

<sup>1</sup>[Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:]

<sup>2</sup><sup>3</sup>[Provided also] that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.]

*Explanation 1.*—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

*Explanation 2.*—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax;

(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

<sup>1</sup>[(ba) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E;]

(c) where an assessment has been made, but—

(i) income chargeable to tax has been underassessed; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act ; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed;]

<sup>4</sup>[(ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under sub-section (2) of section 133C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;]

<sup>1</sup>[(d) where a person is found to have any asset (including financial interest in any entity) located outside India.]

<sup>5</sup>[*Explanation 3.*—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148.]

<sup>1</sup>[*Explanation 4.*—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended by the Finance Act, 2012 (23 of 2012), shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.]

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1. Ins. by Act 23 of 2012, s. 64 (w.e.f. 1-7-2012).

2. Ins. by Act 18 of 2008, s. 33 (w.e.f. 1-4-2008).

3. Subs. by Act 23 of 2012, s. 64, for “Provided further” (w.e.f. 1-7-2012).

4. Ins. by Act 28 of 2016, s. 69 (w.e.f. 1-6-2016).

5. Ins. by 33 of 2009, s. 58 (w.e.f. 1-4-1989).

**148. Issue of notice where income has escaped assessment.**—<sup>1</sup>[(I)] Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, <sup>2\*\*\*</sup> as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:]

<sup>3</sup>[Provided that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to sub-section (2) of section 143, as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice:

Provided further that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (ii) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (ii) of sub-section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice.]

<sup>4</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after the 1st day of October, 2005 in response to a notice served under this section.]

<sup>5</sup>[(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.]

**149. Time limit for notice.**—<sup>6</sup>[(I) No notice under section 148 shall be issued for the relevant assessment year,—

<sup>7</sup>[(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) <sup>8</sup>[or clause (c)];

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;]

<sup>8</sup>[(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.]

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1. Section 54 renumbered as sub-section (I) thereof by Act 3 of 1989, s. 24 (w.e.f. 1-4-1989).

2. The words “not being less than thirty days,” omitted by Act 33 of 1996, s. 43 (w.e.f. 1-4-1989).

3. Ins. by Act 21 of 2006, s. 36 (w.e.f. 1-10-1991).

4. Ins. by s. 36, *ibid* (w.e.f. 1-10-2005).

5. Ins. by Act 3 of 1989, s. 24 (w.e.f. 1-4-1989).

6. Subs. by Act 4 of 1988, s. 55, for sub-section (I) (w.e.f. 1-4-1989).

7. Subs. by Act 14 of 2001, s. 63, for clauses (a) and (b) (w.e.f. 1-6-2001).

8. Ins. by Act 23 of 2012, s. 65 (w.e.f. 1-7-2012).

*Explanation.*—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of *Explanation 2* of section 147 shall apply as they apply for the purposes of that section.]

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of <sup>1</sup>[six years] from the end of the relevant assessment year.

<sup>2</sup>[*Explanation.*—For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.]

**150. Provision for cases where assessment is in pursuance of an order on appeal, etc.**—(1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence of or to give effect to any finding or direction contained in an order passed by any authority in any proceeding under this Act by way of appeal, reference or revision <sup>3</sup>[or by a Court in any proceeding under any other law].

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken.

<sup>4</sup>[**151. Sanction for issue of notice.**—(1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

(2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.

(3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.]

**152. Other provisions.**—(1) In an assessment, reassessment or recomputation made under section 147, the tax shall be chargeable at the rate or rates at which it would have been charged had the income not escaped assessment.

(2) Where an assessment is reopened <sup>5</sup>[under section 147], the assessee may, if he has not impugned any part of the original assessment order for that year either under sections 246 to 248 or under section 264, claim that the proceedings under section 147 shall be dropped on his showing that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made:

Provided that in so doing he shall not be entitled to reopen matters concluded by an order under section 154, 155, 260, 262, or 263.

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1. Subs. by Act 23 of 2012, s. 65, for “two years” (w.e.f. 1-7-2012).

2. Ins. by s. 65, *ibid.* (w.e.f. 1-7-2012).

3. Added by Act 4 of 1988, s. 56 (w.e.f. 1-4-1989).

4. Subs. by Act 20 of 2015, s. 36, for section 151 (w.e.f. 1-6-2015).

5. Subs. by Act 4 of 1988, s. 58, for “in circumstances falling under clause (b) of section 147” (w.e.f. 1-4-1989).

<sup>1</sup>**[153. Time limit for completion of assessment, reassessment and recomputation.—**(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable:

<sup>2</sup>[Provided that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words “twenty-one months”, the words “eighteen months” had been substituted:

Provided further that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words “twenty-one months”, the words “twelve months” had been substituted.]

(2) No order of assessment, reassessment or recomputation shall be made under section 147 after the expiry of nine months from the end of the financial year in which the notice under section 148 was served:

<sup>2</sup>[Provided that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words “nine months”, the words “twelve months” had been substituted.]

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment, may be made at any time before the expiry of nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:

<sup>2</sup>[Provided that where the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words “nine months”, the words “twelve months” had been substituted.]

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (2) and (3) shall be extended by twelve months.

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment, such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner:

Provided that where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer, if satisfied, may allow an additional period of six months to give effect to the order:

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1. Subs. by Act 28 of 2016, s. 70, for section 153 (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 59 (w.e.f. 1-4-2017).

<sup>1</sup>[Provided further that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3).]

(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3) and (5), be completed—

(i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or

(ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

(7) Where effect to any order, finding or direction referred to in sub-section (5) or sub-section (6) is to be given by the Assessing Officer, within the time specified in the said sub-sections, and such order has been received or passed, as the case may be, by the income-tax authority specified therein before the 1st day of June, 2016, the Assessing Officer shall give effect to such order, finding or direction, or assess, reassess or recompute the income of the assessee, on or before the 31st day of March, 2017.

(8) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A or sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within a period of one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.

(9) The provisions of this section as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016:

<sup>1</sup>[Provided that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation 1*, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).]

*Explanation 1.*—For the purposes of this section, in computing the period of limitation—

(i) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

(ii) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(iii) the period commencing from the date on which the Assessing Officer intimates the Central Government or the prescribed authority, the contravention of the provisions of clause (21) or clause (22B) or clause (23A) or clause (23B) or sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, under clause (i) of the proviso to sub-section (3) of section 143 and ending with the date on which the copy of the order withdrawing the approval or rescinding the notification, as the case may be, under those clauses is received by the Assessing Officer; or

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1. Ins. by Act 7 of 2017, s. 59 (w.e.f. 1-6-2016).

(iv) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or

(b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(v) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(vi) the period (not exceeding sixty days) commencing from the date on which the Assessing Officer received the declaration under sub-section (1) of section 158A and ending with the date on which the order under sub-section (3) of that section is made by him; or

(vii) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

(viii) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(ix) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or

(x) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(xi) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-sections (1), (2), (3) and sub-section (8) available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149,<sup>1</sup>\*\*\* 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly.

*Explanation 2.*—For the purposes of this section, where, by an order referred to in clause (i) of sub-section (6),—

(a) any income is excluded from the total income of the assessee for an assessment year, then, an assessment of such income for another assessment year shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order; or

(b) any income is excluded from the total income of one person and held to be the income of another person, then, an assessment of such income on such other person shall, for the purposes of section 150 and this section, be deemed to be one made in consequence of or to give effect to any finding or direction contained in the said order, if such other person was given an opportunity of being heard before the said order was passed.]

<sup>2</sup>[**153A. Assessment in case of search or requisition.**—<sup>3</sup>[(1)] Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years<sup>4</sup>[and for the relevant assessment year or years] referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made<sup>4</sup>[and for the relevant assessment year or years]:

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years<sup>4</sup>[and for the relevant assessment year or years]:

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1. The figures and letter “153B,” omitted by Act 7 of 2017, s. 59 (w.e.f. 1-4-2017).

2. Ins. by Act 32 of 2003, s. 65 (w.e.f. 1-6-2003).

3. Section 153A renumbered as sub-section (1) thereof by Act 18 of 2008, s. 36 (w.e.f. 1-6-2003).

4. Ins. by Act 7 of 2017, s. 60 (w.e.f. 1-4-2017).

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years <sup>1</sup>[and for the relevant assessment year or years] <sup>2</sup>[referred to in this sub-section] pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:

<sup>3</sup>[Provided also that the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made <sup>1</sup>[and for the relevant assessment year or years]:

<sup>1</sup>[Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

(a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

(b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and

(c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

*Explanation 1.*—For the purposes of this sub-section, the expression “relevant assessment year” shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

*Explanation 2.*—For the purposes of the fourth proviso, “asset” shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.]

<sup>4</sup>[(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the <sup>5</sup>[Principal Commissioner or Commissioner]:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.]

*Explanation.*—For the removal of doubts, it is hereby declared that,—

(i) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(ii) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

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1. Ins. by Act 7 of 2017, s. 60 (w.e.f. 1-4-2017).

2. Subs. by Act 18 of 2008, s. 36, for “referred to in this section” (w.e.f. 1-6-2003).

3. Ins. by Act 23 of 2012, s. 67 (w.e.f. 1-7-2012).

4. Ins. by Act 18 of 2008, s. 36 (w.e.f. 1-6-2003).

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



<sup>1</sup>**[153B. Time limit for completion of assessment under section 153A.—**(I) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

(a) in respect of each assessment year falling within six assessment years <sup>2</sup>[and for the relevant assessment year or years] referred to in clause (b) of sub-section (I) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

Provided that in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

<sup>3</sup>[Provided further that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2018,—

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words “twenty-one months”, the words “eighteen months” had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words “twenty-one months”, the words “twelve months” had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (I) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:

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1. Subs. by Act 28 of 2016, s. 71, for section 153B (w.e.f. 1-6-2016).

2. Ins. by Act 7 of 2017, s. 61 (w.e.f. 1-4-2017).

3. Subs by s. 61, *ibid.*, for the second and third provisos (w.e.f. 1-4-2017).

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months:]

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months.]

(2) The authorisation referred to in clause (a) and clause (b) of sub-section (1) shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued; or

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

(3) The provisions of this section, as they stood immediately before the commencement of the Finance Act, 2016, shall apply to and in relation to any order of assessment or reassessment made before the 1st day of June, 2016:

<sup>1</sup>[Provided that where a notice under section 153A or section 153C has been issued prior to the 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the *Explanation*, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 (28 of 2016).]

*Explanation.*—In computing the period of limitation under this section—

(i) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(ii) the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and—

(a) ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or

(b) where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Principal Commissioner or Commissioner; or

(iii) the period commencing from the date on which the Assessing Officer makes a reference to the Valuation Officer under sub-section (1) of section 142A and ending with the date on which the report of the Valuation Officer is received by the Assessing Officer; or

(iv) the time taken in re-opening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129; or

(v) in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application is made before the Settlement Commission under section 245C and ending with the date on which the order under sub-section (1) of section 245D is received by the Principal Commissioner or Commissioner under sub-section (2) of that section; or

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<sup>1</sup> Ins. by Act 7 of 2017, s. 61 (w.e.f. 1-6-2016).

(vi) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the order rejecting the application is received by the Principal Commissioner or Commissioner under sub-section (3) of section 245R; or

(vii) the period commencing from the date on which an application is made before the Authority for Advance Rulings under sub-section (1) of section 245Q and ending with the date on which the advance ruling pronounced by it is received by the Principal Commissioner or Commissioner under sub-section (7) of section 245R; or

(viii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A, till the date of the receipt of the order setting aside the order of such annulment, by the Principal Commissioner or Commissioner; or

(ix) the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Principal Commissioner or Commissioner or a period of one year, whichever is less; or

(x) the period commencing from the date on which a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner or Commissioner under sub-section (1) of section 144BA and ending on the date on which a direction under sub-section (3) or sub-section (6) or an order under sub-section (5) of the said section is received by the Assessing Officer,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause (a) or clause (b) of this sub-section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:

Provided further that where the period available to the Transfer Pricing Officer is extended to sixty days in accordance with the proviso to sub-section (3A) of section 92CA and the period of limitation available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly:]

<sup>1</sup>[Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.]

**153C. Assessment of income of any other person.**—<sup>2</sup>[(1)] <sup>3</sup>[Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—

(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or

(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,

a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such

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1. Ins. by Act 7 of 2017, s. 61 (w.e.f. 1-4-2017).

2. Section 153C renumbered as sub-section (1) thereof by Act 18 of 2005, s. 47 (w.e.f. 1-6-2003).

3. Subs. by Act 20 of 2015, s. 37, for certain words and figures (w.e.f. 1-6-2015).

other person]<sup>1</sup>[and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if, that Assessing Officer is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person<sup>2</sup>[for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and] for the relevant assessment year or years referred to in sub-section (1) of section 153A];]

<sup>3</sup>[Provided that in case of such other person, the reference to the date of initiation of the search under section 132 or making of requisition under section 132A in the second proviso to <sup>4</sup>[sub-section (1) of section 153A] shall be construed as reference to the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person:]

<sup>5</sup>[Provided further that the Central Government may by rules made by it and published in the Official Gazette, specify the class or classes of cases in respect of such other person, in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made <sup>2</sup>[and for the relevant assessment year or years as referred to in sub-section (1) of section 153A] except in cases where any assessment or reassessment has abated.]

<sup>3</sup>[(2) Where books of account or documents or assets seized or requisitioned as referred to in sub-section (1) has or have been received by the Assessing Officer having jurisdiction over such other person after the due date for furnishing the return of income for the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A and in respect of such assessment year—

(a) no return of income has been furnished by such other person and no notice under sub-section (1) of section 142 has been issued to him, or

(b) a return of income has been furnished by such other person but no notice under sub-section (2) of section 143 has been served and limitation of serving the notice under sub-section (2) of section 143 has expired, or

(c) assessment or reassessment, if any, has been made,

before the date of receiving the books of account or documents or assets seized or requisitioned by the Assessing Officer having jurisdiction over such other person, such Assessing Officer shall issue the notice and assess or reassess total income of such other person of such assessment year in the manner provided in section 153A.]

<sup>6</sup>[**153D. Prior approval necessary for assessment in cases of search or requisition.**—No order of assessment or reassessment shall be passed by an Assessing Officer below the rank of Joint Commissioner in respect of each assessment year referred to in clause (b) of <sup>7</sup>[sub-section (1) of section 153A] or the assessment year referred to in clause (b) of sub-section (1) of section 153B, except with the prior approval of the Joint Commissioner:]

<sup>8</sup>[Provided that nothing contained in this section shall apply where the assessment or reassessment order, as the case may be, is required to be passed by the Assessing Officer with the prior approval of the <sup>9</sup>[Principal Commissioner or Commissioner] under sub-section (12) of section 144BA.]

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1. Subs. by Act 25 of 2014, s. 55, for “and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A” (w.e.f. 1-10-2014).

2. Ins. by Act 7 of 2017, s. 62 (w.e.f. 1-4-2017).

3. Ins. by Act 18 of 2005, s. 47 (w.e.f. 1-6-2003).

4. Subs. by 18 of 2008, s. 38, for “section 153A” (w.e.f. 1-6-2003).

5. Ins. by Act 23 of 2012, s. 69 (w.e.f. 1-7-2012).

6. Ins. by Act 22 of 2007, s. 50 (w.e.f. 1-6-2007).

7. Subs. by Act 18 of 2008, s. 39, for “section 153A” (w.e.f. 1-6-2007).

8. Ins. by Act 17 of 2013, s. 43 (w.e.f. 1-4-2016).

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

**154. Rectification of mistake.**—<sup>1</sup>[(*I*) With a view to rectifying any mistake apparent from the record an income-tax authority referred to in section 116 may,—

(a) amend any order passed by it under the provisions of this Act;

<sup>2</sup>[(b) amend any intimation or deemed intimation under sub-section (*I*) of section 143;]]

<sup>3</sup>[(c) amend any intimation under sub-section (*I*) of section 200A;]

<sup>4</sup>[(d) amend any intimation under sub-section (*I*) of section 206CB.]

<sup>5</sup>[(*IA*) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (*I*), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.]

(2) Subject to the other provisions of this section, the authority concerned—

(a) may make an amendment under sub-section (*I*) of its own motion, and

(b) shall make such amendment for rectifying any such mistake which has been brought to its notice <sup>6</sup>[by the assessee or by the deductor,] <sup>4</sup>[or by the collector], and where the authority concerned is the <sup>7</sup>[<sup>8\*\*\*</sup> Commissioner (Appeals)], by the <sup>9</sup>[Assessing Officer] also.

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(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of <sup>11</sup>[the assessee or the deductor] <sup>4</sup>[or the collector], shall not be made under this section unless the authority concerned has given notice to <sup>11</sup>[the assessee or the deductor] <sup>4</sup>[or the collector] of its intention so to do and has allowed <sup>11</sup>[the assessee or the deductor] <sup>4</sup>[or the collector] a reasonable opportunity of being heard.

(4) Where an amendment is made under this section, an order shall be passed in writing by the income-tax authority concerned.

<sup>12</sup>[(5) Where any such amendment has the effect of reducing the assessment or otherwise reducing the liability of the assessee or the deductor <sup>4</sup>[or the collector], the Assessing Officer shall make any refund which may be due to such assessee or the deductor <sup>4</sup>[or the collector].]

(6) Where any such amendment has the effect of enhancing the assessment or reducing a refund <sup>13</sup>[already made or otherwise increasing the liability of the assessee or the deductor <sup>4</sup>[or the collector], the Assessing Officer shall serve on the assessee or the deductor <sup>4</sup>[or the collector], as the case may be] a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 156 and the provisions of this Act shall apply accordingly.

(7) Save as otherwise provided in section 155 or sub-section (4) of section 186 no amendment under this section shall be made after the expiry of four years <sup>14</sup>[from the end of the financial year in which the order sought to be amended was passed].

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1. Subs. by Act 4 of 1988, s. 60, for sub-section (*I*) (w.e.f. 1-4-1989).

2. Subs. by Act 27 of 1999, s. 65, for clause (*b*) (w.e.f. 1-6-1999).

3. Ins. by Act 23 of 2012, s. 70 (w.e.f. 1-7-2012).

4. Ins. by Act 20 of 2015, s. 38 (w.e.f. 1-6-2015).

5. Ins. by Act 31 of 1964, s. 7 (w.e.f. 6-10-1964).

6. Subs. by Act 23 of 2012, s. 70, for “by the assessee” (w.e.f. 1-7-2012).

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

8. The words “Deputy Commissioner (Appeals) or the” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Earlier the quoted words substituted by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

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

10. Omitted by Act 32 of 1994, s. 38 (w.e.f. 1-6-1994). Earlier the proviso inserted by Act 18 of 1992, s. 61 (w.e.f. 14-5-1992).

11. Subs. by Act 23 of 2012, s. 70, for “the assessee” (w.e.f. 1-7-2012).

12. Subs. by s. 70, *ibid.*, for sub-section (5) (w.e.f. 1-7-2012).

13. Subs. by s. 70, *ibid.*, for “Assessing Officer shall serve on the assessee” (w.e.f. 1-7-2012).

14. Subs. by Act 67 of 1984, s. 29, for “from the date of the order sought to be amended” (w.e.f. 1-10-1984).

<sup>1</sup>[(8) Without prejudice to the provisions of sub-section (7), where an application for amendment under this section is made <sup>2</sup>[by the assessee or by the deductor] <sup>3</sup>[or by the collector] on or after the 1st day of June, 2001 to an income-tax authority referred to in sub-section (1), the authority shall pass an order, within a period of six months from the end of the month in which the application is received by it,—

(a) making the amendment; or

(b) refusing to allow the claim.]

**155. Other amendments.**—(1) <sup>4</sup>[Where, in respect of any completed assessment of a partner in a firm for the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year,] it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, <sup>5</sup>[or]

<sup>5</sup>[(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,]

that the share of the partner in the income of the firm has not been included in the assessment of the partner or, if included, is not correct, the <sup>6</sup>[Assessing Officer] may amend the order of assessment of the partner with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned <sup>7</sup>[from the end of the financial year in which the final order was passed] in the case of the firm.

<sup>8</sup>[(1A) Where in respect of any completed assessment of a firm it is found—

(a) on the assessment or reassessment of the firm, or

(b) on any reduction or enhancement made in the income of the firm under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264, or

(c) on any order passed under sub-section (4) of section 245D on the application made by the firm,

that any remuneration to any partner is not deductible under clause (b) of section 40, the Assessing Officer may amend the order of assessment of the partner with a view to adjusting the income of the partner to the extent of the amount not so deductible ; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the final order was passed in the case of the firm.]

(2) Where in respect of any completed assessment of a member of an association of persons or of a body of individuals it is found—

(a) on the assessment or reassessment of the association or body, or

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1. Ins. by Act 14 of 2001, s. 65 (w.e.f. 1-6-2001).

2. Subs. by Act 23 of 2012, s. 70, for “by the assessee” (w.e.f. 1-7-2012).

3. Ins. by Act 20 of 2015, s. 38 (w.e.f. 1-6-2015).

4. Subs. by Act 18 of 1992, s. 62, for “Where in respect of any completed assessment of a partner in a firm” (w.e.f. 1-4-1993). Earlier the quoted words were restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989) and substituted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1989).

5. Ins. by Act 67 of 1984, s. 30 (w.e.f. 1-10-1984).

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

7. Subs. by Act 67 of 1984, s. 30, for “from the date of the final order passed” (w.e.f. 1-10-1984).

8. Ins. by Act 18 of 1992, s. 62 (w.e.f. 1-4-1993).

(b) on any reduction or enhancement made in the income of the association or body under this section, section 154, section 250, section 254, section 260, section 262, section 263 or section 264,<sup>1</sup>[or]

<sup>1</sup>[(c) on any order passed under sub-section (4) of section 245D on the application made by the association or body,]

that the share of the member in the income of the association or body, as the case may be, has not been included in the assessment of the member or, if included, is not correct, the <sup>2</sup>[Assessing Officer] may amend the order of assessment of the member with a view to the inclusion of the share in the assessment or the correction thereof, as the case may be; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned <sup>3</sup>[from the end of the financial year in which the final order was passed] in the case of the association or body, as the case may be.

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(4) Where as a result of proceedings initiated under section 147, a loss or depreciation has been recomputed and in consequence thereof it is necessary to recompute the total income of the assessee for the succeeding year or years to which the loss or depreciation allowance has been carried forward and set off under the provisions of sub-section (1) of section 72, or sub-section (2) of section 73, or <sup>5</sup>[sub-section (1) or sub-section (3) of section 74], <sup>6</sup>[or sub-section (3) of section 74A], the <sup>2</sup>[Assessing Officer] may proceed to recompute the total income in respect of such year or years and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned <sup>7</sup>[from the end of the financial year in which the order was passed] under section 147.

<sup>8</sup>[(4A) Where an allowance by way of investment allowance has been made wholly or partly to an assessee in respect of a ship or an aircraft or any machinery or plant in any assessment year under section 32A and subsequently—

(a) at any time before the expiry of eight years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the ship, aircraft, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (6) or sub-section (7) of section 32A; or

(b) at any time before the expiry of ten years from the end of the previous year in which the ship or aircraft was acquired or the machinery or plant was installed, the assessee does not utilise the amount credited to the reserve account under sub-section (4) of section 32A for the purposes of acquiring a new ship or a new aircraft or new machinery or plant [other than machinery or plant of the nature referred to in clauses (a), (b) and (d) of <sup>9</sup>[the second proviso] to sub-section (1) of section 32A] for the purposes of the business of the undertaking; or

(c) at any time before the expiry of ten years referred to in clause (b) the assessee utilises the amount credited to the reserve account under sub-section (4) of section 32A—

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

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

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1. Ins. by Act 67 of 1984, s. 30 (w.e.f. 1-10-1984).

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

3. Subs. by Act 67 of 1984, s. 30, for “from the date of the final order passed” (w.e.f. 1-10-1984).

4. Sub-section (3) omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1989).

5. Subs. by Act 11 of 1987, s. 74, for “sub-section (1) of section 74” (w.e.f. 1-4-1988).

6. Ins. by Act 20 of 1974, s. 13 (w.e.f. 1-4-1975).

7. Subs. by Act 67 of 1984, s. 30, for “from the date of the order passed” (w.e.f. 1-10-1984).

8. Ins. by Act 66 of 1976, s. 21 (w.e.f. 1-4-1976).

9. Subs. by Act 3 of 1989, s. 25, for “the proviso” (w.e.f. 1-4-1989).

(iii) for any other purpose which is not a purpose of the business of the undertaking,

the investment allowance originally allowed shall be deemed to have been wrongly allowed, and the <sup>1</sup>[Assessing Officer] may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned,—

(i) in a case referred to in clause (a), from the end of the previous year in which the sale or other transfer took place;

(ii) in a case referred to in clause (b), from the end of the ten years referred to in that clause;

(iii) in a case referred to in clause (c), from the end of the previous year in which the amount was utilised.

*Explanation.*—For the purposes of clause (b), “new ship” or “new aircraft” or “new machinery or plant” shall have the same meanings as in the <sup>2</sup>[*Explanation* below sub-section (2) of section 32A].]

(5) Where an allowance by way of development rebate has been made wholly or partly to an assessee in respect of a ship, machinery or plant installed after the 31st day of December, 1957, in any assessment year under section 33 or under the corresponding provisions of the Indian Income-tax Act, 1922 (11 of 1922), and subsequently—

(i) at any time before the expiry of eight years from the end of the previous year in which the ship was acquired or the machinery or plant was installed, the ship, machinery or plant is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (3) or sub-section (4) of section 33; or

(ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 34, the assessee utilises the amount credited to the reserve account under clause (a) of that sub-section—

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

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

(c) for any other purpose which is not a purpose of the business of the undertaking,

the development rebate originally allowed shall be deemed to have been wrongly allowed, and the <sup>1</sup>[Assessing Officer] may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.

<sup>3</sup>[(5A) Where an allowance by way of development allowance has been made wholly or partly to an assessee in respect of the cost of planting in any area in any assessment year under section 33A and subsequently—

(i) at any time before the expiry of eight years from the end of the previous year in which such allowance was made, the land is sold or otherwise transferred by the assessee to any person other than the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956), or in connection with any amalgamation or succession referred to in sub-section (5) or sub-section (6) of section 33A; or

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

2. Subs. by Act 46 of 1986, s. 32, for “*Explanation* to clause (vi) of sub-section (1) of section 32” (w.e.f. 1-4-1988).

3. Ins. by Act 10 of 1965, s. 39 (w.e.f. 1-4-1965).



(ii) at any time before the expiry of the eight years referred to in sub-section (3) of section 33A, the assessee utilises the amount credited to the reserve account under clause (ii) of that sub-section—

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

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

(c) for any other purpose which is not a purpose of the business of the undertaking;

the development allowance originally allowed shall be deemed to have been wrongly allowed, and the <sup>1</sup>[Assessing Officer] may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the sale or transfer took place or the money was so utilised.]

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

<sup>3</sup>[(5B) Where any deduction in respect of any expenditure on scientific research has been made in any assessment year under sub-section (2B) of section 35 and the assessee fails to furnish a certificate of completion of the programme obtained from the prescribed authority within one year of the period allowed for its completion by such authority, the deduction originally made in excess of the expenditure actually incurred shall be deemed to have been wrongly made, and the <sup>1</sup>[Assessing Officer] may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the period allowed for the completion of the programme by the prescribed authority expired.]

<sup>4</sup>\* \* \* \*

(7) Where as a result of any proceeding under this Act, in the assessment for any year of a company in whose case an order under section 104 has been made for that year, it is necessary to recompute the distributable income of that company, the <sup>1</sup>[Assessing Officer] may proceed to recompute the distributable income and determine <sup>5</sup>[the tax] payable on the basis of such recomputation and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned <sup>6</sup>[from the end of the financial year in which the final order was passed] in the case of the company in respect of that proceeding.

<sup>7</sup>\* \* \* \*

<sup>8</sup>[(7B) Where in the assessment for any year, the capital gain arising from the transfer of a capital asset is not charged under section 45 by virtue of the provisions of clause (iv) or, as the case may be, clause (v) of section 47, but is deemed under section 47A to be income chargeable under the head "Capital gains" of the previous year in which the transfer took place by reason of—

(i) such capital asset being converted by the transferee company into, or being 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 ceasing to hold the whole of the share capital of the subsidiary company,

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

2. Ins. by Act 25 of 1975, s. 24 (w.e.f. 1-4-1975).

3. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Sub-section (5B) omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1989) which was earlier inserted by Act 44 of 1980, s. 26 (w.e.f. 1-4-1981).

4. Sub-section (6) omitted by Act 4 of 1988, s. 61 w.e.f. 1-4-1992.

5. Subs. by Act 10 of 1965, s. 39, for "the super-tax" (w.e.f. 1-4-1965).

6. Subs. by Act 67 of 1984, s. 30, for "from the date of the final order passed" (w.e.f. 1-10-1984).

7. Sub-section (7A) omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1992).

8. Ins. by Act 67 of 1984, s. 30 (w.e.f. 1-4-1985).

at any time before the expiry of the period of eight years from the date of such transfer, the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the transferor company for the relevant previous year and make the necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the capital asset was so converted or treated or in which the parent company or its nominees or, as the case may be, the holding company ceased to hold the whole of the share capital of the subsidiary company.]

<sup>1</sup>\* \* \* \*

<sup>2</sup>[(10A) Where in the assessment for any year, a capital gain arising from the transfer of a <sup>3</sup>[long-term capital asset], is charged to tax and within a period of six months after the date of such transfer, the assessee has made any investment or deposit in any specified asset within the meaning of *Explanation 1* to sub-section (1) of section 54E, the <sup>4</sup>[Assessing Officer] shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax <sup>5</sup>[under the provisions of sub-section (1) of section 54E]; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being <sup>6</sup>[reckoned from the end of the financial year in which the assessment was made].]

<sup>7</sup>\* \* \* \*

<sup>8</sup>[(11) Where in the assessment for any year, a capital gain arising from the transfer of any original asset as is referred to in section 54H is charged to tax and within the period extended under that section the assessee acquires the new asset referred to in that section or, as the case may be, deposits or invests the amount of such capital gain within the period so extended, the Assessing Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under any of the sections referred to in section 54H; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of section 154 being reckoned from the end of the previous year in which the compensation was received by the assessee.

<sup>9</sup>[(11A) Where in the assessment for any year, the deduction under section 10A or section 10B or section 10BA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 10A or section 10B or section 10BA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.]

(12) Where in the assessment for any year commencing before the 1st day of April, 1988, the deduction under section 80-O in respect of any income, being the whole or any part of income by way of royalty, commission, fees or any similar payment as is referred to in that section, has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible

1. Sub-sections (8), (8A), (9), (9A) and (10) omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1992).

2. Ins. by Act 29 of 1977, s. 23 (w.e.f. 1-4-1978).

3. Subs. by Act 11 of 1987, s. 74, for "capital asset, not being a short-term capital asset" (w.e.f. 1-4-1988).

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

5. Subs. by Act 19 of 1978, s. 19, for "under the provisions of section 54E" (w.r.e.f. 1-4-1974).

6. Subs. by Act 67 of 1984, s. 30, for "reckoned from the date of the assessment" (w.e.f. 1-10-1984).

7. Sub-section (10B) and (10C) omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1992).

8. Ins. by Act 49 of 1991, s. 48 (w.e.f. 1-10-1991). Sub-section (11) was omitted by Act 32 of 1985, s. 36 (w.e.f. 1-4-1986) and sub-section (12) was omitted by Act 11 of 1987, s. 44 (w.e.f. 1-4-1988) which were earlier inserted by Act 20 of 1974, s. 13 (w.e.f. 1-4-1974).

9. Ins. by Act 29 of 2006, s. 14 (w.e.f. 13-7-2006).

foreign exchange outside India, has not been brought into India, by or on behalf of the assessee in accordance with any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80-O in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such income is so received in, or brought into, India; so, however, that the period from the 1st day of April, 1988 to the 30th day of September, 1991 shall be excluded in computing the period of four years.]

<sup>1</sup>[(13) Where in the assessment for any year, the deduction under section 80HHB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India, or having been received in convertible foreign exchange outside India, or having been converted into convertible foreign exchange outside India, has not been brought into India, by or on behalf of the assessee with the approval of the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange and subsequently such income or part thereof has been or is received in, or brought into, India in the manner aforesaid, the Assessing Officer shall amend the order of assessment so as to allow deduction under section 80HHB or section 80HHC or section 80HHD or section 80HHE or section 80-O or section 80R or section 80RR or section 80RRA, as the case may be, in respect of such income or part thereof as is so received in, or brought into, India; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which such income is so received in, or brought into, India.

<sup>2</sup>[(14) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, <sup>3</sup>[credit for tax deducted or collected in accordance with the provisions of section 199 or, as the case may be, section 206C] has not been given on the ground that the certificate furnished under <sup>4</sup>[section 203 or section 206C] was not filed with the return and subsequently such certificate is produced before the Assessing Officer within two years from the end of the assessment year in which such income is assessable, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:

Provided that nothing contained in this sub-section shall apply unless the <sup>5</sup>[income from which the tax has been deducted or income on which the tax has been collected] has been disclosed in the return of income filed by the assessee for the relevant assessment year.

<sup>6</sup>[(14A) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, credit for income-tax paid in any country outside India or a specified territory outside India referred to in section 90, section 90A or section 91 has not been given on the ground that the payment of such tax was under dispute, and if subsequently such dispute is settled, and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:

1. Ins. by Act 27 of 1999, s. 66 (w.e.f. 1-6-1999). Sub-section (13) was omitted by Act 4 of 1988, s. 61 (w.e.f. 1-4-1989) which was inserted by Act 25 of 1975, s. 24 (w.e.f. 1-4-1975).

2. Ins. by Act 20 of 2002, s. 62 (w.e.f. 1-6-2002).

3. Subs. by Act 21 of 2006, s. 39, for “credit for tax deducted in accordance with the provisions of section 199” (w.e.f. 1-4-2007).

4. Subs. by s. 39, *ibid.*, for “section 203” (w.e.f. 1-4-2007).

5. Subs. by Act 21 of 2006, s. 39, for “income from which the tax has been deducted” (w.e.f. 1-4-2007).

6. Ins. by Act 7 of 2017, s. 63 (w.e.f. 1-4-2018).

Provided that the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India:]

(15) Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being land or building or both, is computed by taking the full value of the consideration received or accruing as a result of the transfer to be the value adopted or assessed by any authority of a State Government for the purpose of payment of stamp duty in accordance with sub-section (1) of section 50C, and subsequently such value is revised in any appeal or revision or reference referred to in clause (b) of sub-section (2) of that section, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the full value of the consideration to be the value as so revised in such appeal or revision or reference; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order revising the value was passed in that appeal or revision or reference.]

<sup>1</sup>[(16) Where in the assessment for any year, a capital gain arising 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, is computed by taking the compensation or consideration as referred to in clause (a) or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to in clause (b) of sub-section (5) of section 45, to be the full value of consideration deemed to be received or accruing as a result of the transfer of the asset and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration; and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order reducing the compensation was passed by the court, Tribunal or other authority.]

(17) Where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970 (39 of 1970),—

(i) the patent was revoked, or

(ii) the name of the assessee was excluded from the patents register as patentee in respect of that patent,

the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which such order of the Controller referred to in clause (b) of sub-section (1), or the High Court referred to in clause (i) of sub-section (1) of section 2, of the Patents Act, 1970 (39 of 1970), as the case may be, was passed.]

<sup>2</sup>[*Explanation*.—For the purposes of this section,—

(a) “additional compensation” shall have the meaning assigned to it in clause (1) of the *Explanation* to sub-section (2) of section 54;

(b) “additional consideration”, in relation to the transfer of any capital asset the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, means the difference between the amount of consideration for such transfer as enhanced by any court, tribunal or other authority and the amount of consideration which would have been payable if such enhancement had not been made.]

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1. Ins. by Act 32 of 2003, s. 66 (w.e.f. 1-4-2004).

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

**156. Notice of demand.**—When any tax, interest, penalty, fine or any other sum<sup>1\*\*\*</sup> is payable in consequence of any order passed under this Act, the <sup>2</sup>[Assessing Officer] shall serve upon the assessee a notice of demand in the prescribed form specifying the sum so payable:

<sup>3</sup>[Provided that where any sum is determined to be payable by the assessee or<sup>4</sup>[the deductor or the collector under sub-section (1) of section 143 or sub-section (1) of section 200A or sub-section (1) of section 206CB], the intimation under those sub-sections shall be deemed to be a notice of demand for the purposes of this section.]

**157. Intimation of loss.**—When, in the course of the assessment of the total income of any assessee, it is established that a loss has taken place which the assessee is entitled to have carried forward and set off under the provisions of sub-section (1) of section 72, sub-section (2) of section 73, <sup>5</sup>[<sup>6</sup>sub-section (1) or sub-section (3) of section 74] or sub-section (3) of section 74A], the <sup>2</sup>[Assessing Officer] shall notify to the assessee by an order in writing the amount of the loss as computed by him for the purposes of sub-section (1) of section 72, sub-section (2) of section 73, <sup>5</sup>[<sup>6</sup>sub-section (1) or sub-section (3) of section 74] or sub-section (3) of section 74A].

**158. Intimation of assessment of firm.**—<sup>7</sup>[Whenever, in respect of the assessment year commencing on the 1st day of April, 1992, or any earlier assessment year, a registered firm is assessed], or an unregistered firm is assessed under the provisions of clause (b) of section 183, the <sup>2</sup>[Assessing Officer] shall notify to the firm by an order in writing the amount of its total income assessed and the apportionment thereof between the several partners.

#### <sup>8</sup>[CHAPTER XIVA

#### SPECIAL PROVISION FOR AVOIDING REPETITIVE APPEALS

**158A. Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.**—(1) Notwithstanding anything contained in this Act, where an assessee claims that any question of law arising in his case for an assessment year which is pending before the <sup>2</sup>[Assessing Officer] or any appellate authority (such case being hereafter in this section referred to as the relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the High Court on a reference under section 256 or <sup>9</sup>[before the Supreme Court on a reference under section 257 or in appeal under section 260A before the High Court or in appeal under section 261 before the Supreme Court] (such case being hereafter in this section referred to as the other case), he may furnish to the <sup>2</sup>[Assessing Officer] or the appellate authority, as the case may be, a declaration in the prescribed form and verified in the prescribed manner, that if the <sup>2</sup>[Assessing Officer] or the appellate authority, as the case may be, agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case in appeal before any appellate authority or <sup>10</sup>[in appeal before the High Court under section 260A or in appeal before the Supreme Court under section 261].

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1. The brackets, words, figures and letter “(including annuity deposit referred to in Chapter XXII-A)” omitted by Act 13 of 1966, s. 32 and The Third Schedule (w.e.f. 1-4-1967).

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

3. Subs. by Act 23 of 2012, s. 71, for the proviso (w.e.f. 1-7-2012).

4. Subs. by Act 20 of 2015, s. 39, for “by the deductor under sub-section (1) of section 143 or sub-section (1) of section 200A” (w.e.f. 1-6-2015).

5. Subs. by Act 20 of 1974, s. 13, for “or sub-section (1) of section 74” (w.e.f. 1-4-1975).

6. Subs. by Act 11 of 1987, s. 74, for “sub-section (1) of section 74” (w.e.f. 1-4-1988).

7. Subs. by Act 18 of 1992, s. 63, for “Whenever a registered firm is assessed” (w.e.f. 1-4-1993).

8. Ins. by Act 67 of 1984, s. 31 (w.e.f. 1-10-1984).

9. Subs. by Act 20 of 2002, s. 63, for “before the Supreme Court on a reference under section 257 or in appeal under section 261” (w.e.f. 1-6-2002).

10. Subs. by s. 63, *ibid.*, for “for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261” (w.e.f. 1-6-2002).

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall call for a report from the <sup>1</sup>[Assessing Officer] on the correctness of the claim made by the assessee and, where the <sup>1</sup>[Assessing Officer] makes a request to the appellate authority to give him an opportunity of being heard in the matter, the appellate authority shall allow him such opportunity.

(3) The <sup>1</sup>[Assessing Officer] or the appellate authority, as the case may be, may, by order in writing,—

(i) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(ii) reject the claim if he or it is not so satisfied.

(4) Where a claim is admitted under sub-section (3),—

(a) the <sup>1</sup>[Assessing Officer] or, as the case may be, the appellate authority may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or <sup>2</sup>[in appeal before the High Court under section 260A or the Supreme Court under section 261].

(5) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the <sup>1</sup>[Assessing Officer] or the appellate authority, as the case may be, shall, if necessary, amend the order referred to in clause (a) of sub-section (4) conformably to such decision.

(6) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal, reference or revision under this Act.

*Explanation.*— In this section,—

(a) “appellate authority” means the <sup>3</sup>[Deputy Commissioner (Appeals)], the Commissioner (Appeals) or the Appellate Tribunal;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him.]

<sup>4</sup>**[158AA. Procedure when in an appeal by revenue an identical question of law is pending before Supreme Court.**—(1) Notwithstanding anything contained in this Act, where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year (such case being herein referred to as relevant case) is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the High Court in favour of the assessee (such case being herein referred to as the other case), he may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of the order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

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

2. Subs. by Act 20 of 2002, s. 63, for “for a reference before the High Court under section 256 or the Supreme Court under section 257 or in appeal before the Supreme Court under section 261” (w.e.f. 1-6-2002).

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

4. Ins. by Act 20 of 2015, s. 40 (w.e.f. 1-6-2015).

(2) The Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in sub-section (2) or sub-section (2A) of section 253.

(3) Where the order of the Commissioner (Appeals) referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order and save as otherwise provided in this section all other provisions of Part B of Chapter XX shall apply accordingly.

(4) Every appeal under sub-section (3) shall be filed within sixty days from the date on which the order of the Supreme Court in the other case is communicated to the Commissioner or Principal Commissioner.]

## <sup>1</sup>[CHAPTER XIVB

### SPECIAL PROCEDURE FOR ASSESSMENT OF SEARCH CASES

**158B. Definitions.**—In this Chapter, unless the context otherwise requires,—

<sup>2</sup>[(a) “block period” means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was conducted under section 132 or any requisition was made under section 132A and also includes the period up to the date of the commencement of such search or date of such requisition in the previous year in which the said search was conducted or requisition was made:

Provided that where the search is initiated or the requisition is made before the 1st day of June, 2001, the provisions of this clause shall have effect as if for the words “six assessment years”, the words “ten assessment years” had been substituted;]

(b) “undisclosed income” includes any money, bullion, jewellery or other valuable article or thing or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act<sup>3</sup>[, or any expense, deduction or allowance claimed under this Act which is found to be false].

**158BA. Assessment of undisclosed income as a result of search.**—(1) Notwithstanding anything contained in any other provisions of this Act, where after the 30th day of June, 1995 a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of any person, then, the Assessing Officer shall proceed to assess the undisclosed income in accordance with the provisions of this Chapter.

(2) The total undisclosed income relating to the block period shall be charged to tax, at the rate specified in section 113, as income of the block period irrespective of the previous year or years to which such income relates and irrespective of the fact whether regular assessment for any one or more of the relevant assessment years is pending or not.

<sup>4</sup>[*Explanation.*—For the removal of doubts, it is hereby declared that—

(a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;

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1. Ins. by Act 22 of 1995, s. 32 (w.e.f. 1-7-1995).

2. Subs. by 14 of 2001, s. 66, for clause (a) (w.e.f. 1-6-2001).

3. Ins. by Act 20 of 2002, s. 64 (w.e.f. 1-7-1995).

4. Ins. by Act 21 of 1998, s. 44 (w.e.f. 1-7-1995).

(b) the total undisclosed income relating to the block period shall not include the income assessed in any regular assessment as income of such block period;

(c) the income assessed in this Chapter shall not be included in the regular assessment of any previous year included in the block period.]

(3) Where the assessee proves to the satisfaction of the Assessing Officer that any part of income referred to in sub-section (1) relates to an assessment year for which the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 for any previous year has not expired, and such income or the transactions relating to such income are recorded on or before the date of the search or requisition in the books of account or other documents maintained in the normal course relating to such previous years, the said income shall not be included in the block period.

**158BB. Computation of undisclosed income of the block period.**—(1) The undisclosed income of the block period shall be the aggregate of the total income of the previous years falling within the block period computed, <sup>1</sup>[in accordance with the provisions of this Act, on the basis of evidence found as a result of search or requisition of books of account or other documents and such other materials or information as are available with the Assessing Officer and relatable to such evidence], as reduced by the aggregate of the total income, or as the case may be, as increased by the aggregate of the losses of such previous years, determined,—

(a) where assessments under section 143 or section 144 or section 147 <sup>2</sup>[have been concluded prior to the date of commencement of the search or the date of requisition], on the basis of such assessments;

(b) where returns of income have been filed under section 139 <sup>3</sup>[or in response to a notice issued under sub-section (1) of section 142 or section 148] but assessments have not been made till the date of search or requisition, on the basis of the income disclosed in such returns;

<sup>4</sup>[(c) where the due date for filing a return of income has expired, but no return of income has been filed,—

(A) on the basis of entries as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition where such entries result in computation of loss for any previous year falling in the block period; or

(B) on the basis of entries as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition where such income does not exceed the maximum amount not chargeable to tax for any previous year falling in the block period;

(ca) where the due date for filing a return of income has expired, but no return of income has been filed, as *nil*, in cases not falling under clause (c);]

(d) where the previous year has not ended or the date of filing the return of income under sub-section (1) of section 139 has not expired, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of the search or requisition relating to such previous years;

(e) where any order of settlement has been made under sub-section (4) of section 245D, on the basis of such order;

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1. Subs. by Act 20 of 2002, s. 65, for certain words and figure (w.e.f. 1-7-1995).

2. Subs. by s. 65, *ibid.*, for “have been concluded” (w.e.f. 1-7-1995).

3. Subs. by s. 65, *ibid.*, for “or section 147” (w.e.f. 1-7-1995).

4. Subs. by s. 65, *ibid.*, for clause (c) (w.e.f. 1-7-1995).



(f) where an assessment of undisclosed income had been made earlier under clause (c) of section 158BC, on the basis of such assessment.

*Explanation.*—For the purposes of determination of undisclosed income,—

(a) the total income or loss of each previous year shall, for the purpose of aggregation, be taken as the total income or loss computed in accordance with the provisions of <sup>1</sup>[this Act] without giving effect to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32:

<sup>2</sup>[Provided that in computing deductions under Chapter VIA for the purposes of the said aggregation, effect shall be given to set off of brought forward losses under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32;]

<sup>3</sup>[(b) of a firm, returned income and total income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called <sup>4</sup>[to any partner not being a working partner]:

Provided that undisclosed income of the firm so determined shall not be chargeable to tax in the hands of the partners, whether on allocation or on account of enhancement;]

(c) assessment under section 143 includes determination of income under sub-section (1) or sub-section (1B) of section 143.

(2) In computing the undisclosed income of the block period, the provisions of sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to “financial year” in those sections shall be construed as references to the relevant previous year falling in the block period including the previous year ending with the date of search or of the requisition.

(3) The burden of proving to the satisfaction of the Assessing Officer that any undisclosed income had already been disclosed in any return of income filed by the assessee before the commencement of search or of the requisition, as the case may be, shall be on the assessee.

(4) For the purpose of assessment under this Chapter, losses brought forward from the previous year under Chapter VI or unabsorbed depreciation under sub-section (2) of section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter, but may be carried forward for being set off in the regular assessments.

**158BC. Procedure for block assessment.**—Where any search has been conducted under section 132 or books of account, other documents or assets are requisitioned under section 132A, in the case of any person, then,—

<sup>5</sup>[(a) the Assessing Officer shall—

(i) in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997, serve a notice to such person requiring him to furnish within such time not being less than fifteen days;

(ii) in respect of search initiated or books of account or other documents or any assets requisitioned on or after the 1st day of January, 1997, serve a notice to such person requiring him to furnish within such time not being less than fifteen days but not more than forty-five days,

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1. Subs. by Act 20 of 2002, s. 65, for “Chapter IV” (w.e.f. 1-7-1995).

2. Ins. by s. 65, *ibid.* (w.e.f. 1-7-1995).

3. Subs. by Act 33 of 1996, s. 46, for clause (b) (w.e.f. 1-7-1995).

4. Ins. by Act 21 of 1998, s. 45 (w.e.f. 1-4-1999).

5. Subs. by Act 14 of 1997, s. 4, for clause (a) (w.e.f. 1-1-1997).

as may be specified in the notice a return in the prescribed form and verified in the same manner as a return under clause (i) of sub-section (1) of section 142, setting forth his total income including the undisclosed income for the block period:

Provided that no notice under section 148 is required to be issued for the purpose of proceeding under this Chapter:

Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;]

(b) the Assessing Officer shall proceed to determine the undisclosed income of the block period in the manner laid down in section 158BB and the provisions of section 142, sub-sections (2) and (3) of section 143<sup>1</sup>[, section 144 and section 145] shall, so far as may be, apply;

(c) the Assessing Officer, on determination of the undisclosed income of the block period in accordance with this Chapter, shall pass an order of assessment and determine the tax payable by him on the basis of such assessment;

<sup>2</sup>[(d) the assets seized under section 132 or requisitioned under section 132A shall be dealt with in accordance with the provisions of section 132B.]

**158BD. Undisclosed income of any other person.**—Where the Assessing Officer is satisfied that any undisclosed income belongs to any person, other than the person with respect to whom search was made under section 132 or whose books of account or other documents or any assets were requisitioned under section 132A, then, the books of account, other documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed <sup>3</sup>[under section 158BC] against such other person and the provisions of this Chapter shall apply accordingly.

**158BE. Time limit for completion of block assessment.**—<sup>4</sup>[(1) The order under section 158BC shall be passed—

(a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997;

(b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person referred to in section 158BD shall be—

(a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995, but before the 1st day of January, 1997; and

(b) two years from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.]

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1. Subs. by Act 20 of 2002, s. 66, for “and section 144” (w.e.f. 1-7-1995).

2. Subs. by s. 66, *ibid.*, for clause (d) (w.e.f. 1-6-2002).

3. Ins. by s. 67, *ibid.* (w.e.f. 1-6-2002).

4. Subs. by Act 14 of 1997, s. 5, for sub-sections (1) and (2) (w.e.f. 1-1-1997).

<sup>1</sup>[*Explanation 1.*—In computing the period of limitation for the purposes of this section,—

(i) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(ii) the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section; or

(iii) the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee to be re-heard under the proviso to section 129; or

(iv) in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing on the date on which such application is made and ending with the date on which the order under sub-section (1) of section 245D is received by the <sup>2</sup>[Principal Commissioner or Commissioner] under sub-section (2) of that section,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in sub-section (1) or sub-section (2) available to the Assessing Officer for making an order under clause (c) of section 158BC is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.]

<sup>3</sup>[*Explanation 2.*—For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.]

**158BF. Certain interests and penalties not to be levied or imposed.**—No interest under the provisions of section 234A, 234B or 234C or penalty under the provisions of clause (c) of sub-section (1) of section 271 or section 271A or section 271B shall be levied or imposed upon the assessee in respect of the undisclosed income determined in the block assessment.

<sup>4</sup>[**158BFA. Levy of interest and penalty in certain cases.**—(1) Where the return of total income including undisclosed income for the block period, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997, as required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of <sup>5</sup>[one per cent.] of the tax on undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and—

(a) where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

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1. Subs. by Act 20 of 2002, s. 68, for *Explanation 1* (w.e.f. 1-6-2002).

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

3. Ins. by Act 21 of 1998, s. 46 (w.e.f. 1-7-1995).

4. Ins. by Act 14 of 1997, s. 6 (w.e.f. 1-1-1997).

5. Subs. by Act 54 of 2003, s. 7, for “one and one-fourth per cent.” (w.e.f. 8-9-2003).

(b) where no return has been furnished, on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC:

Provided that no order imposing penalty shall be made in respect of a person if—

(i) such person has furnished a return under clause (a) of section 158BC;

(ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(iii) evidence of tax paid is furnished along with the return; and

(iv) an appeal is not filed against the assessment of that part of income which is shown in the return:

Provided further that the provisions of the preceding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such cases the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,—

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the <sup>1</sup>[Assistant Commissioner or Deputy Commissioner] or the <sup>2</sup>[Assistant Director or Deputy Director], as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the <sup>3</sup>[Joint Commissioner] or the <sup>4</sup>[Joint Director], as the case may be;

(c) in a case where the assessment is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 <sup>5</sup>[or section 246A] or an appeal to the Appellate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appellate Tribunal is received by the <sup>6</sup>[Principal Chief Commissioner or Chief Commissioner] or the <sup>7</sup>[Principal Commissioner or Commissioner], whichever period expires later;

(d) in a case where the assessment is the subject-matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

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

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

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

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

5. Ins. by Act 10 of 2000, s. 59 (w.e.f. 1-6-2000).

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

7. Subs. by s. 4, *ibid.*, for “Commissioner” (w.e.f. 1-6-2012).

(e) in any case other than those mentioned in clauses (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months from the end of the month in which action for imposition of penalty is initiated, whichever period expires later;

(f) in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997.

*Explanation.*—In computing the period of limitation for the purpose of this section,—

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) the period during which the immunity granted under section 245H remained in force; and

(iii) the period during which the proceedings under sub-section (2) are stayed by an order or injunction of any court,

shall be excluded.

(4) An income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer.]

<sup>1</sup>[**158BG. Authority competent to make the block assessment.**—The order of assessment for the block period shall be passed by an Assessing Officer not below the rank of an <sup>2</sup>[Assistant Commissioner or Deputy Commissioner] or an <sup>3</sup>[Assistant Director or Deputy Director], as the case may be:

Provided that no such order shall be passed without the previous approval of—

(a) the <sup>4</sup>[Principal Commissioner or Commissioner] or <sup>5</sup>[Principal Director or Director], as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) the <sup>6</sup>[Joint Commissioner] or the <sup>7</sup>[Joint Director], as the case may be, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or after the 1st day of January, 1997.]

**158BH. Application of other provisions of this Act.**—Save as otherwise provided in this Chapter, all other provisions of this Act shall apply to assessment made under this Chapter.]

<sup>8</sup>[**158BI. Chapter not to apply after certain date.**—The provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003.]

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1. Subs. by Act 13 of 1997, s. 7, for section 158BG (w.e.f. 1-1-1997).

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

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

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

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

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

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

8. Ins. by Act 32 of 2003, s. 67 (w.e.f. 1-6-2003).

## CHAPTER XV

### LIABILITY IN SPECIAL CASES

#### *A.—Legal representatives*

**159. Legal representatives.**—(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1),—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(5) The provisions of sub-section (2) of section 161, section 162, and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

(6) The liability of a legal representative under this section shall, subject to the provisions of sub-section (4) and sub-section (5), be limited to the extent to which the estate is capable of meeting the liability.

#### *B.—Representative assesseees - General provisions*

**160. Representative assessee.**—(1) For the purposes of this Act, “representative assessee” means—

(i) in respect of the income of a non-resident specified in <sup>1\*\*\*</sup> sub-section (1) of section 9, the agent of the non-resident, including a person who is treated as an agent under section 163;

(ii) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive or is in receipt of such income on behalf of such minor, lunatic or idiot;

(iii) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever his designation, who in fact manages property on behalf of another) appointed by or under any order of a court, receives or is entitled to receive, on behalf or for the benefit of any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

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1. The words, brackets and figure “clause (i) of” omitted by Act 66 of 1976, s. 26 (w.e.f. 1-6-1976).

(iv) in respect of income which a trustee appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913),] receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees;

<sup>1</sup>[(v) in respect of income which a trustee appointed under an oral trust receives or is entitled to receive on behalf or for the benefit of any person, such trustee or trustees.

*Explanation 1.*—A trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913),] shall be deemed, for the purposes of clause (iv), to be a trust declared by a duly executed instrument in writing if a statement in writing, signed by the trustee or trustees, setting out the purpose or purposes of the trust, particulars as to the trustee or trustees, the beneficiary or beneficiaries and the trust property, is forwarded to the <sup>2</sup>[Assessing Officer],—

(i) where the trust has been declared before the 1st day of June, 1981, within a period of three months from that day; and

(ii) in any other case, within three months from the date of declaration of the trust.

*Explanation 2.*—For the purposes of clause (v), “oral trust” means a trust which is not declared by a duly executed instrument in writing [including any wakf deed which is valid under the Mussalman Wakf Validating Act, 1913 (6 of 1913),] and which is not deemed under *Explanation 1* to be a trust declared by a duly executed instrument in writing.]

(2) Every representative assessee shall be deemed to be an assessee for the purposes of this Act.

**161. Liability of representative assessee.**—(1) Every representative assessee, as regards the income in respect of which he is a representative assessee, shall be subject to the same duties, responsibilities and liabilities as if the income were income received by or accruing to or in favour of him beneficially, and shall be liable to assessment in his own name in respect of that income; but any such assessment shall be deemed to be made upon him in his representative capacity only, and the tax shall, subject to the other provisions contained in this Chapter, be levied upon and recovered from him in like manner and to the same extent as it would be leviable upon and recoverable from the person represented by him.

<sup>3</sup>[(1A) Notwithstanding anything contained in sub-section (1), where any income in respect of which the person mentioned in clause (iv) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, tax shall be charged on the whole of the income in respect of which such person is so liable at the maximum marginal rate:

Provided that the provisions of this sub-section shall not apply where such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.

<sup>4</sup>\* \* \* \*

(2) Where any person is, in respect of any income, assessable under this Chapter in the capacity of a representative assessee, he shall not, in respect of that income, be assessed under any other provision of this Act.

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1. Ins. by Act 16 of 1981, s. 14 (w.e.f. 1-4-1981).

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

3. Ins. by Act 21 of 1984, s. 20 (w.e.f. 1-4-1985).

4. The *Explanation* omitted by Act 49 of 1991, s. 49 (w.e.f. 1-4-1991).

**162. Right of representative assessee to recover tax paid.**—(1) Every representative assessee who, as such, pays any sum under this Act, shall be entitled to recover the sum so paid from the person on whose behalf it is paid, or to retain out of any moneys that may be in his possession or may come to him in his representative capacity, an amount equal to the sum so paid.

(2) Any representative assessee, or any person who apprehends that he may be assessed as a representative assessee, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the principal), a sum equal to his estimated liability under this Chapter, and in the event of any disagreement between the principal and such representative assessee or person as to the amount to be so retained, such representative assessee or person may secure from the <sup>1</sup>[Assessing Officer] a certificate stating the amount to be so retained pending final settlement of the liability, and the certificate so obtained shall be his warrant for retaining that amount.

(3) The amount recoverable from such representative assessee or person at the time of final settlement shall not exceed the amount specified in such certificate, except to the extent to which such representative assessee or person may at such time have in his hands additional assets of the principal.

*C.—Representative assessee—Special cases*

**163. Who may be regarded as agent.**—(1) For the purposes of this Act, “agent”, in relation to a non-resident, includes any person in India—

(a) who is employed by or on behalf of the non-resident; or

(b) who has any business connection with the non-resident; or

(c) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(d) who is the trustee of the non-resident;

and includes also any other person who, whether a resident or non-resident, has acquired by means of a transfer, a capital asset in India:

Provided that a broker in India who, in respect of any transactions, does not deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker shall not be deemed to be an agent under this section in respect of such transactions, if the following conditions are fulfilled, namely:—

(i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal.

<sup>2</sup>[*Explanation.*—For the purposes of this sub-section, the expression “business connection” shall have the meaning assigned to it in *Explanation 2* to clause (i) of sub-section (1) of section 9 of this Act.]

(2) No person shall be treated as the agent of a non-resident unless he has had an opportunity of being heard by the <sup>1</sup>[Assessing Officer] as to his liability to be treated as such.

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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 32 of 2003, s. 68 (w.e.f. 1-4-2004).



<sup>1</sup>[164. Charge of tax where share of beneficiaries unknown.—<sup>2</sup>[(1) Subject to the provisions of sub-sections (2) and (3), where] any income in respect of which the persons mentioned in clauses (iii) and (iv) of sub-section (1) of section 160 are liable as representative assessee or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown (such income, such part of the income and such persons being hereafter in this section referred to as “relevant income”, “part of relevant income” and “beneficiaries”, respectively),<sup>3</sup>[tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate]:

Provided that in a case where—

<sup>4</sup>[(i) none of the beneficiaries has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an <sup>5</sup>[association of persons] or is a beneficiary under any other trust; or]

(ii) the relevant income or part of relevant income is receivable <sup>6</sup>[under a trust declared by any person by will and such trust is the only trust so declared by him]; or

(iii) the relevant income or part of relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the <sup>7</sup>[Assessing Officer] is satisfied, having regard to all the circumstances existing at the relevant time, that the trust was created *bona fide* exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance; or

(iv) the relevant income is receivable by the trustees on behalf of a provident fund, superannuation fund, gratuity fund, pension fund or any other fund created *bona fide* by a person carrying on a business or profession exclusively for the benefit of persons employed in such business or profession,

tax shall be charged <sup>8</sup>[on the relevant income or part of relevant income as if it] were the total income of an <sup>5</sup>[association of persons]:]

<sup>9</sup>[Provided further that where any income in respect of which the person mentioned in clause (iv) of sub-section (1) of section 160 is liable as representative assessee consists of, or includes, profits and gains of business, the preceding proviso shall apply only if such profits and gains are receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him.]

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1. Subs. by Act 19 of 1970, s. 21, for section 164 (w.e.f. 1-4-1971).

2. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier the words “(1) Subject to the provisions of sub-sections (2) and (3), where” substituted by Act 4 of 1988, s. 64 (w.e.f. 1-4-1989).

3. Subs. by Act 44 of 1980, s. 27, for the portion beginning with the words “tax shall be charged—” and ending with the words “more beneficial to the revenue” (w.e.f. 1-4-1980).

4. Subs. by s. 27, *ibid.*, for clause (i) (w.e.f. 1-4-1980).

5. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier the words “association of persons” substituted by Act 4 of 1988, s. 64 (w.e.f. 1-4-1989).

6. Subs. by Act 44 of 1980, s. 27, for “under a trust declared by will” (w.e.f. 1-4-1980).

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

8. Subs. by Act 44 of 1980, s. 27, for “as if the relevant income or part of relevant income” (w.e.f. 1-4-1980).

9. Ins. by Act 21 of 1984, s. 21 (w.e.f. 1-4-1985).

<sup>1</sup>[(2) In the case of relevant income which is derived from property held under trust wholly for charitable or religious purposes, <sup>2</sup>[or which is of the nature referred to in sub-clause (iia) of clause (24) of section 2, <sup>3</sup>[or which is of the nature referred to in sub-section (4A) of section 11,] tax shall be charged on so much of the relevant income as is not exempt under section 11 or section 12], as if the relevant income not so exempt were the income of an association of persons:

<sup>4</sup>[Provided that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (c) or clause (d) of sub-section (1) of section 13, tax shall be charged [on the relevant income or part of relevant income at the maximum marginal rate.]]

(3) <sup>5</sup>[In a case where the relevant income is derived from property held under trust in part only for charitable or religious purposes or is of the nature referred to in sub-clause (iia) of clause (24) of section 2] <sup>3</sup>[or is of the nature referred to in sub-section (4A) of section 11,] and either the relevant income applicable to purposes other than charitable or religious purposes (or any part thereof) <sup>6</sup>[is not specifically receivable on behalf or for the benefit of any one person or the individual shares of the beneficiaries in the income so applicable are indeterminate or unknown, the tax chargeable on the relevant income shall be the aggregate of—

(a) the tax which would be chargeable on that part of the relevant income which is applicable to charitable or religious purposes (as reduced by the income, if any, which is exempt under section 11) as if such part (or such part as so reduced) were the total income of an association of persons; and

(b) the tax on that part of the relevant income which is applicable to purposes other than charitable or religious purposes, and which is either not specifically receivable on behalf or for the benefit of any one person or in respect of which the shares of the beneficiaries are indeterminate or unknown, at the maximum marginal rate:]

Provided that in a case where—

<sup>7</sup>[(i) none of the beneficiaries in respect of the part of the relevant income which is not applicable to charitable or religious purposes has any other income chargeable under this Act exceeding the maximum amount not chargeable to tax in the case of an association of persons or is a beneficiary under any other trust; or]

(ii) the relevant income is receivable <sup>8</sup>[under a trust declared by any person by will and such trust is the only trust so declared by him]; or

(iii) the relevant income is receivable under a trust created before the 1st day of March, 1970, by a non-testamentary instrument and the <sup>9</sup>[Assessing Officer] is satisfied, having regard to all the circumstances existing at the relevant time, that the trust, to the extent it is not for charitable or religious purposes, was created *bona fide* exclusively for the benefit of the relatives of the settlor, or where the settlor is a Hindu undivided family, exclusively for the benefit of the members of such family, in circumstances where such relatives or members were mainly dependent on the settlor for their support and maintenance,

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1. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier sub-section (2) and (3) were omitted by Act 4 of 1988, s. 64 (w.e.f. 1-4-1989).

2. Subs. by Act 16 of 1972, s. 27, for “tax shall be charged on so much of the relevant income as is not exempt under section 11” (w.e.f. 1-4-1973).

3. Ins. by Act 11 of 1983, s. 37 (w.e.f. 1-4-1984).

4. The proviso added by Act 21 of 1984, s. 21 (w.e.f. 1-4-1985).

5. Subs. by Act 16 of 1972, s. 27, for “In a case where the relevant income is derived from property held under trust in part only in charitable or religious purposes” (w.e.f. 1-4-1973).

6. Subs. by Act 44 of 1980, s. 27, for the portion beginning with the words “is not specifically receivable” and ending with the words “whichever course would be more beneficial to the revenue:” (w.e.f. 1-4-1980).

7. Subs. by s. 27, *ibid.*, for clause (i) (w.e.f. 1-4-1980).

8. Subs. by s. 27, *ibid.*, for “under a trust declared by will” (w.e.f. 1-4-1980).

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

tax shall be charged <sup>1</sup>[on the relevant income as if the relevant income] (as reduced by the income, if any, which is exempt under section 11) were the total income of an association of persons:]

<sup>2</sup>[Provided further that where the relevant income consists of, or includes, profits and gains of business, the preceding proviso shall apply only if the income is receivable under a trust declared by any person by will exclusively for the benefit of any relative dependent on him for support and maintenance, and such trust is the only trust so declared by him:

Provided also that in a case where the whole or any part of the relevant income is not exempt under section 11 or section 12 by virtue of the provisions contained in clause (c) or clause (d) of sub-section (1) of section 13, tax shall be charged on the relevant income or part of relevant income at the maximum marginal rate.]]

<sup>3</sup>[*Explanation 1.*—For the purposes of this section,—

(i) any income in respect of which the persons mentioned in clause (iii) and clause (iv) of sub-section (1) of section 160 are liable as representative assessee or any part thereof shall be deemed as being not specifically receivable on behalf or for the benefit of any one person unless the person on whose behalf or for whose benefit such income or such part thereof is receivable during the previous year is expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and is identifiable as such on the date of such order, instrument or deed;

(ii) the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is received shall be deemed to be indeterminate or unknown unless the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable, are expressly stated in the order of the court or the instrument of trust or wakf deed, as the case may be, and are ascertainable as such on the date of such order, instrument or deed.

<sup>4</sup>\* \* \* \*

<sup>5</sup>[**164A. Charge of tax in case of oral trust.**—Where a trustee receives or is entitled to receive any income on behalf or for the benefit of any person under an oral trust, then, notwithstanding anything contained in any other provision of this Act, tax shall be charged on such income at the maximum marginal rate.

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

<sup>6</sup>\* \* \* \*

(ii) “oral trust” shall have the meaning assigned to it in *Explanation 2* below sub-section (1) of section 160.]

**165. Case where part of trust income is chargeable.**—Where part only of the income of a trust is chargeable under this Act, that proportion only of the income receivable by a beneficiary from the trust which the part so chargeable bears to the whole income of the trust shall be deemed to have been derived from that part.

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1. Subs. by Act 44 of 1980, s. 27, for “as if the relevant income” (w.e.f. 1-4-1980).

2. Ins. by Act 21 of 1984, s. 21 (w.e.f. 1-4-1985).

3. Ins. by Act 44 of 1980, s. 27 (w.e.f. 1-4-1980).

4. *Explanation 2* omitted by Act 4 of 1988, s. 64 (w.e.f. 1-4-1989).

5. Ins. by Act 16 of 1981, s. 15 (w.e.f. 1-4-1981).

6. Clause (i) omitted by Act 4 of 1988, s. 65 (w.e.f. 1-4-1989).

*D.—Representative assesseees—Miscellaneous provisions*

**166. Direct assessment or recovery not barred.**—Nothing in the foregoing sections in this Chapter shall prevent either the direct assessment of the person on whose behalf or for whose benefit income therein referred to is receivable, or the recovery from such person of the tax payable in respect of such income.

**167. Remedies against property in cases of representative assesseees.**—The <sup>1</sup>[Assessing Officer] shall have the same remedies against all property of any kind vested in or under the control or management of any representative assessee as he would have against the property of any person liable to pay any tax, and in as full and ample a manner, whether the demand is raised against the representative assessee or against the beneficiary direct.

<sup>2</sup>[*DD.—Firms, association of persons and body of individuals*]

**167A. Charge of tax in the case of a firm.**—In the case of a firm which is assessable as a firm, tax shall be charged on its total income at the <sup>3</sup>[rate as specified in the Finance Act of the relevant year].]

<sup>4</sup>[**167B. Charge of tax where shares of members in association of persons or body of individuals unknown, etc.**—(1) Where the individual shares of the members of an association of persons or body of individuals (other than a company or a co-operative society or a society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India) in the whole or any part of the income of such association or body are indeterminate or unknown, tax shall be charged on the total income of the association or body at the maximum marginal rate:

Provided that, where the total income of any member of such association or body is chargeable to tax at a rate which is higher than the maximum marginal rate, tax shall be charged on the total income of the association or body at such higher rate.

(2) Where, in the case of an association of persons or body of individuals as aforesaid [not being a case falling under sub-section (1)],—

(i) the total income of any member thereof for the previous year (excluding his share from such association or body) exceeds the maximum amount which is not chargeable to tax in the case of that member under the Finance Act of the relevant year, tax shall be charged on the total income of the association or body at the maximum marginal rate;

(ii) any member or members thereof is or are chargeable to tax at a rate or rates which is or are higher than the maximum marginal rate, tax shall be charged on that portion or portions of the total income of the association or body which is or are relatable to the share or shares of such member or members at such higher rate or rates, as the case may be, and the balance of the total income of the association or body shall be taxed at the maximum marginal rate.

*Explanation.*—For the purposes of this section, the individual shares of the members of an association of persons or body of individuals in the whole or any part of the income of such association or body shall be deemed to be indeterminate or unknown if such shares (in relation to the whole or any part of such income) are indeterminate or unknown on the date of formation of such association or body or at any time thereafter.]

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

2. Subs. by Act 18 of 1992, s. 64, for the sub-heading “*DD.—Association of persons and body of individuals*” (w.e.f. 1-4-1993).

3. Subs. by Act 26 of 1997, s. 44, for “maximum marginal rate” (w.e.f. 1-4-1998).

4. Ins. by Act 3 of 1989, s. 28 (w.e.f. 1-4-1989).

<sup>1</sup>[**167C. Liability of partners of limited liability partnership in liquidation.**—Notwithstanding anything contained in the Limited Liability Partnership Act, 2008 (6 of 2009), where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership.]

<sup>2</sup>[*Explanation.*—For the purposes of this section, the expression “tax due” includes penalty, interest or any other sum payable under the Act.]

#### *E.—Executors*

**168.Executors.**—(1) Subject as hereinafter provided, the income of the estate of a deceased person shall be chargeable to tax in the hands of the executor,—

(a) if there is only one executor, then, as if the executor were an individual; or

(b) if there are more executors than one, then, as if the executors were an association of persons;

and for the purposes of this Act, the executor shall be deemed to be resident or non-resident according as the deceased person was a resident or non-resident during the previous year in which his death took place.

(2) The assessment of an executor under this section shall be made separately from any assessment that may be made on him in respect of his own income.

(3) Separate assessments shall be made under this section on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests.

(4) In computing the total income of any previous year under this section, any income of the estate of that previous year distributed to, or applied to the benefit of, any specific legatee of the estate during that previous year shall be excluded; but the income so excluded shall be included in the total income of the previous year of such specific legatee.

*Explanation.*—In this section, “executor” includes an administrator or other person administering the estate of a deceased person.

**169. Right of executor to recover tax paid.**—The provisions of section 162 shall, so far as may be, apply in the case of an executor in respect of tax paid or payable by him as they apply in the case of a representative assessee.

#### *F.—Succession to business or profession*

**170. Succession to business otherwise than on death.**—(1) Where a person carrying on any business or profession (such person hereinafter in this section being referred to as the predecessor) has been succeeded therein by any other person (hereinafter in this section referred to as the successor) who continues to carry on that business or profession,—

(a) the predecessor shall be assessed in respect of the income of the previous year in which the succession took place up to the date of succession;

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1. Ins. by Act 33 of 2009, s. 59 (w.e.f. 1-4-2010).

2. Ins. by Act 17 of 2013, s. 44 (w.e.f. 1-6-2013).

(b) the successor shall be assessed in respect of the income of the previous year after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), when the predecessor cannot be found, the assessment of the income of the previous year in which the succession took place up to the date of succession and of the previous year preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Act shall, so far as may be, apply accordingly.

(3) When any sum payable under this section in respect of the income of such business or profession for the previous year in which the succession took place up to the date of succession or for the previous year preceding that year, assessed on the predecessor, cannot be recovered from him, the <sup>1</sup>[Assessing Officer] shall record a finding to that effect and the sum payable by the predecessor shall thereafter be payable by and recoverable from the successor, and the successor shall be entitled to recover from the predecessor any sum so paid.

(4) Where any business or profession carried on by a Hindu undivided family is succeeded to, and simultaneously with the succession or after the succession there has been a partition of the joint family property between the members or groups of members, the tax due in respect of the income of the business or profession succeeded to, up to the date of succession, shall be assessed and recovered in the manner provided in section 171, but without prejudice to the provisions of this section.

*Explanation.*—For the purposes of this section, “income” includes any gain accruing from the transfer, in any manner whatsoever, of the business or profession as a result of the succession.

#### *G.—Partition*

**171. Assessment after partition of a Hindu undivided family.**—(1) A Hindu family hitherto assessed as undivided shall be deemed for the purposes of this Act to continue to be a Hindu undivided family, except where and in so far as a finding of partition has been given under this section in respect of the Hindu undivided family.

(2) Where, at the time of making an assessment under section 143 or section 144, it is claimed by or on behalf of any member of a Hindu family assessed as undivided that a partition, whether total or partial, has taken place among the members of such family, the <sup>1</sup>[Assessing Officer] shall make an inquiry thereinto after giving notice of the inquiry to all the members of the family.

(3) On the completion of the inquiry, the <sup>1</sup>[Assessing Officer] shall record a finding as to whether there has been a total or partial partition of the joint family property, and, if there has been such a partition, the date on which it has taken place.

(4) Where a finding of total or partial partition has been recorded by the <sup>1</sup>[Assessing Officer] under this section, and the partition took place during the previous year,—

(a) the total income of the joint family in respect of the period up to the date of partition shall be assessed as if no partition had taken place; and

(b) each member or group of members shall, in addition to any tax for which he or it may be separately liable and notwithstanding anything contained in clause (2) of section 10, be jointly and severally liable for the tax on the income so assessed.

(5) Where a finding of total or partial partition has been recorded by the <sup>1</sup>[Assessing Officer] under this section, and the partition took place after the expiry of the previous year, the total income of the

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

previous year of the joint family shall be assessed as if no partition had taken place; and the provisions of clause (b) of sub-section (4) shall, so far as may be, apply to the case.

(6) Notwithstanding anything contained in this section, if the <sup>1</sup>[Assessing Officer] finds after completion of the assessment of a Hindu undivided family that the family has already effected a partition, whether total or partial, the <sup>1</sup>[Assessing Officer] shall proceed to recover the tax from every person who was a member of the family before the partition, and every such person shall be jointly and severally liable for the tax on the income so assessed.

(7) For the purposes of this section, the several liability of any member or group of members thereunder shall be computed according to the portion of the joint family property allotted to him or it at the partition, whether total or partial.

(8) The provisions of this section shall, so far as may be, apply in relation to the levy and collection of any penalty, interest, fine or other sum in respect of any period up to date of the partition, whether total or partial, of a Hindu undivided family as they apply in relation to the levy and collection of tax in respect of any such period.

<sup>2</sup>[(9) Notwithstanding anything contained in the foregoing provisions of this section, where a partial partition has taken place after the 31st day of December, 1978, among the members of a Hindu undivided family hitherto assessed as undivided,—

(a) no claim that such partial partition has taken place shall be inquired into under sub-section (2) and no finding shall be recorded under sub-section (3) that such partial partition had taken place and any finding recorded under sub-section (3) to that effect whether before or after the 18th day of June, 1980, being the date of introduction of the Finance (No. 2) Bill, 1980, shall be null and void;

(b) such family shall continue to be liable to be assessed under this Act as if no such partial partition had taken place;

(c) each member or group of members of such family immediately before such partial partition and the family shall be jointly and severally liable for any tax, penalty, interest, fine or other sum payable under this Act by the family in respect of any period, whether before or after such partial partition;

(d) the several liability of any member or group of members aforesaid shall be computed according to the portion of the joint family property allotted to him or it at such partial partition,

and the provisions of this Act shall apply accordingly.]

*Explanation.*—In this section,—

(a) “partition” means—

(i) where the property admits of a physical division, a physical division of the property, but a physical division of the income without a physical division of the property producing the income shall not be deemed to be a partition; or

(ii) where the property does not admit of a physical division, then such division as the property admits of, but a mere severance of status shall not be deemed to be a partition;

(b) “partial partition” means a partition which is partial as regards the persons constituting the Hindu undivided family, or the properties belonging to the Hindu undivided family, or both.

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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 44 of 1980, s. 28 (w.e.f. 1-4-1980).

*H.—Profits of non-residents from occasional shipping business*

**172. Shipping business of non-residents.**—(1) The provisions of this section shall, notwithstanding anything contained in the other provisions of this Act, apply for the purpose of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India<sup>1\*\*\*</sup>.

(2) Where such a ship carries passengers, livestock, mail or goods shipped at a port in India, <sup>2</sup>[seven and a half per cent.] of the amount paid or payable on account of such carriage to the owner or the charterer or to any person on his behalf, whether that amount is paid or payable in or out of India, shall be deemed to be income accruing in India to the owner or charterer on account of such carriage.

(3) Before the departure from any port in India of any such ship, the master of the ship shall prepare and furnish to the <sup>3</sup>[Assessing Officer] a return of the full amount paid or payable to the owner or charterer or any person on his behalf, on account of the carriage of all passengers, livestock, mail or goods shipped at that port since the last arrival of the ship thereat:

Provided that where the <sup>3</sup>[Assessing Officer] is satisfied that it is not possible for the master of the ship to furnish the return required by this sub-section before the departure of the ship from the port and provided the master of the ship has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the <sup>3</sup>[Assessing Officer] may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the master as sufficient compliance with this sub-section.

(4) On receipt of the return, the <sup>3</sup>[Assessing Officer] shall assess the income referred to in sub-section (2) and determine the sum payable as tax thereon at the <sup>4</sup>[rate or rates in force] applicable to the total income of a company which has not made the arrangements referred to in section 194 and such sum shall be payable by the master of the ship.

<sup>5</sup>[(4A) No order assessing the income and determining the sum of tax payable thereon shall be made under sub-section (4) after the expiry of nine months from the end of the financial year in which the return under sub-section (3) is furnished:

Provided that where the return under sub-section (3) has been furnished before the 1st day of April, 2007, such order shall be made on or before the 31st day of December, 2008.]

(5) For the purpose of determining the tax payable under sub-section (4), the <sup>3</sup>[Assessing Officer] may call for such accounts or documents as he may require.

(6) A port clearance shall not be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax assessable under this section has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(7) Nothing in this section shall be deemed to prevent the owner or charterer of a ship from claiming before the expiry of the assessment year relevant to the previous year in which the date of departure of the ship from the Indian port falls, that an assessment be made of his total income of the previous year and the tax payable on the basis thereof be determined in accordance with the other provisions of this Act, and if he so claims, any payment made under this section in respect of the passengers, livestock, mail or goods shipped at Indian ports during that previous year shall be treated as a payment in advance of the tax

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1. The certain words omitted by Act 25 of 1975, s. 19 (w.e.f. 1-6-1975).

2. Subs. by s. 19, *ibid.*, for “one-sixth” (w.e.f. 1-6-1975).

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

4. Subs. by Act 20 of 1967, s. 29, for “rate or rates for the time being” (w.e.f. 1-4-1967).

5. Ins. by Act 22 of 2007, s. 51 (w.e.f. 1-4-2007).



leviable for that assessment year, and the difference between the sum so paid and the amount of tax found payable by him on such assessment shall be paid by him or refunded to him, as the case may be.

<sup>1</sup>[(8) For the purposes of this section, the amount referred to in sub-section (2) shall include the amount paid or payable by way of demurrage charge or handling charge or any other amount of similar nature.]

#### *I.—Recovery of tax in respect of non-residents*

**173. Recovery of tax in respect of non-resident from his assets.**—Without prejudice to the provisions of sub-section (1) of section 161 or of section 167, where the person entitled to the income referred to in clause (i) of sub-section (1) of section 9 is a non-resident, the tax chargeable thereon, whether in his name or in the name of his agent who is liable as a representative assessee, may be recovered by deduction under any of the provisions of Chapter XVII-B and any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident which are, or may at any time come, within India.

#### *J.—Persons leaving India*

**174. Assessment of persons leaving India.**—(1) Notwithstanding anything contained in section 4, when it appears to the <sup>2</sup>[Assessing Officer] that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The <sup>2</sup>[Assessing Officer] may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the <sup>2</sup>[Assessing Officer] may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner <sup>3</sup>[as a return under clause (i) of sub-section (1) of section 142], setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were <sup>4</sup>[a notice issued under clause (i) of sub-section (1) of section 142].

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the <sup>2</sup>[Assessing Officer] under <sup>5</sup>[clause (i) of sub-section (1) of section 142 or] section 148 in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in <sup>5</sup>[clause (i) of sub-section (1) of section 142 or] section 148, as the case may be, require the furnishing of the return by such individual within such period, not being less than seven days, as the <sup>2</sup>[Assessing Officer] may think proper.

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1. Ins. by Act 26 of 1997, s. 45 (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 s. 126, *ibid.*, for “as a return under sub-section (2) of section 139” (w.e.f. 1-4-1989).

4. Subs. by s. 126, *ibid.*, for “a notice issued under sub-section (2) of section 139” (w.e.f. 1-4-1989).

5. Subs. by s. 126, *ibid.*, for “sub-section (2) of section 139 or sub-section (1) of” (w.e.f. 1-4-1989).

<sup>1</sup>[JA.—Association of persons or body of individuals or artificial juridical person formed for a particular event or purpose]

**174A. Assessment of association of persons or body of individuals or artificial juridical person formed for a particular event or purpose.**—Notwithstanding anything contained in section 4, where it appears to the Assessing Officer that any association of persons or a body of individuals or an artificial juridical person, formed or established or incorporated for a particular event or purpose is likely to be dissolved in the assessment year in which such association of persons or a body of individuals or an artificial juridical person was formed or established or incorporated or immediately after such assessment year, the total income of such association or body or juridical person for the period from the expiry of the previous year for that assessment year up to the date of its dissolution shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2) to (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.]

*K.—Persons trying to alienate their assets*

**175. Assessment of persons likely to transfer property to avoid tax.**—Notwithstanding anything contained in section 4, if it appears to the <sup>2</sup>[Assessing Officer] during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the <sup>2</sup>[Assessing Officer] commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India

*L.—Discontinuance of business, or dissolution*

**176. Discontinued business.**—(1) Notwithstanding anything contained in section 4, where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the previous year for that assessment year up to the date of such discontinuance may, at the discretion of the <sup>2</sup>[Assessing Officer], be charged to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) Any person discontinuing any business or profession shall give to the <sup>2</sup>[Assessing Officer] notice of such discontinuance within fifteen days thereof.

<sup>3</sup>[(3A) Where any business is discontinued in any year, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the person who carried on the business had such sum been received before such discontinuance.]

(4) Where any profession is discontinued in any year on account of the cessation of the profession by, or the retirement or death of, the person carrying on the profession, any sum received after the discontinuance shall be deemed to be the income of the recipient and charged to tax accordingly in the year of receipt, if such sum would have been included in the total income of the aforesaid person had it been received before such discontinuance.

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1. Ins. by Act 20 of 2002, s. 69 (w.e.f. 1-4-2002).

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

3. Ins. by Act 41 of 1975, s. 49 (w.e.f. 1-4-1976).

(5) Where an assessment is to be made under the provisions of this section, the <sup>1</sup>[Assessing Officer] may serve on the person whose income is to be assessed or, in the case of a firm, on any person who was a partner of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice <sup>2</sup>[under clause (i) of sub-section (1) of section 142] and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued <sup>2</sup>[under clause (i) of sub-section (1) of section 142].

(6) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(7) Where the provisions of sub-section (1) are applicable, any notice issued by the <sup>1</sup>[Assessing Officer] under <sup>3</sup>[clause (i) of sub-section (1) of section 142 or] section 148 in respect of any tax chargeable under any other provisions of this Act may, notwithstanding anything contained in <sup>3</sup>[clause (i) of sub-section (1) of section 142 or] section 148, as the case may be, require the furnishing of the return by the person to whom the aforesaid notices are issued within such period, not being less than seven days, as the <sup>1</sup>[Assessing Officer] may think proper.

**177. Association dissolved or business discontinued.**—(1) Where any business or profession carried on by an association of persons has been discontinued or where an association of persons is dissolved, the <sup>1</sup>[Assessing Officer] shall make an assessment of the total income of the association of persons as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act shall apply, so far as may be, to such assessment.

(2) Without prejudice to the generality of the foregoing sub-section, if the <sup>1</sup>[Assessing Officer] or the <sup>4</sup>[\*\*\* Commissioner (Appeals)] in the course of any proceeding under this Act in respect of any such association of persons as is referred to in that sub-section is satisfied that the association of persons was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a member of the association of persons, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the persons referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159.

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

2. Subs. by Act 4 of 1988, s. 126, for "under sub-section (2) of section 139" (w.e.f. 1-4-1989).

3. Subs. by s. 126, *ibid.*, for "sub-section (2) of section 139 or sub-section (1) of" (w.e.f. 1-4-1989).

4. The words and brackets "Deputy Commissioner (Appeals) or the" omitted by Act 21 of 1998, s. 65 (w.e.f. 1-10-1998). Which was earlier substituted as "Deputy Commissioner (Appeals)" for "Appellate Assistant Commissioner" by Act 4 of 1988, s. 2 (w.e.f. 1-4-1988) and The words and brackets "or the commissioner (Appeals)" were inserted by Act 22 of 1977, s. 39 and the Fifth Schedule (w.e.f. 1-4-1977).

**178. Company in liquidation.**—(1) Every person—

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the <sup>1</sup>[Assessing Officer] who is entitled to assess the income of the company.

(2) The <sup>1</sup>[Assessing Officer] shall, after making such inquiries or calling for such information as he may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the <sup>1</sup>[Assessing Officer], would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

<sup>2</sup>[(3) The liquidator—

(a) shall not, without the leave of the <sup>3</sup><sup>4</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>5</sup>[Principal Commissioner or Commissioner]], part with any of the assets of the company or the properties in his hands until he has been notified by the <sup>1</sup>[Assessing Officer] under sub-section (2); and

(b) on being so notified, shall set aside an amount, equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the purpose of the payment of the tax payable by the company or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the <sup>3</sup><sup>4</sup>[Principal Chief Commissioner or Chief Commissioner] or <sup>5</sup>[Principal Commissioner or Commissioner]] reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of that sub-section, he shall be personally liable for the payment of the tax which the company would be liable to pay:

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.]

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force <sup>6</sup>[except the provisions of the Insolvency and Bankruptcy Code, 2016].

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

2. Subs. by Act 10 of 1965, s. 41, for sub-sections (3) and (4) (w.e.f. 1-4-1965).

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

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

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

6. Ins. by Act 31 of 2016, s. 247 and the Third Schedule (w.e.f. 1-11-2016).

<sup>1</sup>[*M.—Private companies*]

**179. Liability of directors of private company in liquidation.**—<sup>2</sup>[(*I*)]<sup>3</sup>[Notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), where any tax due from a private company in respect of any income of any previous year or from any other company in respect of any income of any previous year during which such other company was a private company] cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

<sup>4</sup>[(2) Where a private company is converted into a public company and the tax assessed in respect of any income of any previous year during which such company was a private company cannot be recovered, then, nothing contained in sub-section (*I*) shall apply to any person who was a director of such private company in relation to any tax due in respect of any income of such private company assessable for any assessment year commencing before the 1st day of April, 1962.]

<sup>5</sup>[*Explanation.*—For the purposes of this section, the expression “tax due” includes penalty, interest or any other sum payable under the Act.]

*N.—Special provisions for certain kinds of income*

**180. Royalties or copyright fees for literary or artistic work.**—Where the time taken by the author of a literary or artistic work in the making thereof is more than twelve months, the amount received or receivable by him during any previous year on account of any lump sum consideration for the assignment or grant of any of his interests in the copyright of that work or of royalties or copyright fees (whether receivable in lump sum or otherwise), in respect of that work, shall, if he so claims, be allocated for purposes of assessment in such manner and to such period as may be prescribed:

<sup>6</sup>[Provided that nothing contained in this section shall apply in relation to the previous year relevant to the assessment year commencing on or after the 1st day of April, 2000.]

*Explanation.*—For the purposes of this section, the expression “author” includes a joint author, and the expression “lump sum”, in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.

<sup>7</sup>[**180A. Consideration for know-how.**—Where the time taken by an individual, who is resident in India, for developing any know-how is more than twelve months, he may elect that the gross amount of any lump sum consideration received or receivable by him <sup>8</sup>[during the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or earlier assessment years] for allowing use of such know-how shall be treated for the purposes of charging income-tax for that year and for each of the two immediately preceding previous years as if one-third thereof were included in his income chargeable to tax for each of those years respectively and if he so elects, notwithstanding anything contained in any other provision of this Act,—

(a) such gross amount shall be so treated, and

(b) the assessments for each of the two preceding previous years shall, if made, be accordingly rectified under section 154, the period of four years specified in sub-section (7) of that section being reckoned from the end of the financial year in which the assessment relating to the previous year in which the amount was received or receivable by such individual is made.

1. Subs. by Act 41 of 1975, s. 50, for “*M.—Private company in liquidation*” (w.e.f. 1-10-1975).

2. Section 179 re-numbered as sub-section (*I*) thereof by s. 50, *ibid.* (w.e.f. 1-10-1975).

3. Subs. by s. 50, *ibid.*, for certain words (w.e.f. 1-10-1975).

4. Ins. by s. 50, *ibid.* (w.e.f. 1-10-1975).

5. Ins. by Act 17 of 2013, s. 45 (w.e.f. 1-6-2013).

6. Ins. by Act 27 of 1999, s. 67 (w.e.f. 1-4-2000).

7. Ins. by Act 32 of 1985, s. 31 (w.e.f. 1-4-1986).

8. Subs. by Act 27 of 1999, s. 68, for “during the previous year” (w.e.f. 1-4-2000).

*Explanation.*—For the purposes of this section, the expression “know-how” has the meaning assigned to it in section 35AB.]

<sup>1</sup>\*\*\*

## CHAPTER XVI

### SPECIAL PROVISIONS APPLICABLE TO FIRMS

<sup>2</sup>[A.—*Assessment of firms*

**182. [Assessment of registered firms.]**—*Omitted by the Finance Act, 1992, (18 of 1992), s. 65 (w.e.f. 1-4-1993).*

**183. [Assessment of unregistered firms.]**—*Omitted by the Finance Act, 1992, (18 of 1992), s. 65 (w.e.f. 1-4-1993).*

<sup>3</sup>**184. Assessment as a firm.**—(1) A firm shall be assessed as a firm for the purposes of this Act, if—

(i) the partnership is evidenced by an instrument; and

(ii) the individual shares of the partners are specified in that instrument.

(2) A certified copy of the instrument of partnership referred to in sub-section (1) shall accompany the return of income of the firm of the previous year relevant to the assessment year commencing on or after the 1st day of April, 1993 in respect of which assessment as a firm is first sought.

*Explanation.*—For the purposes of this sub-section, the copy of the instrument of partnership shall be certified in writing by all the partners (not being minors) or, where the return is made after the dissolution of the firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased.

(3) Where a firm is assessed as such for any assessment year, it shall be assessed in the same capacity for every subsequent year if there is no change in the constitution of the firm or the shares of the partners as evidenced by the instrument of partnership on the basis of which the assessment as a firm was first sought.

(4) Where any such change had taken place in the previous year, the firm shall furnish a certified copy of the revised instrument of partnership along with the return of income for the assessment year relevant to such previous year and all the provisions of this section shall apply accordingly.

<sup>4</sup>[(5) Notwithstanding anything contained in any other provision of this Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession” and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28.]

<sup>5</sup>**185. Assessment when section 184 not complied with.**—Notwithstanding anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head “Profits and gains of business or profession” and such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28.]]

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1. Section 181 and sub-heading “O.—Liability of State Governments” omitted by Act 26 of 1988, s. 36 (w.e.f. 1-4-1989).

2. Restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989). Earlier sub-heading “A.—Assessment of firms” and sections 182 and 183 omitted by Act 4 of 1988, s. 67 (w.e.f. 1-4-1989).

3. Subs. by Act 18 of 1992, s. 66, for “sub-heading “B.—Registration of firms” and sections 184, 185 and 86” (w.e.f. 1-4-1993).

4. Subs. by Act 32 of 2003, s. 69, for sub-section (5) (w.e.f. 1-4-2004).

5. Subs. by s. 70, *ibid.*, for section 185 (w.e.f. 1-4-2004).

### C.—Changes in constitution, succession and dissolution

**187.Change in constitution of a firm.**—(1) Where at the time of making an assessment under section 143 or section 144 it is found that a change has occurred in the constitution of a firm, the assessment shall be made on the firm as constituted at the time of making the assessment.

$$1_* \quad \quad \quad * \quad \quad \quad * \quad \quad \quad * \quad \quad \quad *$$

(2) For the purposes of this section, there is a change in the constitution of the firm—

(a) if one or more of the partners cease to be partners or one or more new partners are admitted, in such circumstances that one or more of the persons who were partners of the firm before the change continue as partner or partners after the change ; or

(b) where all the partners continue with a change in their respective shares or in the shares of some of them:

<sup>2</sup>[Provided that nothing contained in clause (a) shall apply to a case where the firm is dissolved on the death of any of its partners.]

**188. Succession of one firm by another firm.**—Where a firm carrying on a business or profession is succeeded by another firm, and the case is not one covered by section 187, separate assessments shall be made on the predecessor firm and the successor firm in accordance with the provisions of section 170.

<sup>3</sup>[**188A. Joint and several liability of partners for tax payable by firm.**—Every person who was, during the previous year, a partner of a firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable along with the firm for the amount of tax, penalty or other sum payable by the firm for the assessment year to which such previous year is relevant, and all the provisions of this Act, so far as may be, shall apply to the assessment of such tax or imposition or levy of such penalty or other sum.]

**189. Firm dissolved or business discontinued.**—(1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the <sup>4</sup>[Assessing Officer] shall make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.

(2) Without prejudice to the generality of the foregoing sub-section, if the <sup>4</sup>[Assessing Officer] or the <sup>5</sup>[Commissioner (Appeals)] in the course of any proceeding under this Act in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

$$6_* \quad \quad \quad * \quad \quad \quad * \quad \quad \quad * \quad \quad \quad *$$

1. The *proviso* omitted by Act 18 of 1992, s. 67 (w.e.f. 1-4-1993). Earlier the proviso was restored by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989) which was omitted by Act 4 of 1988, s. 69 (w.e.f. 1-4-1989).

2. The proviso added by Act 67 of 1984, s. 33 (w.e.f. 1-4-1975).

3. Ins. by Act 4 of 1988, s. 70 (w.e.f. 1-4-1989).

4. Subs. by s. 2, *ibid.*, for "Income-tax Officer" (w.e.f. 1-4-1988).

5. The words “Deputy Commissioner (Appeals)” omitted by Act 21 of 1998, s. 65 (w.e.f. 1-4-1998). Earlier “Deputy Commissioner (Appeals)” substituted by Act 4 of 1988, s. 2, for “Appellate Assistant Commissioner” (w.e.f. 1-4-1988).

6. The *Explanation* omitted by Act 18 of 1992, s. 68 (w.e.f. 1-4-1993). Earlier the *Explanation* reintroduced by Act 3 of 1989, s. 95 (w.e.f. 1-4-1989) and omitted by Act 4 of 1989, s. 71 (w.e.f. 1-4-1989) which was earlier inserted by Act 41 of 1975, s. 52 (w.e.f. 1-10-1975)





*B.—Deduction at source*

**192. Salary.**—(1) Any person responsible for paying any income chargeable under the head “Salaries” shall, at the time of payment, deduct income-tax<sup>1\*\*\*</sup> on the amount payable at the average rate of income-tax<sup>2\*\*\*</sup> computed on the basis of the <sup>3</sup>[rates in force] for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year.

<sup>4</sup>[(1A) Without prejudice to the provisions contained in sub-section (1), the person responsible for paying any income in the nature of a perquisite which is not provided for by way of monetary payment, referred to in clause (2) of section 17, may pay, at his option, tax on the whole or part of such income without making any deduction therefrom at the time when such tax was otherwise deductible under the provisions of sub-section (1).

(1B) For the purpose of paying tax under sub-section (1A), tax shall be determined at the average of income-tax computed on the basis of the rates in force for the financial year, on the income chargeable under the head “Salaries” including the income referred to in sub-section (1A), and the tax so payable shall be construed as if it were, a tax deductible at source, from the income under the head “Salaries” as per the provisions of sub-section (1), and shall be subject to the provisions of this Chapter.]

<sup>5</sup>[(2) Where, during the financial year, an assessee is employed simultaneously under more than one employer, or where he has held successively employment under more than one employer, he may furnish to the person responsible for making the payment referred to in sub-section (1) (being one of the said employers as the assessee may, having regard to the circumstances of his case, choose), such details of the income under the head “Salaries” due or received by him from the other employer or employers, the tax deducted at source therefrom and such other particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible for making the payment referred to above shall take into account the details so furnished for the purposes of making the deduction under sub-section (1).

(2A) Where the assessee, being a Government servant or an employee in a <sup>6</sup>[company, co-operative society, local authority, university, institution, association or body] is entitled to the relief under sub-section (1) of section 89, he may furnish to the person responsible for making the payment referred to in sub-section (1), such particulars, in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall compute the relief on the basis of such particulars and take it into account in making the deduction under sub-section (1).

<sup>7</sup>[*Explanation.*—For the purposes of this sub-section, “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.]

<sup>8</sup>[(2B) Where an assessee who receives any income chargeable under the head “Salaries” has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head “Income from house property”) for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of—

(a) such other income and of any tax deducted thereon under any other provision of this Chapter;

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1. The words “and super tax” omitted by Act 10 of 1965, s. 44 (w.e.f. 1-4-1965).

2. The words “and average rate of super-tax respectively” omitted by s. 44, *ibid* (w.e.f. 1-4-1965).

3. Subs. by Act 19 of 1968, s. 13, for “rates of tax in force” (w.e.f. 1-4-1968).

4. Ins. by Act 20 of 2002, s. 71 (w.e.f. 1-6-2002).

5. Ins. by Act 11 of 1987, s. 45 (w.e.f. 1-6-1987).

6. Subs. by Act 13 of 1989, s. 21, for “public sector undertaking” (w.e.f. 1-6-1989).

7. Ins. by s. 21, *ibid*. (w.e.f. 1-6-1989).

8. Subs. by Act 21 of 1998, s. 47, for sub-section (2B) (w.e.f. 1-8-1998).

(b) the loss, if any, under the head “Income from house property”,

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take—

(i) such other income and tax, if any, deducted thereon; and

(ii) the loss, if any, under the head “Income from house property”,

also into account for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head “Income from house property” has been taken into account, from income under the head “Salaries” below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.]]

<sup>1</sup>[(2C) A person responsible for paying any income chargeable under the head “Salaries” shall furnish to the person to whom such payment is made a statement giving correct and complete particulars of perquisites or profits in lieu of salary provided to him and the value thereof in such form and manner as may be prescribed.]

<sup>2</sup>[(2D) The person responsible for making the payment referred to in sub-section (1) shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.]

(3) The person responsible for making the payment referred to in sub-section (1) <sup>3</sup>[or sub-section (1A)]<sup>4</sup>[or sub-section (2) or sub-section (2A) or sub-section (2B)] may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.

(4) The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balances due to employees, shall, in cases where sub-rule (1) of rule 9 of Part A of the Fourth Schedule applies, at the time an accumulated balance due to an employee is paid, make therefrom the deduction provided in rule 10 of Part A of the Fourth Schedule.

(5) Where any contribution made by an employer, including interest on such contributions, if any, in an approved superannuation fund is paid to the employee, <sup>5</sup>[tax] on the amount so paid shall be deducted by the trustees of the fund to the extent provided in rule 6 of Part B of the Fourth Schedule.

(6) For the purposes of deduction of tax on salary payable in foreign currency, the value in rupees of such salary shall be calculated at the prescribed rate of exchange.

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<sup>7</sup>[**192A. Payment of accumulated balance due to an employee.**—Notwithstanding anything contained in this Act, the trustees of the Employees’ Provident Fund Scheme, 1952, framed under section 5 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) or any

1. Ins. by Act 14 of 2001, s. 68 (w.e.f. 1-6-2001).

2. Ins. by Act 20 of 2015, s. 41 (w.e.f. 1-6-2015).

3. Ins. by Act 20 of 2002, s. 71 (w.e.f. 1-6-2002).

4. Ins. by Act 11 of 1987, s. 45 (w.e.f. 1-6-1987).

5. Subs. by Act 10 of 1965, s. 44, for “Income-tax and super-tax” (w.e.f. 1-4-1965).

6. The *Explanation* omitted by s. 44, *ibid* (w.e.f. 1-4-1965).

7. Ins. by Act 20 of 2015, s. 42 (w.e.f. 1-6-2015).



declaration in writing before the person responsible for paying the interest that the total nominal value of the 6½ per cent Gold Bonds, 1977, or, as the case may be, the 7 per cent. Gold Bonds, 1980, held by him (including such bonds, if any, held on his behalf by any other person) did not in either case exceed ten thousand rupees at any time during the period to which the interest relates;]

<sup>1</sup>\* \* \* \*

<sup>2</sup>[(iv) any interest payable on any security of the Central Government or a State Government:]

<sup>3</sup>[Provided that nothing contained in this clause shall apply to the interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 <sup>4</sup>[or 7.75% Savings (Taxable) Bonds, 2018] during the financial year;]

<sup>5</sup>[(v) any interest payable to an individual or a Hindu undivided family, who is resident in India, on any debenture issued by a company in which the public are substantially interested, if—

(a) the amount of interest or, as the case may be, the aggregate amount of such interest paid or likely to be paid on such debenture during the financial year by the company to such individual or Hindu undivided family does not exceed five thousand rupees; and

(b) such interest is paid by the company by an account payee cheque;]

<sup>6</sup>[(vi) any interest payable to the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any securities owned by it or in which it has full beneficial interest; or

(vii) any interest payable to the General Insurance Corporation of India (hereafter in this clause referred to as the Corporation) or to any of the four companies (hereafter in this clause referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any securities owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest; or

(viii) any interest payable to any other insurer in respect of any securities owned by it or in which it has full beneficial interest;]

<sup>7</sup>[(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the rules made thereunder.]

<sup>8</sup>[*Explanation* <sup>9</sup>\*\*\*.—For the purposes of this section, where any income by way of interest on securities is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

<sup>10</sup>\* \* \* \*

1. Clause (iia) omitted by Act 26 of 1997, s. 46 (w.e.f. 1-6-1997).

2. Subs. by s. 46, *ibid.*, for clause (iv) (w.e.f. 1-6-1997).

3. Ins. by Act 22 of 2007, s. 52 (w.e.f. 1-6-2007).

4. Ins. by Act 13 of 2018, s. 48 (w.e.f. 1-4-2018).

5. Subs. by Act 23 of 2012, s. 72, for clause (v) (w.e.f. 1-7-2012).

6. Ins. by Act 20 of 2002, s. 72 (w.e.f. 1-6-2002).

7. Ins. by Act 18 of 2008, s. 42 (w.e.f. 1-6-2008).

8. Ins. by Act 13 of 1989, s. 22 (w.e.f. 1-6-1989).

9. The figure “1” omitted by Act 18 of 1992, s. 70 (w.e.f. 1-6-1992).

10. *Explanation* 2 omitted by s. 70, *ibid* (w.e.f. 1-6-1992).

**194. Dividends.**—The principal officer of an Indian company or a company which has made the prescribed arrangements for the declaration and payment of dividends (including dividends on preference shares) within India, shall, before making any payment in cash or before issuing any cheque or warrant in respect of any dividend or before making any distribution or payment to a shareholder, <sup>1</sup>[who is resident in India,] of any dividend within the meaning of sub-clause (a) or sub-clause (b) or sub-clause (c) or sub-clause (d) or sub-clause (e) of clause (22) of section 2, deduct from the amount of such dividend, income-tax <sup>2\*\*\*</sup> at the rates in force:

<sup>3</sup>[Provided that no such deduction shall be made in the case of a shareholder, being an individual, if—

(a) the dividend is paid by the company by an account payee cheque; and

(b) the amount of such dividend or, as the case may be, the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed <sup>4</sup>[two thousand five hundred rupees]:

Provided further that the provisions of this section shall not apply to such income credited or paid to—

(a) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), in respect of any shares owned by it or in which it has full beneficial interest;

(b) the General Insurance Corporation of India (hereafter in this proviso referred to as the Corporation) or to any of the four companies (hereafter in this proviso referred to as such company), formed by virtue of the schemes framed under sub-section (1) of section 16 of the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), in respect of any shares owned by the Corporation or such company or in which the Corporation or such company has full beneficial interest;

(c) any other insurer in respect of any shares owned by it or in which it has full beneficial interest:]

<sup>5</sup>[Provided also that no such deduction shall be made in respect of any dividends referred to in section 115-O.]

<sup>6</sup>**[194A. Interest other than “Interest on securities”.**—(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:

<sup>7</sup>[Provided that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such interest is credited or paid, shall be liable to deduct income-tax under this section.]

<sup>8</sup>**[Explanation.**—For the purposes of this section, where any income by way of interest as aforesaid is credited to any account, whether called “Interest payable account” or “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Ins. by Act 49 of 1991, s. 51 (w.e.f. 1-10-1991).

2. The words “and super-tax” omitted by Act 10 of 1965 (w.e.f. 1-4-1965).

3. Subs. by Act 20 of 2002, s. 73, for the first and second provisos (w.e.f. 1-6-2002).

4. Subs. by Act 32 of 2003, s. 73, for “one thousand rupees” (w.e.f. 1-8-2002).

5. Ins. by s. 73, *ibid.* (w.e.f. 1-4-2003).

6. Ins. by Act 20 of 1967, s. 30 (w.e.f. 1-4-1967).

7. Ins. by Act 20 of 2002, s. 74 (w.e.f. 1-6-2002).

8. Ins. by Act 11 of 1987, s. 47 (w.e.f. 1-6-1987).

(3) The provisions of sub-section (1) shall not apply—

<sup>2</sup>[(i) where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the person referred to in sub-section (1) to the account of, or to, the payee, <sup>3</sup>[does not exceed—

(a) <sup>4</sup>[forty thousand] rupees, where the payer is a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution, referred to in section 51 of that Act);

(b) <sup>4</sup>[forty thousand] thousand rupees, where the payer is a co-operative society engaged in carrying on the business of banking;

(c) <sup>4</sup>[forty thousand] rupees, on any deposit with post office under any scheme framed by the Central Government and notified by it in this behalf; and

(d) five thousand rupees in any other case:]

<sup>5</sup>[Provided that in respect of the income credited or paid in respect of—

(a) time deposits with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act); or

(b) time deposits with a co-operative society engaged in carrying on the business of banking;

(c) deposits with a public company which is formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India <sup>6</sup>[for residential purposes and which is eligible for deduction under clause (viii) of sub-section (1) of section 36] <sup>7</sup>\*\*\*;

<sup>8</sup>\*\*\* the aforesaid amount shall be computed with reference to the income credited or paid by a branch of the banking company or the co-operative society or the public company, as the case may be:]

<sup>9</sup>[Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions;]

1. Sub-section (2) omitted by Act 18 of 1992, s. 71 (w.e.f. 1-6-1992).

2. Subs. by Act 25 of 1975, s. 20, for clause (i) (w.e.f. 1-4-1975).

3. Subs. by Act 22 of 2007, s. 53, for “does not exceed five thousand rupees” (w.e.f. 1-6-2007).

4. Subs. by Act 7 of 2019, s. 9, for “ten thousand” (w.e.f. 1-4-2019).

5. Subs. by Act 33 of 1996, s. 49, for the proviso (w.e.f. 1-10-1996).

6. Subs. by Act 10 of 2000, s. 60, for “for residential purposes” (w.e.f. 1-4-2000).

7. The certain words, brackets and figures omitted by Act 27 of 1999, s. 69 (w.e.f. 1-4-2000).

8. The certain words omitted by Act 14 of 2001, s. 69 (w.e.f. 1-6-2001).

9. Ins. by Act 20 of 2015, s. 43 (w.e.f. 1-6-2015).

<sup>1</sup>[Provided also that in case of payee being a senior citizen, the provisions of sub-clause (a), sub-clause (b), and sub-clause (c) shall have effect as if for the words “<sup>2</sup>[forty thousand] thousand rupees”, the words “fifty thousand rupees” had been substituted.

*Explanation.*—For the purposes of this clause, “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;]

<sup>3</sup>\* \* \* \* \*

(iii) to such income credited or paid to—

(a) any banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies, or any co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank), or

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

(c) the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956 (31 of 1956), or

(d) the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or

(e) any company or co-operative society carrying on the business of insurance, or

(f) such other institution, association or body <sup>4</sup>[or class of institutions, associations or bodies] which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette;

<sup>5</sup>[(iv) to such income credited or paid by a firm to a partner of the firm;]

(v) to such income credited or <sup>6</sup>[paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society] to any other co-operative society;]

<sup>7</sup>[*Explanation.*—For the purposes of this clause, “co-operative bank” shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949 (10 of 1949);]

<sup>8</sup>[(vi) to such income credited or paid in respect of deposits under any scheme framed by the Central Government and notified by it in this behalf in the Official Gazette;

<sup>9</sup>[(vii) to such income credited or paid in respect of deposits (other than time deposits made on or after the 1st day of July, 1995) with a banking company to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);

1. Ins. by Act 13 of 2018, s. 49 (w.e.f. 1-4-2018).

2. Subs. by Act 7 of 2019, s. 9, for “ten thousand” (w.e.f. 1-4-2019).

3. Clause (ii) omitted by Act 27 of 1999, s. 69 (w.e.f. 1-4-2000).

4. Ins. by Act 19 of 1968, s. 14 (w.e.f. 1-4-1968).

5. Ins. by Act 3 of 1989, s. 30 (w.e.f. 1-4-1988). Which was omitted by Act 4 of 1988, s. 73 (w.e.f. 1-4-1988). Original clause (iv) was inserted by Act 19 of 1968, s. 14 (w.e.f. 1-4-1968).

6. Subs. by Act 20 of 2015, s. 43, for “paid by co-operative society to a member thereof or” (w.e.f. 1-6-2015).

7. Ins. by s. 43, *ibid.* (w.e.f. 1-6-2015).

8. Ins. by Act 19 of 1970, s. 23 (w.e.f. 1-4-1970).

9. Subs. by Act 22 of 1995, s. 33, for clause (vii) (w.e.f. 1-7-1995).

(viii) to such income credited or paid in respect of,—

(a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;

(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank referred to in sub-clause (a), engaged in carrying on the business of banking;]]

<sup>1</sup>[(viii) to such income credited or paid by the Central Government under any provision of this Act or the Indian Income-tax Act, 1922 (11 of 1922), or the Estate Duty Act, 1953 (34 of 1953), or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Super Profits Tax Act, 1963 (14 of 1963), or the Companies (Profits) Surtax Act, 1964 (7 of 1964), or the Interest-tax Act, 1974 (45 of 1974);]

<sup>2</sup>[(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;]

<sup>3</sup>[(x) to such income which is paid or payable by an infrastructure capital company or infrastructure capital fund or a public sector company <sup>4</sup>[or scheduled bank] in relation to a zero coupon bond issued on or after the 1st day of June, 2005 by such company or fund or public sector company <sup>4</sup>[or scheduled bank];]

<sup>5</sup>[(xi) to any income by way of interest referred to in clause (23FC) of section 10.]

<sup>6</sup>[*Explanation 1*.—For the purposes of clauses (i), (vii) and (viii), “time deposits” means deposits (<sup>7</sup>[including] recurring deposits) repayable on the expiry of fixed periods.

<sup>8</sup>\* \* \* \*

<sup>1</sup>[(4) The person responsible for making the payment referred to in sub-section (1) may, at the time of making any deduction, increase or reduce the amount to be deducted under this section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct during the financial year.]

<sup>9</sup>\* \* \* \*

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1. Ins. by Act 25 of 1975, s. 20 (w.e.f. 1-4-1975).

2. Subs. by Act 20 of 2015, s. 43, for clause (ix) (w.e.f. 1-6-2015).

3. Ins. by Act 18 of 2005, s. 48 (w.e.f. 1-6-2005).

4. Ins. by Act 33 of 2009, s. 60 (w.e.f. 1-4-2009).

5. Ins. by Act 25 of 2014, s. 56 (w.e.f. 1-10-2014).

6. Subs. by Act 18 of 2005, s. 48, for the *Explanation* (w.e.f. 1-6-2005).

7. Subs. by Act 20 of 2015, s. 43, for “excluding” (w.e.f. 1-6-2015).

8. *Explanation 2* omitted by Act 21 of 2006 s. 40 (w.e.f. 1-4-2006).

9. The *Explanation* omitted by Act 18 of 1992, s. 71 (w.e.f. 1-6-1992).



<sup>1</sup>[**194B. Winnings from lottery or crossword puzzle.**—The person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle <sup>2</sup>[or card game and other game of any sort] in an amount exceeding <sup>3</sup>[ten thousand rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force:

<sup>4</sup>\* \* \* \*

<sup>5</sup>[<sup>6</sup>Provided that] in a case where the winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the winnings.]

<sup>7</sup>[**194BB. Winnings from horse race.**—Any person, being a bookmaker or a person to whom a licence has been granted by the Government under any law for the time being in force for horse racing in any race course or for arranging for wagering or betting in any race course, who is responsible for paying to any person any income by way of winnings from any horse race in an amount exceeding <sup>8</sup>[ten thousand rupees] shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

<sup>4</sup>\* \* \* \*

<sup>9</sup>[**194C. Payments to contractors.**—(1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(ii) two per cent where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

1. Ins. by Act 16 of 1972, s. 28 (w.e.f. 1-4-1975).

2. Ins. by Act 14 of 2001, s. 70 (w.e.f. 1-6-2001).

3. Subs. by Act 14 of 2010, s. 35, for “five thousands rupees” (w.e.f. 1-7-2010). Earlier substituted by Act 26 of 1986, s. 30, for “one thousands rupees” (w.e.f. 1-6-1986).

4. The proviso omitted by Act 27 of 1999, s. 70 (w.e.f. 1-4-2000).

5. Ins. by Act 26 of 1997, s. 48 (w.e.f. 1-6-1997).

6. Subs. by Act 27 of 1999, s. 70, “Provided further that” (w.e.f. 1-4-2000).

7. Ins. by Act 19 of 1978, s. 21 (w.e.f. 1-4-1978).

8. Subs. by Act 28 of 2016, s. 73, for “five thousand rupees” (w.e.f. 1-6-2016).

9. Subs. by Act 33 of 2009, s. 61, for section 194C (w.e.f. 1-10-2009).

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed <sup>1</sup>[thirty thousand rupees]:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds <sup>2</sup>[one lakh rupees], the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, <sup>3</sup>[where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with] his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

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

(i) “specified person” shall mean,—

(a) the Central Government or any State Government; or

(b) any local authority; or

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

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any 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; or

(h) any trust; or

(i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956 (3 of 1956); or

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

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1. Subs. by Act 14 of 2010, s. 37, for “twenty thousand rupees” (w.e.f. 1-7-2010).

2. Subs. by Act 28 of 2016, s. 74, for “seventy-five thousand rupees” (w.e.f. 1-6-2016). Earlier the quoted words were substituted for “fifty thousand rupees” (w.e.f. 1-7-2010).

3. Subs. by Act 20 of 2015, s. 44, for “on furnishing of” (w.e.f. 1-6-2015).

(I) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(A) does not fall under any of the preceding sub-clauses; and

(B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) “goods carriage” shall have the meaning assigned to it in the *Explanation* to sub-section (7) of section 44AE;

(iii) “contract” shall include sub-contract;

(iv) “work” shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer,

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.]

<sup>1</sup>[**194D. Insurance commission.**—Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973:]

<sup>2</sup>[Provided further that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed <sup>3</sup>[fifteen thousand rupees].]

<sup>4</sup>[**194DA. Payment in respect of life insurance policy.**—Any person responsible for paying to a resident any sum under a life insurance policy, including the sum allocated by way of bonus on such policy, other than the amount not includible in the total income under clause (10D) of section 10, shall, at the time of payment thereof, deduct income-tax thereon at the rate of <sup>5</sup>[one per cent.]:]

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1. Ins. by Act 21 of 1973, s. 17 (w.e.f. 1-4-1973).

2. Ins. by Act 11 of 1987, s. 48 (w.e.f. 1-6-1987).

3. Subs. by Act 28 of 2016, s. 75, for “twenty thousand rupees” (w.e.f. 1-6-2016). Earlier the quoted words were substituted by Act 14 of 2010, s. 38, for “five thousand rupees” (w.e.f. 1-7-2010).

4. Ins. by Act 25 of 2014, s. 57 (w.e.f. 1-10-2014).

5. Subs. by Act 28 of 2016, s. 76, for “two per cent.” (w.e.f. 1-6-2016).

Provided that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than one hundred thousand rupees.]

<sup>1</sup>[**194E. Payments to non-resident sportsmen or sports associations.**—Where any income referred to in section 115BBA is payable to a non-resident sportsman (including an athlete) <sup>2</sup>[or an entertainer] who is not a citizen of India or a non-resident sports association or institution, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>3</sup>[twenty per cent.].]

<sup>4</sup>[**194EE. Payments in respect of deposits under National Savings Scheme, etc.**—The person responsible for paying to any person any amount referred to in clause (a) of sub-section (2) of section 80CCA shall, at the time of payment thereof, deduct income-tax thereon at the rate of <sup>5</sup>[ten per cent.]:

Provided that no deduction shall be made under this section where the amount of such payment or, as the case may be, the aggregate amount of such payments to the payee during the financial year is less than two thousand five hundred rupees :

Provided further that nothing contained in this section shall apply to the payment of the said amount to the heirs of the assessee.]

<sup>6</sup>[**194F. Payments on account of repurchase of units by Mutual Fund or Unit Trust of India.**—The person responsible for paying to any person any amount referred to in sub-section (2) of section 80CCB shall, at the time of payment thereof, deduct income-tax thereon at the rate of twenty per cent.]

<sup>7</sup>[**194G. Commission, etc., on the sale of lottery tickets.**—<sup>8</sup>[(1)] Any person who is responsible for paying, on or after the 1st day of October, 1991 to any person, who is or has been stocking, distributing, purchasing or selling lottery tickets, any income by way of commission, remuneration or prize (by whatever name called) on such tickets in an amount exceeding<sup>9</sup>[fifteen thousand rupees] shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>10</sup>[five per cent.].]

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*Explanation.*—For the purposes of this section, where any income is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

1. Ins. by Act 36 of 1989, s. 22 (w.e.f. 1-11-1989). Earlier section 194D was omitted by Act 3 of 1989, s. 31(w.e.f. 1-4-1988) which was inserted by Act 4 of 1988, s. 74 (w.e.f. 1-4-1988).

2. Ins. by Act 23 of 2012, s. 73 (w.e.f. 1-7-2012).

3. Subs. by s. 73, *ibid.*, for "ten per cent." (w.e.f. 1-7-2012).

4. Ins. by Act 49 of 1991, s. 54 (w.e.f. 1-10-1991).

5. Subs. by Act 28 of 2016, s. 77, for "twenty per cent." (w.e.f. 1-6-2016).

6. Ins. by Act 12 of 1990, s. 40 (w.e.f. 1-4-1991).

7. Ins. by Act 49 of 1991, s. 55 (w.e.f. 1-10-1991).

8. Section 73 renumbered as sub-section (1) thereof by Act 18 of 1992, s. 73 (w.e.f. 1-6-1992).

9. Subs. by Act 28 of 2016, s. 78, for "one thousand rupees" (w.e.f. 1-6-2016).

10. Subs. by s. 78, *ibid.*, for "ten per cent." (w.e.f. 1-6-2016).

11. Sub-sections (2) and (3) omitted by Act 32 of 2003, s. 76 (w.e.f. 1-6-2003). Earlier sub-sections (2) and (3) were inserted by Act 18 of 1992, s. 73 (w.e.f. 1-6-1992).

<sup>1</sup>**[194H. Commission or brokerage.**—Any person, not being an individual or a Hindu undivided family, who is responsible for paying, on or after the 1st day of June, 2001, to a resident, any income by way of commission (not being insurance commission referred to in section 194D) or brokerage, shall, at the time of credit of such income to the account of the payee or at the time of payment of such income in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of <sup>2</sup>[five per cent.]:

Provided that no deduction shall be made under this section in a case where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year to the account of, or to, the payee, does not exceed <sup>3</sup>[fifteen thousand rupees]:

<sup>4</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such commission or brokerage is credited or paid, shall be liable to deduct income-tax under this section:]

<sup>5</sup>[Provided also that no deduction shall be made under this section on any commission or brokerage payable by Bharat Sanchar Nigam Limited or Mahanagar Telephone Nigam Limited to their public call office franchisees.]

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

(i) “commission or brokerage” includes any payment received or receivable, directly or indirectly, by a person acting on behalf of another person for services rendered (not being professional services) or for any services in the course of buying or selling of goods or in relation to any transaction relating to any asset, valuable article or thing, not being securities;

(ii) the expression “professional services” means services rendered by a person in the course of carrying on a legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or such other profession as is notified by the Board for the purposes of section 44AA;

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

(iv) where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Section 194H reinserted by Act 14 of 2001, s. 71 (w.e.f. 1-6-2001). Earlier section 194H was omitted by Act 27 of 1999, s. 72 (w.e.f. 1-4-2000). Amended by Act 18 of 1992, s. 74 (w.e.f. 1-6-1992) and prior its omission section 194H was inserted by Act 49 of 1991, s. 55 (w.e.f. 1-10-1991).

2. Subs. by Act 28 of 2016, s. 79, for “ten per cent.” (w.e.f. 1-6-2016).

3. Subs. by s. 79, *ibid.*, for “five thousand rupees” (w.e.f. 1-6-2016).

4. Ins. by Act 20 of 2002, s. 76 (w.e.f. 1-6-2002).

5. Ins. by Act 22 of 2007, s. 55 (w.e.f. 1-6-2007).

<sup>1</sup>[**194-I. Rent.**—<sup>2</sup>[Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident] any income by way of rent, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, <sup>3</sup>[deduct income-tax thereon at the rate of—

<sup>4</sup>[(a) two per cent. for the use of any machinery or plant or equipment; and

(b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:]]

Provided that no deduction shall be made under this section where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed <sup>5</sup>[two hundred and forty thousand rupees]:

<sup>6</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such income by way of rent is credited or paid, shall be liable to deduct income-tax under this section:]

<sup>7</sup>[Provided also that no deduction shall be made under this section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.]

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

<sup>8</sup>[(i) “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of (either separately or together) any,—

(a) land; or

(b) building (including factory building); or

(c) land appurtenant to a building (including factory building); or

(d) machinery; or

(e) plant; or

(f) equipment; or

(g) furniture; or

(h) fittings,

whether or not any or all of the above are owned by the payee;]

(ii) where any income is credited to any account, whether called “Suspense account” or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.]

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1. Ins. by Act 32 of 1994, s. 40 (w.e.f. 1-6-1994).

2. Subs. by Act 32 of 2003, s. 77, for certain words (w.e.f. 1-6-2003).

3. Subs. by Act 22 of 1995, s. 35, for “deduct income-tax thereon at the rate of twenty per cent.” (w.e.f. 1-7-1995).

4. Subs. by Act 33 of 2009, s. 62, for clauses (a), (b) and (c) (w.e.f. 1-10-2009).

5. Subs. by Act 7 of 2019, s. 10, for “one hundred eighty thousand rupees” (w.e.f. 1-4-2019). Earlier it was substituted by Act 14 of 2010, s. 40, for “one hundred and twenty thousand rupees” (w.e.f. 1-7-2010).

6. Ins. by Act 20 of 2002, s. 77 (w.e.f. 1-6-2002).

7. Ins. by Act 20 of 2015, s. 45 (w.e.f. 1-6-2015).

8. Subs. by Act 29 of 2006, s. 15, for clause (i) (w.e.f. 13-7-2006).

<sup>1</sup>**[194-IA. Payment on transfer of certain immovable property other than agricultural land—(1)** Any person, being a transferee, responsible for paying (other than the person referred to in section 194LA) to a resident transferor any sum by way of consideration for transfer of any immovable property (other than agricultural land), shall, at the time of credit of such sum to the account of the transferor or at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to one per cent. of such sum as income-tax thereon.

(2) No deduction under sub-section (1) shall be made where the consideration for the transfer of an immovable property is less than fifty lakh rupees.

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

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

(a) “agricultural land” means agricultural land in India, not being a land situate in any area referred to in items (a) and (b) of sub-clause (iii) of clause (14) of section 2;

(b) “immovable property” means any land (other than agricultural land) or any building or part of a building.]

<sup>2</sup>**[194-IB. Payment of rent by certain individuals or Hindu undivided family.—(1)** Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon.

(2) The income-tax referred to in sub-section (1) shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

(4) In a case where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

*Explanation.*—For the purposes of this section, “rent” means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.]

<sup>3</sup>**[194-IC. Payment under specified agreement.—**Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon.]

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1. Ins. by Act 17 of 2013, s. 46 (w.e.f. 1-6-2013).

2. Ins. by Act 7 of 2017, s. 64 (w.e.f. 1-6-2017).

3. Ins. by s. 65, *ibid.* (w.e.f. 1-4-2017).

<sup>1</sup>**[194J. Fees for professional or technical services.]—**(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of—

(a) fees for professional services, or

(b) fees for technical services, <sup>2</sup>[or]

<sup>3</sup>[(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company, or]

<sup>2</sup>[(c) royalty, or

(d) any sum referred to in clause (va) of section 28,]

shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to <sup>4</sup>[ten per cent.] of such sum as income-tax on income comprised therein:

Provided that no deduction shall be made under this section—

(A) from any sums as aforesaid credited or paid before the 1st day of July, 1995; or

(B) where the amount of such sum or, as the case may be, the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year by the aforesaid person to the account of, or to, the payee, does not exceed—

(i) <sup>5</sup>[thirty thousand rupees], in the case of fees for professional services referred to in clause (a), or

(ii) <sup>5</sup>[thirty thousand rupees], in the case of fees for technical services referred to in <sup>6</sup>[clause (b), or]

<sup>2</sup>[(iii) <sup>5</sup>[thirty thousand rupees], in the case of royalty referred to in clause (c), or

(iv) <sup>5</sup>[thirty thousand rupees], in the case of sum referred to in clause (d):]

<sup>7</sup>[Provided further that an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum by way of fees for professional services or technical services is credited or paid, shall be liable to deduct income-tax under this section:]

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1. Ins. by Act 22 of 1995, s. 36 (w.e.f. 1-7-1995).

2. Ins. by Act 29 of 2006, s. 16 (w.e.f. 13-7-2006).

3. Ins. by Act 23 of 2012, s. 74 (w.e.f. 1-7-2012).

4. Subs. by Act 22 of 2007, s. 57, for “five per cent.” (w.e.f. 1-6-2007).

5. Subs. by Act 14 of 2010, s. 41, for “twenty thousand rupees” (w.e.f. 1-7-2010).

6. Subs. by Act 29 of 2006, s. 16, for “clause (b):” (w.e.f. 13-7-2006).

7. Ins. by Act 20 of 2002, s. 78 (w.e.f. 1-6-2002).



<sup>1</sup>[Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family:]

<sup>2</sup>[Provided also that the provisions of this section shall have effect, as if for the words “ten per cent.”, the words “two per cent.” had been substituted in the case of a payee, engaged only in the business of operation of call centre.]

<sup>3</sup>\* \* \* \* \*

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

(a) “professional services” means services rendered by a person in the course of carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or advertising or such other profession as is notified by the Board for the purposes of section 44AA or of this section;

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

<sup>4</sup>[(ba) “royalty” shall have the same meaning as in *Explanation 2* to clause (vi) of sub-section (1) of section 9;]

(c) where any sum referred to in sub-section (1) is credited to any account, whether called “suspense account” or by any other name, in the books of account of the person liable to pay such sum, such crediting shall be deemed to be credit of such sum to the account of the payee and the provisions of this section shall apply accordingly.

**194K. [Income in respect of units.]**—Omitted by the Finance Act, 2016 (28 of 2016), s. 80 (w.e.f. 1-6-2016).

**194L. [Payment of compensation on acquisition of capital asset.]**—Omitted by s. 80, *ibid.* (w.e.f. 1-6-2016).

<sup>5</sup>**[194LA. Payment of compensation on acquisition of certain immovable property.]**—Any person responsible for paying to a resident any sum, being in the nature of compensation or the enhanced compensation or the consideration or the enhanced consideration on account of compulsory acquisition, under any law for the time being in force, of any immovable property (other than agricultural land), shall, at the time of payment of such sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent of such sum as income-tax thereon:

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1. Ins. by Act 32 of 2003, s. 78 (w.e.f. 1-6-2003).

2. Ins. by Act 7 of 2017, s. 66 (w.e.f. 1-6-2017).

3. Sub-section (2) and (3) omitted by Act 32 of 2003, s. 78 (w.e.f. 1-6-2003).

4. Ins. by Act 29 of 2006, s. 16 (w.e.f. 13-7-2006).

5. Ins. by Act 23 of 2004, s. 38 (w.e.f. 1-10-2004).