*1*) shall be deemed to be the income chargeable under the head "Capital gains" relating to long-term capital asset of the previous year in which the long-term specified asset is transferred.

1. Ins. by Act 18 of 2005, s. 18 (w.e.f. 1-4-2006).
2. Ins. by Act 28 of 2016, s. 32 (w.e.f 1-4-2017).

Explanation 1.—In a case where the original asset is transferred and the assessee invests the whole or any part of the capital gain received or accrued as a result of transfer of the original asset in any long-term specified asset and such assessee takes any loan or advance on the security of such specified asset, he shall be deemed to have transferred such specified asset on the date on which such loan or advance is taken.

Explanation 2.—For the purposes of this section,—

(*a*) "cost", in relation to any long -term specified asset, means the amount invested in such specified asset out of capital gains received or accruing as a result of the transfer of the original asset;

(*b*) "long-term specified asset" means a unit or units, issued before the 1st day of April, 2019, of such fund as may be notified by the Central Government in this behalf.]

[1][**54F. Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.—**(*1*) [2][Subject to the provisions of sub-section (*4*), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or [3][two years] after the date on which the transfer took place purchased, or has within a period of three years after that date [4][constructed, one residential house in India] (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

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

[5][Provided that nothing contained in this sub-section shall apply where—

(*a*) theassessee,—

(*i*) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(*ii*) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(*iii*) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(*b*) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".]

Explanation.—For the purposes of this section,—

[6]* * * * *

1. Ins. by Act 14 of 1982, s. 12 (w.e.f. 1-4-1983).
2. Subs. by Act 11 of 1987, s. 23, for "Where, in the case of an assesse being an individual" (w.e.f. 1-4-1988).
3. Ins. by s. 23, *ibid.* (w.e.f 1-4-1988).
4. Subs. by Act 25 of 2014, s. 24, for "constructed, a residential house" (w.e.f. 1-4-2015).
5. Subs. by Act 10 of 2000, s. 28, for the proviso (w.e.f 1-4-2001).
6. Clause (*i*) omitted by Act 11 of 1987, s. 23 (w.e.f. 1-4-1988).

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

(*2*) Where the assessee purchases, within the period of [2][two years] after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (*a*), or, as the case may be, clause (*b*), of sub-section (*1*), shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

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

[3][(*4*) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any schemewhich the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (*1*), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*i*) the amount by which—

(*a*) the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of the new asset as provided in clause (*a*) or, as the case may be, clause (*b*) of sub-section (*1*), exceeds

(*b*) the amount that would not have been so charged had the amount actually utilised by the assessee for the purchase or construction of the new asset within the period specified in sub-section (*1*) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

1. The bracket and figure "(*ii*)" omitted byAct 11 of 1987, s. 23 (w.e.f. 1-4-1988).
2. Subs. by s. 23, *ibid*., for "one year" (w.e.f. 1-4-1988).
3. Ins. by s. 23, *ibid*. (w.e.f. 1-4-1988).

(*ii*) the assessee shall be entitled to withdraw the unutilised amount in accordance with the scheme aforesaid.

[1]* * * * *]

[2][**54G. Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.**—(*1*) Subject to the provisions of sub-section (*2*), where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of, the shifting of such industrial undertaking (hereafter in this section referred to as the original asset) to any area (other than an urban area) and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(*a*) purchased new machinery or plant for the purposes of business of the industrial undertaking in the area to which the said undertaking is shifted ;

(*b*) acquired building or land or constructed building for the purposes of his business in the said area;

(*c*) shifted the original asset and transferred the establishment of such undertaking to such area; and

(*d*) incurred expenses on such other purpose as may be specified in a scheme framed by the Central Government for the purposes of this section,

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year ; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be nil ; or

(*ii*) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section, "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

1. The *Explanation* omitted by 18 of 1992, s. 31 (w.e.f. 1-4-1993).
2. Ins. by Act 11 of 1987, s. 24 (w.e.f. 1-4-1988).

(*2*) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (*1*) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (*1*), the amount, if any, already utilised by the assessee for all or any of the purposes aforesaid together with the amount, so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (*1*) within the period specified in that sub-section, then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) theassessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

[1]* * * * *

[2]**[54GA. Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone**.—(*1*) Notwithstanding anything contained in section 54G, where the capital gain arises from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the purposes of the business of an industrial undertaking situate in an urban area, effected in the course of, or in consequence of the shifting of such industrial undertaking to any Special Economic Zone, whether developed in any urban area or any other area and the assessee has within a period of one year before or three years after the date on which the transfer took place,—

(*a*) purchased machinery or plant for the purposes of business of the industrial undertaking in the Special Economic Zone to which the said undertaking is shifted;

(*b*) acquired building or land or constructed building for the purposes of his business in the Special Economic Zone;

(*c*) shifted the original asset and transferred the establishment of such undertaking to the Special Economic Zone; and

(*d*) incurred expenses on such other purposes as may be specified in a scheme framed by the Central Government for the purposes of this section,

1. The *Explanation* omitted by Act 18 of 1992, s. 32 (w.e.f. 1-4-1993).
2. Ins. by Act 28 of 2005, s. 27 and the Second Schedule (w.e.f. 10-2-2006).

then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall, subject to the provisions of sub-section (*2*), be dealt with in accordance with the following provisions of this section, that is to say,—

(*i*) if the amount of the capital gain is greater than the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) (such cost and expenses being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be Nil; or

(*ii*) if the amount of the capital gain is equal to, or less than, the cost of the new asset, the capital gain shall not be charged under section 45, and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its being purchased, acquired, constructed or transferred, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.—In this sub-section,—

(*a*) "Special Economic Zone" shall have the meaning assigned to it in clause (*za*) of the Special Economic Zones Act, 2005;

(*b*) "urban area" means any such area within the limits of a municipal corporation or municipality as the Central Government may, having regard to the population, concentration of industries, need for proper planning of the area and other relevant factors, by general or special order, declare to be an urban area for the purposes of this sub-section.

(*2*) The amount of capital gain which is not appropriated by the assessee towards the cost and expenses incurred in relation to all or any of the purposes mentioned in clauses (*a*) to (*d*) of sub-section (*1*) within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for all or any of the purposes aforesaid before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (*1*) of section 139] in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification, frame in this behalf and such return shall be accompanied by proof of such deposit; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for all or any of the aforesaid purposes together with the amount so deposited shall be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilised wholly or partly for all or any of the purposes mentioned in clauses (a) to (d) of sub-section (1) within the period specified in that sub-section, then,—

(*i*) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(*ii*) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.]

[1][**54GB. Capital gain on transfer of residential property not to be charged in certain cases**.—(*1*) Where,—

(*i*) the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee (herein referred to as the assessee); and

(*ii*) the assessee, before the due date of furnishing of return of income under sub-section (*1*) of section 139, utilises the net consideration for subscription in the equity shares of an eligible company (herein referred to as the company); and

(*iii*) the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset,

then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer takes place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

(*a*) if the amount of the net consideration is greater than the cost of the new asset, then, so much of the capital gain as it bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45 as the income of the previous year; or

(*b*) if the amount of the net consideration is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45 as the income of the previous year.

(*2*) The amount of the net consideration, which has been received by the company for issue of shares to the assessee, to the extent it is not utilised by the company for the purchase of the new asset before the due date of furnishing of the return of income by the assessee under section 139, shall be deposited by the company, before the said due date in an account in any such bank or institution as may be specified and shall be utilised in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

(*3*) For the purposes of sub-section (*1*), the amount, if any, already utilised by the company for the purchase of the new asset together with the amount deposited under sub-section (*2*) shall be deemed to be the cost of the new asset:

Provided that if the amount so deposited is not utilised, wholly or partly, for the purchase of the new asset within the period specified in sub-section (*1*), then,—

(*i*) the amount by which—

(*a*) the amount of capital gain arising from the transfer of the residential property not charged under section 45 on the basis of the cost of the new asset as provided in sub-section (*1*),

exceeds—

(*b*) the amount that would not have been so charged had the amount actually utilised for the purchase of the new asset within the period specified in sub-section (*1*)been the cost of the new asset,

shall be charged under section 45 as income of the assessee for the previous year in which the period of one year from the date of the subscription in equity shares by the assessee expires; and

(*ii*) the company shall be entitled to withdraw such amount in accordance with the scheme.

1. Ins. by Act 23 of 2012, s. 19 (w.e.f. 1-4-2013).

(*4*) If the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (*1*) shall be deemed to be the income of the assessee chargeable under the head "Capital gains" of the previous year in which such equity shares or such new asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.

(*5*) The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.

[1][Provided that in case of an investment in eligible start-up, the provisions of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2017", the figures, letters and words "31st day of March, 2019" had been substituted.]

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

(*a*) "eligible assessee" means an individual or a Hindu undivided family;

(*b*) "eligible company" means a company which fulfils the following conditions, namely:—

(*i*) it is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (*1*) of section 139 by the assessee;

(*ii*) it is engaged in the business of manufacture of an article or a thing [1]**[**or in an eligible business;**]**

(*iii*) it is a company in which the assessee has more than fifty per cent. share capital or more than fifty per cent. voting rights after the subscription in shares by the assessee; and

(*iv*) it is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006) [1]**[**or is an eligible start-up**]**;

[1][(*ba*) "eligible start-up" and "eligible business" shall have the meanings respectively assigned to them in *Explanation* below sub-section (*4)* of section 80-IAC;]

(*c*) "net consideration" shall have the meaning assigned to it in the *Explanation* to section 54F;

(*d*) "new asset" means new plant and machinery but does not include—

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

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

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

(*iv*) any vehicle; or

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

1. The proviso ins. by Act 28 of 2016, s. 33 (1-4-2017).

[1][Provided that in the case of an eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the Official Gazette, the new asset shall include computers or computer software.]

[2]**[54H. Extension of time for acquiring new asset or depositing or investing amount of capital gain.**—Notwithstanding anything contained in sections 54, 54B, 54D [3]*** [4][, 54EC] and 54F, where the transfer of the original asset is by way of compulsory acquisition under any law and the amount of compensation awarded for such acquisition is not received by the assessee on the date of such transfer, the period for acquiring the new asset by the assessee referred to in those sections or, as the case may be, the period available to the assessee under those sections for depositing or investing the amount of capital gain in relation to such compensation as is not received on the date of the transfer, shall be reckoned from the date of receipt of such compensation:

Provided that where the compensation in respect of transfer of the original asset by way of compulsory acquisition under any law is received before the 1st day of April, 1991, the aforesaid period or periods, if expired, shall extend up to the 31st day of December, 1991.]

55. Meaning of "adjusted", "cost of improvement" and "cost of acquisition".—(*1*) For the purposes of [5][sections 48 and 49],—

[6]* * * * *

[7][(*b*) "cost of any improvement",—

(*1*) in relation to a capital asset being goodwill of a business [8][or a right to manufacture, produce or process any article or thing] [9][or right to carry on any business [10][or profession]] shall be taken to be nil ; and

(*2*) in relation to any other capital asset,—]

(*i*) where the capital asset became the property of the previous owner or the assessee before the [11][1st day of April, 2001], [12]*** means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset on or after the said date by the previous owner or the assessee, and

(*ii*) in any other case, means all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in [13][sub-section (*1*) of section 49], by the previous owner,

but does not include any expenditure which is deductible in computing the income chargeable under the head "Interest on securities", "Income from house property", "Profits and gains of business or profession", or "Income from other sources", and the expression "improvement" shall be construed accordingly.

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1. Ins. by Act 28 of 2016, s. 33 (w.e.f. 1-4-2017).
2. Ins. by Act 49 of 1991, s. 21 (w.e.f. 1-10-1991).
3. The figures and letter ", 54E" omitted by Act 18 of 1992, s. 33 (w.e.f 1-4-1992).
4. Subs. by Act 14 of 2001, s. 33, for ", 54EA, 54EB" (w.e.f. 1-4-2001).
5. Subs. by Act 46 of 1986, s. 32, for "sections 48, 49 and 50" (w.e.f. 1-4-1988).
6. Clause (*a*) omitted by s. 32, *ibid*. (w.e.f. 1-4-1988).
7. Subs. by 11 of 1987, s. 25, for clause (*b*) (w.e.f. 1-4-1988).
8. Ins. by Act 26 of 1997, s. 19 (w.e.f. 1-4-1998).
9. Ins. by Act 20 of 2002, s. 26 (w.e.f. 1-4-2003).
10. Ins. by Act 28 of 2016, s. 34 (w.e.f. 1-4-2017).
11. Subs. by Act 7 of 2017, s. 28, for "1st day of April, 1981" (w.e.f. 1-4-2018). Earlier "1st day of April, 1974" was substituted by Act 23 of 1986, s. 13, for "1st day of January, 1964" (w.e.f. 1-4-1987) and later "1981" was substituted by Act 18 of 1992, s. 34, for "1974" (w.e.f. 1-4-1993).
12. The words "and the fair market value of the asset on that day is taken as the cost of acquisition at the option of the assessee," omitted by s. 34, *ibid*. (w.e.f. 1-4-1993).
13. Subs. by Act 20 of 1967, s. 21, for "section 49" (w.e.f. 1-4-1967).

(*2*) [1][For the purposes of sections 48 and 49, "cost of acquisition",—

[2][(*a*) in relation to a capital asset, being goodwill of a business [3][or a trade mark or brand name associated with a business] [4][or a right to manufacture, produce or process any article or thing][5][or right to carry on any business [6][or profession]], tenancy rights, stage carriage permits or loom hours,—

(*i*) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and

(*ii*) in any other case [not being a case falling under sub-clauses (*i*) to (*iv*) of sub-section (*1*) of section 49], shall be taken to be nil ;

(*aa*) [7][in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of clause (*h*) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) (hereafter in this clause referred to as the financial asset), the assessee—

(*A*) becomes entitled to subscribe to any additional financial asset; or

(*B*) is allotted any additional financial asset without any payment,

then, subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*),—

(*i*) in relation to the original financial asset, on the basis of which the assessee becomes entitled to any additional financial asset, means the amount actually paid for acquiring the original financial asset;

(*ii*) in relation to any right to renounce the said entitlement to subscribe to the financial asset, when such right is renounced by the assessee in favour of any person, shall be taken to be nil in the case of such assessee;

(*iii*) in relation to the financial asset, to which the assessee has subscribed on the basis of the said entitlement, means the amount actually paid by him for acquiring such asset;

[8][(*iiia*) in relation to the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be nil in the case of such assessee;] and

(*iv*) in relation to any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the aggregate of the amount of the purchase price paid by him to the person renouncing such right and the amount paid by him to the company or institution, as the case may be, for acquiring such financial asset;]

[9][(*ab*) in relation to a capital asset, being equity share or shares allotted to a shareholder of a recognised stock exchange in India under a scheme for [10][demutualisation or corporatisation] approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), shall be the cost of acquisition of his original membership of the exchange:

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1. Subs. by Act 11 of 1987, s. 25, for the "For the purposes of sections 48 and 49, "cost of acquisition", in relation to a capital asset,—" (w.e.f. 1-4-1988).
2. Subs. by Act 32 of 1994, s. 18, for clause (*a*) (w.e.f. 1-4-1995).
3. Ins. by 14 of 2001, s. 34 (w.e.f. 1-4-2002).
4. Ins. by Act 26 of 1997, s. 19 (w.e.f. 1-4-1998).
5. Ins. by 20 of 2002, s. 26 (w.e.f. 1-4-2003).
6. Ins. by Act 28 of 2016, s. 34 (w.e.f. 1-4-2017).
7. Subs. by Act 22 of 1995, s. 14, for "in a case where, "and ending with "sub-clauses (*i*) and (*ii*) of clause (*b*)" (w.e.f. 1-4-1996).
8. Ins. by Act 22 of 1995, s. 14 (w.e.f. 1-4-1996).
9. Ins. by Act 14 of 2001, s. 34 (w.e.f. 1-4-2002).
10. Subs. by Act 32 of 2003, s. 31, for "corporatisation" (w.e.f. 1-4-2004).

[1][(*ac*) subject to the provisions of sub-clauses (*i*) and (*ii*) of clause (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A, acquired before the 1st day of February, 2018, shall be higher of—

(*i*) the cost of acquisition of such asset; and

(*ii*) lower of—

(*A*) the fair market value of such asset; and

(*B*) the full value of consideration received or accruing as a result of the transfer of the capital asset.

Explanation.—For the purposes of this clause,—

(*a*) "fair market value" means,—

(*i*) in a case where the capital asset is listed on any recognised stock exchange as on the 31st day of January, 2018, the highest price of the capital asset quoted on such exchange on the said date:

Provided that where there is no trading in such asset on such exchange on the 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value;

(*ii*) in a case where the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st day of January, 2018, the net asset value of such unit as on the said date;

(*iii*) in a case where the capital asset is an equity share in a company which is—

(*A*) not listed on a recognised stock exchange as on the 31st day of January, 2018 but listed on such exchange on the date of transfer;

(*B*) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-2018 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later;

(*b*) "Cost Inflation Index" shall have the meaning assigned to it in clause (*v*) of the Explanation to section 48;

(*c*) "recognised stock exchange" shall have the meaning assigned to it in clause (*ii*) of *Explanation* 1 to clause (5) of section 43.]

1. Ins. by Act 13 of 2018, s. 22 (w.e.f. 1-4-2018).

[1][Provided that the cost of a capital asset, being trading or clearing rights of the recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*;]

(*b*) in relation to any other capital asset,—]

(*i*) where the capital asset became the property of the assessee before the [2][1st day of April, 2001], means the cost of acquisition of the asset to the assessee or the fairmarket value of the asset on the [2][1st day of April, 2001], at the option of the assessee;

(*ii*) where the capital asset became the property of the assessee by any of the modes specified in [3][sub-section (*1*) of section 49], and the capital asset became the property of the previous owner before the [2][1st day of April, 2001], means the cost of the capital asset to the previous owner or the fairmarket value of the asset on the [2][1st day of April, 2001], at the option of the assessee;

(*iii*) where the capital asset became the property of the assessee on the distribution of the capital assets of a company on itsliquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 46, means the fairmarket value of the asset on the date of distribution;

[4]* * * * *

[5][(*v*) where the capital asset, being a share or a stock of a company, became the property of the assessee on—

(*a*) the consolidation and division of all or any of the sharecapital of the company into shares of larger amount than its existing shares,

(*b*) the conversion of any shares of the company into stock,

(*c*) the re-conversion of any stock of the company into shares,

(*d*) the sub-division of any of the shares of the company into shares of smaller amount, or

(*e*) the conversion of one kind of shares of the company into another kind,

means the cost of acquisition of the asset calculated with reference to the cost of acquisition of the shares or stock from which such asset is derived.]

(*3*) Where the cost for which the previous owner acquired the property cannot be ascertained, the cost of acquisition to the previous owner means the fair market value on the date on which the capital asset became the property of the previous owner.

[6]**[55A. Reference to Valuation Officer.**—With a view to ascertaining the fair market value of a capital asset for the purposes of this Chapter, the [7][Assessing Officer] may refer the valuation of capital asset to a Valuation Officer—

(*a*) in a case where the value of the asset as claimed by the assessee is in accordance with the estimate made by a registered valuer, if the [7][Assessing Officer] is of opinion that the value so claimed [8][is at variance with its fair market value];

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1. Ins. by Act 32 of 2003, s. 31 (w.e.f. 1-4-2004).
2. Subs. by Act 7 of 2017, s. 28, for "1st day of April, 1981" (w.e.f. 1-4-2018). Earlier "1st day of April, 1974" was substituted by Act 23 of 1986, s. 13, for "1st day of January, 1964" (w.e.f. 1-4-1987) and later "1981" was substituted by Act 18 of 1992, s. 34, for "1974" (w.e.f. 1-4-1993).
3. Subs. by Act 20 of 1967, s. 21, for "section 49" (w.e.f. 1-4-1967).
4. Clause (*iv*) omitted by Act 13 of 1966, s. 14 (w.e.f 1-4-1967).
5. Ins. by Act 5 of 1964, s. 14 (w.e.f. 1-4-1964).
6. Ins. by Act 45 of 1972, s. 2 (w.e.f. 1-1-1973).
7. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
8. Subs. by Act 23 of 2012, s. 20, for "is less than its fair market value" (w.e.f. 1-7-2012).

(*b*) in any other case, if the [1][Assessing Officer] is of opinion—

(*i*) that the fair market value of the asset exceeds the value of the asset as claimed by the assessee by more than such percentage of the value of the asset as so claimed or by more than such amountas may be prescribed in this behalf; or

(*ii*) that having regard to the nature of the asset and other relevant circumstances, it is necessary so to do,

and where any such reference is made, the provisions of sub-sections (*2*), (*3*), (*4*), (*5*) and (*6*) of section 16A, clauses (*ha*) and (*i*) of sub-section (*1*) and sub-sections (*3A*) and (*4*) of section 23, sub-section (*5*) of section 24, section 34AA, section 35 and section 37 of the Wealth-tax Act, 1957 (27 of 1957), shall with the necessary modifications, apply in relation to such reference as they apply in relation to a reference made by the [1][Assessing Officer] under sub-section (*1*) of section 16A of that Act.

Explanation.—In this section, "Valuation Officer" has the same meaning, as in clause (*r*) of section 2 of the Wealth-tax Act, 1957 (27 of 1957).]

56. Income from other sources.—(*1*) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.

(*2*) In particular, and without prejudice to the generality of the provisions of sub-section (*1*), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely:—

(*i*) dividends;

[2][(*ia*) income referred to in sub-clause (*viii*) of clause (*24*) of section 2;]

[3][(*ib*) income referred to in sub-clause (*ix*) of clause (*24*) of section 2;]

[4][(*ic*) income referred to in sub-clause (*x*) of clause (*24*) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession";]

[5][(*id*) income by way of interest on securities, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";]

(*ii*) income from machinery, plant or furniture belonging to the assessee and let on hire, if the income is not chargeable to income-tax under the head "Profits and gains of business or profession";

(*iii*) where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, the income from such letting, if it is not chargeable to income-tax under the head "Profits and gains of business or profession";

[6][(*iv*) income referred to in sub-clause (*xi*) of clause (*24*) of section 2, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";]

1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 10 of 1965, s. 18 (w.e.f. 1-4-1965).
3. Ins. by Act 16 of 1972, s. 10 (w.e.f. 1-4-1972).
4. Ins. by Act 11 of 1987, s. 26 (w.e.f. 1-4-1988).
5. Ins. by Act 26 of 1988, s.18 (w.e.f. 1-4-1989).
6. Ins. by Act 33 of 1996, s. 21 (w.e.f. 1-10-1996).

[1][(*v*) where any sum of money exceeding twenty-five thousand rupees is received without consideration by an individual or a Hindu undivided family from any person on or after the 1st day of September, 2004 [2][but before the 1st day of April, 2006], the whole of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer; or

[3][(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA.]

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) brother or sister of either of the parents of the individual;

(*v*) any lineal ascendant or descendant of the individual;

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*);]

[4][(*vi*) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006 [5][but before the 1st day of October, 2009], the whole of the aggregate value of such sum:

Provided that this clause shall not apply to any sum of money received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

1. Ins. by Act 23 of 2004, s. 13 (w.e.f. 1-4-2005).
2. Ins. by Act 29 of 2006, s. 10 (w.e.f. 1-4-2006).
3. Ins. by Act 22 of 2007, s. 19 (w.e.f. 1-4-2005).
4. Ins. by Act 29 of 2006, s. 10 (w.e.f. 1-4-2007).
5. Ins. by Act 33 of 2009, s. 26 (w.e.f. 1-10-2009).

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*g*) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause, "relative" means—

(*i*) spouse of the individual;

(*ii*) brother or sister of the individual;

(*iii*) brother or sister of the spouse of the individual;

(*iv*) brother or sister of either of the parents of the individual;

(*v*) any lineal ascendant or descendant of the individual;

(*vi*) any lineal ascendant or descendant of the spouse of the individual;

(*vii*) spouse of the person referred to in clauses (*ii*) to (*vi*);]

[1][(*vii*) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009 [2][but before the 1st day of April, 2017],—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

[3][(*b*) any immovable property,—

(*i*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*ii*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of this sub-clause:

Provided further that the said proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement for the transfer of such immovable property;]

(*c*) any property, other than immovable property,—

(*i*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*ii*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that where the stamp duty value of immovable property as referred to in sub-clause (*b*) is disputed by the assessee on grounds mentioned in sub-section (*2*) of section 50C, the Assessing Officer may refer the valuation of such property to a

1. Ins. by Act 33 of 2009, s. 26 (w.e.f. 1-10-2009).
2. Ins. by Act 7 of 2017, s. 29 (w.e.f. 1-4-2017).
3.. Ins. by Act 17 of 2013, s. 11 (w.e.f. 1-4-2014).

Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (*b*) as they apply for valuation of capital asset under those sections:

Provided further that this clause shall not apply to any sum of money or any property received—

(*a*) from any relative; or

(*b*) on the occasion of the marriage of the individual; or

(*c*) under a will or by way of inheritance; or

(*d*) in contemplation of death of the payer or donor, as the case may be; or

(*e*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*f*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) ofsection 10; or

(*g*) from any trust or institution registered under [1][section 12AA; or]

[2][(*h*) by way of transaction not regarded as transfer under clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47.]

Explanation.—For the purposes of this clause,—

(*a*) "assessable" shall have the meaning assigned to it in the *Explanation* 2 to sub-section (*2*) of section 50C;

(*b*) "fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

(*c*) "jewellery" shall have the meaning assigned to it in the *Explanation* to sub-clause (*ii*) of clause (*14*) of section 2;

(*d*) "property" [3][means the following capital asset of the assessee, namely:—]

(*i*) immovable property being land or building or both;

(*ii*) shares and securities;

(*iii*) jewellery;

(*iv*) archaeological collections;

(*v*) drawings;

(*vi*) paintings;

(*vii*) sculptures; [4]***

(*viii*) any work of art; [5][or]

[5][(*ix*) bullion;]

1. Subs. by Act 28 of 2016, s. 35, for "section 12AA" (w.e.f. 1-4-2017).
2. Ins. by s. 35, *ibid*. (w.e.f. 1-4-2017).
3. Subs. by Act 14 of 2010, s. 21, for "means—" (w.r.e.f. 1-10-2009).
4. The word "or" omitted by s. 21, *ibid*. (w.e.f. 1-6-2010).
5. Ins. by s. 21, *ibid*. (w.e.f. 1-6-2010).

[1][(*e*) "relative" means,—

(*i*) in case of an individual—

(*A*) spouse of the individual;

(*B*) brother or sister of the individual;

(*C*) brother or sister of the spouse of the individual;

(*D*) brother or sister of either of the parents of the individual;

(*E*) any lineal ascendant or descendant of the individual;

(*F*) any lineal ascendant or descendant of the spouse of the individual;

(*G*) spouse of the person referred to in items (*B*) to (*F*); and

(*ii*) in case of a Hindu undivided family, any member thereof;]

(*f*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;]

[2][(*viia*) where a firm or a company not being a company in which the public are substantially interested, receives, in any previous year, from any person or persons, on or after the 1st day of June, 2010 [3][but before the 1st day of April, 2017], any property, being shares of a company not being a company in which the public are substantially interested,—

(*i*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*ii*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any such property received by way of a transaction not regarded as transfer under clause (*via*) or clause (*vic*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47.

Explanation.—For the purposes of this clause, "fair market value" of a property, being shares of a company not being a company in which the public are substantially interested, shall have the meaning assigned to it in the *Explanation* to clause (*vii*);]

1. Ins. by Act 23 of 2012, s. 21 (w.e.f. 1-10-2009).

2. Ins. by Act 14 of 2010, s. 21 (w.e.f. 1-6-2010).

3. Ins. by Act 7 of 2017, s. 29 (w.e.f. 1-4-2017).

[1][(*viib*) where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares:

Provided that this clause shall not apply where the consideration for issue of shares is received—

(*i*) by a venture capital undertaking from a venture capital company or a venture capital fund; or

(*ii*) by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

Explanation.—For the purposes of this clause,—

(*a*) the fair market value of the shares shall be the value—

(*i*) as may be determined in accordance with such method as may be prescribed; or

(*ii*) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value, on the date of issue of shares, of its assets, including intangible assets being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature,

whichever is higher;

(*b*) "venture capital company", "venture capital fund" and "venture capital undertaking" shall have the meanings respectively assigned to them in clause (*a*), clause (*b*) and clause (*c*) of [2][*Explanation*] to clause (*23FB*) of section 10;]

[3][(*viii*) income by way of interest received on compensation or on enhanced compensation referred to in clause (*b*) of section 145A;]

[4][(*ix*) any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, if,—

(*a*) such sum is forfeited; and

(*b*) the negotiations do not result in transfer of such capital asset.]

[5][(*x*) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

[6][(*B*) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:—

(*i*) the amount of fifty thousand rupees; and

(*ii*) the amount equal to five per cent. of the consideration:]

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause:

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1. Ins. by Act 23 of 2012, s. 21 (w.e.f. 1-4-2013).
2. Subs. by Act 17 of 2013, s. 11, for "*Explanation 1*" (w.e.f. 1-4-2014).
3. Ins. by Act 33 of 2009, s. 26 (w.e.f. 1-4-2010).
4. Ins. by Act 25 of 2014, s. 25 (w.e.f. 1-4-2015).
5. Ins. by Act 7 of 2017, s. 29 (w.e.f. 1-4-2017)
6. Subs. by Act 13 of 2018, s. 23, for item (*B*) (w.e.f. 1-4-2019).

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (*2*) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(*c*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received—

(*I*) from any relative; or

(*II*) on the occasion of the marriage of the individual; or

(*III*) under a will or by way of inheritance; or

(*IV*) in contemplation of death of the payer or donor, as the case may be; or

(*V*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*VI*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*VII*) from or by any trust or institution registered under section 12A or section 12AA; or

(*VIII*) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*IX*) by way of transaction not regarded as transfer under clause (*i*) or [1][clause (*iv*) or clause (*v*) or] clause (*vi*) or clause (*via*) or clause (*viaa*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47; or

(*X*) from an individual by a trust created or established solely for the benefit of relative of the individual.

Explanation.—For the purposes of this clause, the expressions "assessable", "fair market value", "jewellery", "property", "relative" and "stamp duty value" shall have the same meanings as respectively assigned to them in the *Explanation* to clause (*vii*).]

[2][(*xi*) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto.]

1. Ins. by Act 13 of 2018, s. 23 (w.e.f. 1-4-2018).
2. Ins. by s. 23, *ibid.* (w.e.f. 1-4-2019).

57. Deductions.—The income chargeable under the head "Income from other sources" shall be computed after making the following deductions, namely:—

(*i*) [1][in the case of dividends, other than dividends referred to in section 115-O], [2][or interest on securities], any reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend [2][or interest] on behalf of the assessee;

[3][(*ia*) in the case of income of the nature referred to in sub-clause (*x*) of clause (*24*) of section 2 which is chargeable to income-tax under the head "Income from other sources", deductions, so far as may be, in accordance with the provisions of clause (*va*) of sub-section (*1*) of section 36;]

(*ii*) in the case of income of the nature referred to in clauses (*ii*) and (*iii*) of sub-section (*2*) of section 56, deductions, so far as may be, in accordance with the provisions of sub-clause (*ii*) of clause (*a*) and clause (*c*) of section 30, section 31 and [4][sub-sections (*1*) [5]*** and (*2*) of section 32] and subject to the provisions of [6][section 38];

[7][(*iia*) in the case of income in the nature of family pension, a deduction of a sum equal to thirty-three and one-third per cent of such income or [8][fifteen thousand rupees], whichever is less.

Explanation.—For the purposes of this clause, "family pension" means a regular monthly amount payable by the employer to a person belonging to the family of an employee in the event of his death;]

(*iii*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for the purposeof making or earning such income;

[9][(*iv*) in the case of income of the nature referred to in clause (*viii*) of sub-section (*2*) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section.]

[10]* * * * *

[11]* * * * *

58. Amounts not deductible.—[12][(*1*)] Notwithstanding anything to the contrary contained in section 57, the following amounts shall not be deductible in computing the income chargeable under the head "Income from other sources", namely:—

(*a*) in the case of any assessee,—

(*i*) any personal expenses of the assessee;

[13][(*ia*) any expenditure of the nature referred to in sub-section (*12*) of section 40A;]

(*ii*) any interest chargeable under this Act which is payable outside India (not being interest on a loan issued for public subscription before the 1st day of April, 1938) on which tax has not been paid or deducted under Chapter XVII-B [14]***;

(*iii*) any payment which is chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid thereon or deducted therefrom under Chapter XVII-B;

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1. Subs. by Act 32 of 2003, s. 32, for "in the case of dividends" (w.e.f. 1-4-2004).
2. Ins. by Act 26 of 1988, s.19 (w.e.f. 1-4-1989).
3. Ins. by Act 11 of 1987, s. 27 (w.e.f. 1-4-1988).
4. Subs. by Act 42 of 1970, s. 14, for "sub-sections (*1*) and (*2*) of section 32" (w.e.f. 1-4-1970).
5. The brackets, figure and letter "(*1A*)" omitted by Act 46 of 1986, s. 32 (w.e.f. 1-4-1988).
6. Subs. by s. 32, *ibid*., for "sections 34 and 38" (w.e.f. 1-4-1988).
7. Ins. by Act 13 of 1989, s. 13 (w.e.f. 1-4-1990).
8. Subs. by Act 26 of 1997, s. 20, for "twelve thousand rupees" (w.e.f. 1-4-1998).
9. Ins. by Act 33 of 2009, s. 27 (w.e.f. 1-4-2010).
10. The proviso omitted by Act 32 of 1994, s. 19 (w.e.f. 1-1995).
11. The *Explanation* omitted by Act 26 of 1988, s. 19 (w.e.f. 1-4-1989).
12. Section 58 renumbered as sub-section (*1*) thereof by Act 19 of 1968, s.8 (w.e.f. 1-4-1968).
13. Ins. by Act 32 of 1985, s. 15 (w.e.f. 1-4-1986).
14. The words "and in respect of which there is no person in India who may be treated as in agent under section 163" omitted by Act 26 of 1988, s. 20 (w.e.f. 1-4-1989).

[1]* * * * *

[2]* * * * *

[3][(*1A*) The provisions of [4][sub-clauses (*ia*) and (*iia*)] of clause (*a*) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".]

[5][(*2*) The provisions of section 40A shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".]

[6][(*3*) In the case of an assessee, being a foreign company, the provisions of section 44D shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".]

[7][(*4*) In the case of an assessee having income chargeable under the head "Income from other sources", no deduction in respect of any expenditure or allowance in connection with such income shall be allowed under any provision of this Act in computing the income by way of any winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature, whatsoever:

Provided that nothing contained in this sub-section shall apply in computing the income of an assessee, being the owner of horses maintained by him for running in horse races, from the activity of owning and maintaining such horses.

Explanation.—For the purposes of this sub-section, "horse race" means a horse race upon which wagering or betting may be lawfully made.]

59. Profits chargeable to tax.—(*1*) The provisions of sub-section (*1*) of section 41 shall apply, so far as may be, in computing the income of an assessee under section 56, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".

[8]* * * * *

[9]* * * * *

CHAPTER V

INCOME OF OTHER PERSONS, INCLUDED IN ASSESSEE'S TOTAL INCOME

60. Transfer of income where there is no transfer of assets.—All income arising to any person by virtue of a transfer whether revocable or not and whether effected before or after the commencement of this Act shall, where there is no transfer of the assets from which the income arises, be chargeable to income-tax as the income of the transferor and shall be included in his total income.

61. Revocable transfer of assets.—All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to income-tax as the income of the transferor and shall be included in his total income.

62. Transfer irrevocable for a specified period.—(*1*) The provisions of section 61 shall not apply to any income arising to any person by virtue of a transfer—

(*i*) by way of trust which is not revocable during the lifetime of the beneficiary, and, in the case of any other transfer, which is not revocable during the lifetime of the transferee; or

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1. Clause (*iv*) omitted by Act 32 of 1971, s. 12 (w.e.f. 1-4-1972).
2. Clause (*b*) omitted by Act 26 of 1988, s. 20 (w.e.f. 1-4-1989).
3. Ins. by Act 41 of 1972, s. 3 (w.e.f. 1-4-1962).
4. Subs. by Act 7 of 2017, s. 30, for "sub-clauses (*iia*) (w.e.f. 1-4-2018).
5. Ins. by Act 19 of 1968, s. 8 (w.e.f. 1-4-1968).
6. Ins. by Act 66 of 1976, s. 14 (w.e.f. 1-6-1976).
7. Ins. by Act 23 of 1986, s. 14 (w.e.f. 1-4-1987).
8. Sub-sections (*2*) and (*3*) omitted by Act of 46 of 1986, s. 32 (w.e.f. 1-4-1988).
9. The *Explanation* omitted by s. 32, *ibid*. (w.e.f. 1-4-1988).

(*ii*) made before the 1st day of April, 1961, which is not revocable for a period exceeding six years:

Provided that the transferor derives no direct or indirect benefit from such income in either case.

(*2*) Notwithstanding anything contained in sub-section (*1*), all income arising to any person by virtue of any such transfer shall be chargeable to income-tax as the income of the transferor as and when the power to revoke the transfer arises, and shall then be included in his total income.

63. "Transfer" and "revocable transfer" defined. —For the purposes of sections 60, 61 and 62 and of this section,—

(*a*) a transfer shall be deemed to be revocable if—

(*i*) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the income or assets to the transferor, or

(*ii*) it, in any way, gives the transferor a right to re-assume power directly or indirectly over the whole or any part of the income or assets ;

(*b*) "transfer" includes any settlement, trust, covenant, agreement or arrangement.

64. Income of individual to include income of spouse, minor child, etc. — [1][[2][(*1*)] In computing the total income of any individual, there shall be included all such income as arises directly or indirectly—

[3] * * * * *

(*ii*) to the spouse of such individual by way of salary, commission, fees or any other form of remuneration whether in cash or in kind from a concern in which such individual has a substantial interest:

[4][Provided that nothing in this clause shall apply in relation to any income arising to the spouse where the spouse possesses technical or professional qualifications and the income is solely attributable to the application of his or her technical or professional knowledge and experience ;

[5]* * * * *

(*iv*) subject to the provisions of clause (*i*) of section 27, [6]*** to the spouse of such individual from assets transferred directly or indirectly to the spouse by such individual otherwise than for adequate consideration or in connection with an agreement to live apart;

[7]* * * * *

(*vi*) to the son's wife, [8]*** of such individual, from assets transferred directly or indirectly on or after the 1st day of June, 1973, to the son's wife [7]*** by such individual otherwise than for adequate consideration; [9]***

(*vii*) to any person or association of persons from assets transferred directly or indirectly otherwise than for adequate consideration to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his or her spouse; [10]*** and

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1. Subs. by Act 41 of 1975, s. 13, for sub-section (*1*) (w.e.f. 1-4-1976).
2. Section 64 re-numbered as sub-section (*1*) of that section by Act 42 of 1970, s. 16 (w.e.f. 1-4-1971).
3. Clause (*i*) omitted by Act 18 of 1992, s. 35 (w.e.f. 1-4-1993). Restored by Act 3 of 1989, s. 95 as earlier omitted by Act 4 of 1988, s. 17 (w.e.f. 1-4-1988).
4. Restored to its original position by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier subs. by Act 4 of 1988, s. 17 (w.e.f. 1-4-1988).
5. Clause (*iii*) omitted byAct 18 of 1992, s. 35 (w.e.f. 1-4-1993). Prior to omission restored by Act 4 of 1988, s. 17 (w.e.f. 1-4-1989). Restored by Act 3 of 1989, s. 95 as earlier omitted by Act 4 of 1988, s. 17 (w.e.f. 1-4-1988).
6. The words, brackets and figures "in a case not falling under clause (*i*) of this sub-section" omitted by s. 35, *ibid.* (w.e.f. 1-4-1993).
7. Clause (*v*) omitted by s. 35 *ibid.* (w.e.f. 1-4-1993).
8. The words "or son's minor child" omitted by s. 35, *ibid.* (w.e.f. 1-4-1993).
9. The words "and" omitted by Act 67 of 1984, s. 17 (w.e.f. 1-4-1985).
10. The words "or minor child or both" omitted by Act 18 of 1992, s. 35 (w.e.f. 1-4-1993).

[1][(*viii*) to any person or association of persons from assets transferred directly or indirectly on or after the 1st day of June, 1973, otherwise than for adequate consideration, to the person or association of persons by such individual, to the extent to which the income from such assets is for the immediate or deferred benefit of his son's wife [2]***.]

[3][*Explanation* 1.—For the purposes of clause (*ii*), the individual in computing whose total income the income referred to in that clause is to be included, shall be the husband or wife whose total income (excluding the income referred to in that clause) is greater ; and where any such income is once included in the total income of either spouse, any such income arising in any succeeding year shall not be included in the total income of the other spouse unless the Assessing Officer is satisfied, after giving that spouse an opportunity of being heard, that it is necessary so to do.]

Explanation 2.—For the purposes of clause (*ii*), an individual shall be deemed to have a substantial interest in a concern—

(*i*) in a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person and partly by one or more of his relatives;

(*ii*) in any other case, if such person is entitled, or such person and one or more of his relatives are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern.

[4]* * * * *

[5][*Explanation* 3.—For the purposes of clauses (*iv*) and (*vi*), where the assets transferred directly or indirectly by an individual to his spouse or son's wife (hereafter in this Explanation referred to as "the transferee") are invested by the transferee,—

(*i*) in any business, such investment being not in the nature of contribution of capital as a partner in a firm or, as the case may be, for being admitted to the benefits of partnership in a firm, that part of the income arising out of the business to the transferee in any previous year, which bears the same proportion to the income of the transferee from the business as the value of the assets aforesaid as on the first day of the previous year bears to the total investment in the business by the transferee as on the said day;

(*ii*) in the nature of contribution of capital as a partner in a firm, that part of the interest receivable by the transferee from the firm in any previous year, which bears the same proportion to the interest receivable by the transferee from the firm as the value of investment aforesaid as on the first day of the previous year bears to the total investment by way of capital contribution as a partner in the firm as on the said day,

shall be included in the total income of the individual in that previous year.]

[6][(*1A*) In computing the total income of any individual, there shall be included all such income as arises or accrues to his minor child [7][, not being a minor child suffering from any disability of the nature specified in section 80U:]

Provided that nothing contained in this sub-section shall apply in respect of such income as arises or accrues to the minor child on account of any—

(*a*) manual work done by him; or

1. Ins. by Act 67 of 1984, s. 17 (w.e.f. 1-4-1985).
2. The words "or minor child or both" omitted by Act 18 of 1992, s. 35 (w.e.f. 1-4-1993).
3. Subs. by s. 35, *ibid*., for *Explanations* 1 and 1A (w.e.f. 1-4-1993).
4. *Explanation* 2A omitted by s. 35, *ibid*. (w.e.f. 1-4-1993).
5. Subs. by s. 35, *ibid*., for *Explanation* 3 (w.e.f. 1-4-1993).
6. Ins. by s. 35, *ibid*. (w.e.f. 1-4-1993).
7. Ins. by Act 32 of 1994, s. 20 (w.e.f. 1-4-1995).

(*b*) activity involving application of his skill, talent or specialised knowledge and experience.

Explanation.—For the purposes of this sub-section, the income of the minor child shall be included,—

(*a*) where the marriage of his parents subsists, in the income of that parent whose total income (excluding the income includible under this sub-section) is greater ; or

(*b*) where the marriage of his parents does not subsist, in the income of that parent who maintains the minor child in the previous year,

and where any such income is once included in the total income of either parent, any such income arising in any succeeding year shall not be included in the total income of the other parent, unless the Assessing Officer is satisfied, after giving that parent an opportunity of being heard, that it is necessary so to do.]

[1][(*2*) Where, in the case of an individual being a member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of December, 1969, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it [2][into the common stock of the family or been transferred by the individual, directly or indirectly, to the family otherwise than for adequate consideration (the property so converted or transferred being hereinafter referred to as the converted property)], then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1971,—

(*a*) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly ;

(*b*) the income derived from the converted property or any part thereof [3]*** shall be deemed to arise to the individual and not to the family ;

[4][(*c*) where the converted property has been the subject-matter of a partition (whether partial or total) amongst the members of the family, the income derived from such converted property as is received by the spouse [5]*** on partition shall be deemed to arise to the spouse [5]*** from assets transferred indirectly by the individual to the spouse [5]*** and the provisions of sub-section (*1*) shall, so far as may be, apply accordingly:]

Provided that the income referred to in clause (*b*) or clause (*c*) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse [5]*** of the individual.

Explanation [6][1].—For the purposes of sub-section (*2*),—

[7]*** "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.

[8]* * * * *

[9][*Explanation* 2.—For the purposes of this section, "income" includes loss.]

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1. Ins. by Act 42 of 1970, s. 16 (w.e.f. 1-4-1971).
2. Subs. by Act 21 of 1979, s. 9 for "into the common stock of the family (such property being hereinafter referred to as the converted property)" (w.e.f. 1-4-1980).
3. The words "in so far as it is attributable to the interest of the individual in the property of the family" omitted by Act 41 of 1975, s. 13 (w.e.f. 1-4-1976).
4. Subs. by s. 13, *ibid*.,for clause (*c*) (w.e.f. 1-4-1976).
5. The words "or minor child" omitted by Act 18 of 1992, s. 35 (w.e.f. 1-4-1993).
6. The *Explanation* renumbered as *Explanation* 1 thereof by Act of 21 of 1979, s. 9 (w.e.f. 1-4-1980).
7. The brackets and figure "(*1*)" omitted by Act 41 of 1975, s. 13 (w.e.f. 1-4-1976).
8. Clause (*2*) omitted by s. 13, *ibid*. (w.e.f. 1-4-1976).
9. Ins. by Act 21 of 1979, s. 9 (w.e.f. 1-4-1980).

65. Liability of person in respect of income included in the income of another person.—Where, by reason of the provisions contained in this Chapter or in clause (*i*) of section 27, the income from any asset or from membership in a firm of a person other than the assessee is included in the total income of the assessee, the person in whose name such asset stands or who is a member of the firm shall, notwithstanding anything to the contrary contained in any other law for the time being in force, be liable, on the service of a notice of demand by the [1][Assessing Officer] in this behalf, to pay that portion of the tax levied on the assessee which is attributable to the income so included, and the provisions of Chapter XVII-D shall, so far as may be, apply accordingly:

Provided that where any such asset is held jointly by more than one person, they shall be jointly and severally liable to pay the tax which is attributable to the income from the assets so included.

CHAPTER VI

AGGREGATION OF INCOME AND SET OFF OR CARRY FORWARD OF LOSS

Aggregation of income

66. Total income.—In computing the total income of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII[2]***.

67. [**Method of computing a partner's share in the income of the firm.**] *Omitted by the Finance Act,* 1992, (18 *of* 1992), *s*. 36 (*w.e.f.* 1-4-1993). *Earlier amended by Act* 19 *of* 1968, *s*. 30 *and the Third Schedule* (*w.e.f.* 1-4-1969), *Act* 32 of 1971, *s*. 13 (*w.e.f.* 1-4-1971), *subs. by Act* 4 *of* 1988, *s.* 18 (*w.e.f.* 1-4-1988) *or restored by Act* 3 *of* 1989, *s*. 95 (*w.e.f.* 1-4-1989).

[3][**67A. Method of computing a member's share in income of association of persons or body of individuals.**—(*1*) In computing the total income of an assessee who is a member of an association of persons or a body of individuals wherein the shares of the members are determinate and known [other than a company or a cooperative society or a society registered under the Societies Registration Act, 1860 (21 of 1860), or under any law corresponding to that Act in force in any part of India], whether the net result of the computation of the total income of such association or body is a profit or a loss, his share (whether a net profit or net loss) shall be computed as follows, namely:—

(*a*) any interest, salary, bonus, commission or remuneration by whatever name called, paid to any member in respect of the previous year shall be deducted from the total income of the association or body and the balance ascertained and apportioned among the members in the proportions in which they are entitled to share in the income of the association or body;

(*b*) where the amount apportioned to a member under clause (*a*) is a profit, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in respect of the previous year shall be added to that amount, and the result shall be treated as the member's share in the income of the association or body;

(*c*) where the amount apportioned to a member under clause (*a*) is a loss, any interest, salary, bonus, commission or remuneration aforesaid paid to the member by the association or body in

1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. The words, figures and letters "and any amount in respect of which the assessee is entitled to a deduction from the amount of income-tax on his total income with which he is chargeable for any assessment year in accordance with, and to the extent provided in sections 87, 87A and 88" omitted by Act 20 of 1967, s. 33 and the Third Schedule (w.e.f. 1-4-1968).
3. Ins. by Act 3 of 1989, s. 12 (w.e.f. 1-4-1989).

respect of the previous year shall be adjusted against that amount, and the result shall be treated as the member's share in the income of the association or body.

(*2*) The share of a member in the income or loss of the association or body, as computed under sub-section (*1*), shall, for the purposes of assessment, be apportioned under the various heads of income in the same manner in which the income or loss of the association or body has been determined under each head of income.

(*3*) Any interest paid by a member on capital borrowed by him for the purposes of investment in the association or body shall, in computing his share chargeable under the head "Profits and gains of business or profession" in respect of his share in the income of the association or body, be deducted from his share.

Explanation.—In this section, "paid" has the same meaning as is assigned to it in clause (*2*) of section 43.]

68. Cash credits.—Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the *explanation* offered by him is not, in the opinion of the [1][Assessing Officer], satisfactory, the sum so credited may be charged to income-tax as the income of theassessee of that previous year:

[2]**[**Provided that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company shall be deemed to be not satisfactory, unless—

(*a*) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and

(*b*) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (*23FB*)of section 10.]

69. Unexplained investments.—Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the [1][Assessing Officer], satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

[3][**69A. Unexplained money, etc.**—Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and

1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 23 of 2012, s. 22 (w.e.f. 1-4-2013).
3. Ins. by Act 5 of 1964, s. 16 (w.e.f. 1-4-1964).

the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the [1][Assessing Officer], satisfactory, the money and the value of the bullion,jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.]

[2][**69B. Amount of investments, etc., not fully disclosed in books of account.**—Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the [1][Assessing Officer] finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the [1][Assessing Officer], satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.]

[3]**[69C. Unexplained expenditure, etc.** —Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the [1][Assessing Officer], satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:

[4][Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.]

69D. Amount borrowed or repaid on *hundi*.—Where any amount is borrowed on a *hundi* from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be:

Provided that, if in any case any amount borrowed on a *hundi* has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount.

Explanation.—For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.]

Set off, or carry forward and set off

[5][**70. Set off of loss from one source against income from another source under the same head of income.**—(*1*) Save as otherwise provided in this Act, where the net result for any assessment year in respect of any source falling under any head of income, other than "Capital gains", is a loss, the assessee shall be entitled to have the amount of such loss set off against his income from any other source under the same head.

1. Subs. by Act 4 of 1988, s. 2, for "Income-tax Officer" (w.e.f. 1-4-1988).
2. Ins. by Act 10 of 1965, s. 19 (w.e.f. 1-4-1965).
3. Ins. by Act 41 of 1975, s. 14 (w.e.f. 1-4-1976).
4. Ins. by Act 21 of 1998, s. 25 (w.e.f. 1-4-1999).
5. Subs. by Act 20 of 2002, s. 27, for section 70 (w.e.f. 1-4-2003).

(*2*) Where the result of the computation made for any assessment year under sections 48 to 55in respect of any short-term capital asset is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset.

(*3*) Where the result of the computation made for any assessment year under sections 48 to 55 in respect of any capital asset (other than a short-term capital asset) is a loss, the assessee shall be entitled to have the amount of such loss set off against the income, if any, as arrived at under a similar computation made for the assessment year in respect of any other capital asset not being a short-term capital asset.]

[1][**71.Set off of loss from one head against income from another.**—(*1*) Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.

(*2*) Where in respect of any assessment year, the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has income assessable under the head "Capital gains", such loss may, subject to the provisions of this Chapter, be set off against his income, if any, assessable for that assessment year under any head of income including the head "Capital gains" (whether relating to short-term capital assets or any other capital assets).

[2][(*2A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where in respect of any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss and the assessee has income assessable under the head "Salaries", the assessee shall not be entitled to have such loss set off against such income.]

(*3*) Where in respect of any assessment year, the net result of the computation under the head "Capital gains" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to have such loss set off against income under the other head.]

[3][(*3A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.]

[4][(*4*) Where the net result of the computation under the head "Income from house property" is a loss, in respect of the assessment years commencing on the 1st day of April, 1995 and the 1st day of April, 1996, such loss shall be first set off under sub-sections (*1*) and (*2*) and thereafter the loss referred to in section 71A shall be set off in the relevant assessment year in accordance with the provisions of that section.]

[5][**71A.Transitional provisions for set off of loss under the head "Income from house property".**—Where in respect of the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994, the net result of the computation under the head "Income from house property" is a loss, such loss in so far as it relates to interest on borrowed capital referred to

1. Subs. by Act 49 of 1991, s. 23, for section 71 (w.e.f. 1-4-1992).
2. Ins. by Act 23 of 2004, s. 14 (w.e.f. 1-4-2005).
3. Ins.by Act 7 of 2017, s. 31 (w.e.f. 1-4-2018).
4. Subs. by Act 32 of 1994, s. 21, for sub-section (*4*) (w.e.f. 1-4-1995).
5. Subs. by s. 22, *ibid*., for section 71A (w.e.f. 1-4-1995).

in clause (*vi*) of sub-section (*1*) of section 24 and to the extent it has not been set off shall be carried forward and set off in the assessment year commencing on the 1st day of April, 1995, and the balance, if any, in the assessment year commencing on the 1st day of April, 1996, against the income under any head.]

[1][**71B.Carry forward and set off of loss from house property.**—Where for any assessment year the net result of computation under the head "Income from house property" is a loss to the assessee and such loss cannot be or is not wholly set off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(*i*) be set off against the income from house property assessable for that assessment year; and

(*ii*) the loss, if any, which has not been set off wholly, the amount of loss not so set off,

shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.]

72.Carry forward and set off of business losses.—[2][(*1*) Where for any assessment year, the net result of the computation under the head "Profits and gains of business or profession" is a loss to the assessee, not being a loss sustained in a speculation business, and such loss cannot be or is not wholly set off against income under any head of income in accordance with the provisions of section 71, so much of the loss as has not been so set off or, [3]*** where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and—

(*i*) it shall be set off against the profits and gains, if any, of any business or profession carried on by him and assessable for that assessment year;

[4]* * * * *

(*ii*) if the loss cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on:]

[5][Provided that where the whole or any part of such loss is sustained in any such business as is referred to in section 33B which is discontinued in the circumstances specified in that section, and, thereafter, at any time before the expiry of the period of three years referred to in that section, such business is re-established, reconstructed or revived by the assessee, so much of the loss as is attributable to such business shall be carried forward to the assessment year relevant to the previous year in which the business is so re-established, reconstructed or revived, and—

(*a*) it shall be set off against the profits and gains, if any, of that business or any other business carried on by him and assessable for that assessment year; and

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1. Ins. by Act 21 of 1998, s. 26 (w.e.f. 1-4-1999).
2. Subs. by Act 20 of 1962, s. 6, for sub-section (*1*) (w.e.f. 1-4-1962).
3. The words, brackets and figure 'where the assesse has income only under the head "capital gains" relating to capital assets other than short-term capital assets and has exercised the option under sub-section (*2*) of that section or' omitted by Act 11 of 1987, s. 30 (w.e.f. 1-4-1988).
4. The proviso omitted by Act 27 of 1999, s. 37 (w.e.f. 1-4-2000).
5. Added by Act 20 of 1967, s. 22 (w.e.f. 1-4-1967).

(*b*) if the loss cannot be wholly so set off, the amount of loss not so set off shall, in case the business so re-established, reconstructed or revived continues to be carried on by the assessee, be carried forward to the following assessment year and so on for seven assessment years immediately succeeding.]

(*2*) Where any allowance or part thereof is, under sub-section (*2*) of section 32 or sub-section (*4*) of section 35, to be carried forward, effect shall first be given to the provisions of this section.

(*3*) No loss [1][(other than the loss referred to in the proviso to sub-section (*1*) of this section)] shall be carried forward under this section for more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.

[2]**[72A. Provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.**—[3][(*1*) Where there has been an amalgamation of—

(*a*) a company owning an industrial undertaking or a ship or a hotel with another company; or

(*b*) a banking company referred to in clause (*c*) of section 5 of the Banking Regulation Act, 1949 (10 of 1949) with a specified bank; or

(*c*) one or more public sector company or companies engaged in the business of operation of aircraft with one or more public sector company or companies engaged in similar business,

then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.]

[4][(*2*) Notwithstanding anything contained in sub-section (*1*), the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless—

(*a*) the amalgamating company—

(*i*) has been engaged in the business, in which the accumulated loss occurred or depreciation remains unabsorbed, for three or more years;

(*ii*) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;

(*b*) the amalgamated company—

(*i*) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

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1. Ins. by Act 20 of 1967, s. 22 (w.e.f. 1-4-1967).
2. Subs. by Act 27 of 1999, s. 38, for section 72A (w.e.f. 1-4-2000).
3. Subs. by Act 22 of 2007, s. 20, for sub-section (*1*) (w.e.f. 1-4-2008).
4. Subs. by Act 32 of 2003, s. 33, for sub-section (2) (w.e.f. 1-4-2004).