(*c*) the income so divided shall be included separately in the total income of the husband and the wife, and the remaining provisions of this Act shall apply accordingly; and

(*d*) where either the husband or the wife, has any income under the head "Salaries", that income shall be included in the total income of the spouse who has actually earned it.

CHAPTER III

INCOMES WHICH DO NOT FORM PART OF TOTAL INCOME

A.—Incomes not to be included in total income

Incomes not included in total income.

11. (*1*) In computing the total income of any person for a tax year under this Act, any income enumerated in Schedules II, III, IV, V, and VI shall not be included, subject to fulfilment of conditions specified therein.

(*2*) Wherever the conditions referred to in the Schedules referred in sub-section (*1*) are not satisfied in any tax year in respect of any income enumerated in the said Schedules, such income shall be charged to tax under this Act for that tax year.

(*3*) The persons enumerated in Schedule VII shall, subject to fulfilment of the conditions specified therein, not be chargeable to tax under this Act for a tax year.

(*4*) Wherever the conditions referred to in Schedule VII are not satisfied in respect of the persons enumerated in the said Schedule, the income of such person shall be charged to tax under the provisions of this Act.

(*5*) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedules II, III, IV, V, VI and VII.

B.—Incomes not to be included in total income of political parties and electoral trusts

Incomes not included in total income of political parties and electoral trusts.

12. (*1*) In computing the total income of any political party or an electoral trust for a tax year under this Act, any income enumerated in Schedule VIII shall not be included, subject to fulfilment of conditions specified therein.

(*2*) Wherever the conditions referred to in Schedule VIII are not satisfied in any tax year in respect of any income enumerated in the said Schedule, such income shall be charged to tax under this Act for that tax year.

(*3*) The Central Government may make rules or issue notifications for the purposes of this section as specified in the Schedule VIII.

CHAPTER IV

COMPUTATION OF TOTAL INCOME

A.—Heads of income

Heads of income.

13. Save as otherwise provided in this Act, all incomes shall, for the purposes of charge of income-tax and computation of total income, be classified under the following heads of income:—

(*a*) Salaries;

(*b*) Income from house property;

(*c*) Profits and gains of business or profession;

(*d*) Capital gains; and

(*e*) Income from other sources.

Income not forming part of total income and expenditure in relation to such income.

14. (*1*) Irrespective of anything to the contrary contained in this Act, for the purposes of computing the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income which does not form part of the total income.

(*2*) Where the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with—

(*a*) the correctness of the claim of expenditure incurred by the assessee; or

(*b*) the claim made by the assessee that no expenditure has been incurred,

in relation to income which does not form part of the total income under this Act, he shall determine such amount of expenditure in accordance with any method, as prescribed.

(*3*) Irrespective of anything to the contrary contained in this Act, the provisions of this section shall apply in a case where any expenditure has been incurred during any tax year in relation to income which does not form part of the total income under this Act, but such income has not accrued or arisen or has not been received during that tax year.

B.—Salaries

Salaries.

15. (*1*) The following income shall be chargeable to income-tax under the head "Salaries":—

(*a*) any salary due from an employer to an assessee in the tax year, whether paid or not;

(*b*) any salary paid or allowed to him in the tax year by or on behalf of an employer though not due or before it became due to him;

(*c*) any arrears of salary paid or allowed to him in the tax year by or on behalf of an employer, if not charged to income-tax for any earlier tax year.

(*2*) For the purposes of sub-section (*1*), employer includes former employer.

(*3*) If any salary paid in advance is included in the total income of any person for any tax year, it shall not be included again in the total income of such person when the salary becomes due.

(*4*) Any salary, bonus, commission or remuneration, by whatever name called, due to, or received by, a partner of a firm from the firm shall not be regarded as salary for the purposes of this section.

Income from salary.

16. For the purposes of this Part, "salary" includes—

(*a*) wages;

(*b*) any annuity or pension;

(*c*) any gratuity;

(*d*) any fees or commission;

(*e*) perquisites;

(*f*) profits *in lieu* of, or in addition to, any salary or wages;

(*g*) any advance of salary;

(*h*) any payment received by an employee in respect of any period of leave not availed of by him;

(*i*) the annual accretion to the balance at the credit of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax as per paragraph 6 of Part A of Schedule XI;

(*j*) the aggregate of all sums that are comprised in the transferred balance as referred to in paragraph 11(*2*) of Part A of Schedule XI of an employee participating in a recognised provident fund, to the extent to which it is chargeable to tax under sub-paragraphs (*4*) and (*5*) thereof;

(*k*) the contribution made by the Central Government or any other employer in any tax year, to the account of an employee under a pension scheme referred to in section 124; and

(*l*) the contribution made by the Central Government in any tax year, to the *Agniveer* Corpus Fund account of an individual enrolled in the *Agnipath* Scheme referred to in section 125.

Perquisite.

17. (*1*) For the purposes of this Part, "perquisite" includes—

(*a*) the value of rent-free accommodation provided to the assessee by his employer computed in such manner, as prescribed;

(*b*) the value of any accommodation provided to the assessee by his employer at a concessional rate which is in excess of rent recoverable from, or payable by, the assessee, computed in such manner, as prescribed;

(*c*) the value of any benefit or amenity granted or provided free of cost or at concessional rate in the following cases:—

(*i*) by a company to an employee, who is a director thereof or who has a substantial interest in the company;

(*ii*) by any employer (including a company) to an employee whose income under the head "Salaries" by way of monetary payment (from one or more employers) exceeds such amount as prescribed;

(*d*) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the current employer, or former employer, free of cost or at concessional rate to the assessee;

(*e*) the value of any other benefit or amenity, as prescribed;

(*f*) any sum paid by the employer in respect of any obligation which, but for such payment, would have been payable by the assessee;

(*g*) any sum payable by the employer to effect an assurance on the life of the assessee or to effect a contract for an annuity, whether directly or through a fund, other than—

(*i*) a recognised provident fund; or

(*ii*) an approved superannuation fund; or

(*iii*) a Deposit-linked Insurance Fund established under—

(*A*) section 3G of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948; or 46 of 1948.

(*B*) section 6C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; 19 of 1952.

(*h*) aggregate amount of any contribution, in excess of seven lakh and fifty thousand rupees in a tax year, made to the account of the assessee by the employer—

(*i*) in a recognised provident fund;

(*ii*) in the scheme referred to in section 124(*1*); and

(*iii*) in an approved superannuation fund;

(*i*) the annual accretion by way of interest, dividend or any other amount of similar nature during the tax year to the balance at the credit of the fund or scheme referred to in clause (*h*), computed in such manner, as prescribed (to the extent it relates to the contribution referred to in the said clause in any tax year).

(*2*) Nothing in sub-section (*1*) shall apply to—

(*a*) the value of any medical treatment provided to an employee or any member of his family in any hospital maintained by the employer;

(*b*) any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family—

(*i*) in any hospital maintained by the Government, or any local authority, or any other hospital approved by the Government for the purposes of medical treatment of its employees;

(*ii*) in respect of the prescribed diseases or ailments, in any hospital approved by the Principal Chief Commissioner or Chief Commissioner having regard to such guidelines as specified;

(*c*) any portion of the premium paid by an employer in relation to an employee, to effect or to keep in force an insurance on the health of such employee under any scheme approved, for the purposes of section 30(*c*), by the—

(*i*) Central Government; or

(*ii*) Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(*d*) any sum paid by the employer in respect of any premium paid by the employee to effect or to keep in force an insurance on his health or the health of any member of his family under any scheme, approved for the purposes of section 126, by the—

(*i*) Central Government; or

(*ii*) Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999;

41 of 1999.

(*e*) any expenditure incurred by the employer for the use of any vehicle for journey by the assessee from his residence to his office or other place of work, or from such office or place to his residence;

(*f*) any expenditure incurred by the employer, or any sum paid by the employer in respect of any expenditure actually incurred by the employee, on—

(*i*) medical treatment of the employee or any family member of such employee outside India;

(*ii*) travel and stay abroad for the employee or any member of the family of such employee for medical treatment;

(*iii*) travel and stay abroad of one attendant who accompanies the patient in connection with such treatment.

(*3*) For the purposes of sub-section (*2*)(*f*),—

(*a*) the expenditure on medical treatment and stay abroad shall be excluded from the perquisite only to the extent permitted by the Reserve Bank of India; and

(*b*) the expenditure on travel shall be excluded from perquisite only in the case of an employee whose gross total income, as computed before including therein the said expenditure, does not exceed such amount as prescribed.

(*4*) In this section,—

(*a*) "fair market value" means the value determined in accordance with the method, as prescribed;

(*b*) "family", in relation to an individual, shall have the meaning assigned to it in Schedule III (Note 2);

(*c*) "gross total income" shall have the meaning assigned to it in section 122(*10*);

(*d*) "hospital" includes a dispensary or a clinic or a nursing home;

(*e*) "option" means a right but not an obligation, granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

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

(*g*) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(*h*) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, on the date on which the option is exercised by the assessee, as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares.

Profits in lieu of salary.

18. (*1*) For the purposes of this Part, "profits *in lieu* of salary" includes,—

(*a*) any amount of any compensation due to or received by an assessee from his employer or former employer at or in connection with the—

(*i*) termination of his employment; or

(*ii*) modification of the terms and conditions relating thereto;

(*b*) any amount due to or received, whether in lump-sum or otherwise, by any assessee from any person—

(*i*) before his joining any employment with that person; or

(*ii*) after cessation of his employment with that person;

(*c*) any payment due to or received by an assessee—

(*i*) from an employer or a former employer; or

(*ii*) from a provident or other fund, to the extent to which it does not consist of contributions by the assessee or interest on such contributions; or

(*iii*) any sum received under a Keyman insurance policy as defined in Schedule II (Note 1), including the sum allocated by way of bonus on such policy.

(*2*) The payment referred in sub-section (*1*)(*c*) shall not include any payment referred to in—

(*a*) Schedule II (Table: Sl. No. 3);

(*b*) Schedule II (Table: Sl. No. 4);

(*c*) Schedule II (Table: Sl. No. 8); and

(*d*) Schedule III (Table: Sl. No. 11).

Deductions from salaries.

19. (*1*) The income chargeable under the head "Salaries" shall be computed after making the deductions of the nature as mentioned in column B of the following Table, to the extent as mentioned in column C of the said Table:—

Table

Sl. No.	Nature of sum	Amount of deduction
A	B	C
1.	Sum paid by the assessee as a tax on employment as per article 276(*2*) of the Constitution, leviable by or under any law.	Entire amount.
2.	Standard deduction.	(*a*) ₹ 75,000 or the salary, whichever is less, where income-tax is computed under section 202(*1*); (*b*) ₹ 50,000 or the salary, whichever is less, in any other case.
3.	Death-cum-retirement gratuity received as referred to in sub-section (*2*)(*g*).	Entire amount.
4.	Payment of retiring gratuity received under the Pension Code or Regulations applicable to the members of the defence services.	Entire amount.
5.	Gratuity received under the Payment of Gratuity Act, 1972 (39 of 1972).	Amount received, as restricted to the amount calculated as per the provisions of section 4(*2*) and (*3*) of that Act.
6.	Any other gratuity received by an employee— (*i*) on his retirement; or (*ii*) on his becoming incapacitated before such retirement; or (*iii*) on termination of his employment.	Amount being minimum of— (*a*) actual gratuity received; (*b*) amount specified by the Central Government, by notification, having regard to the limit applicable in this behalf to the employees of the Central Government; and

A	B	C
		(*c*) half month's salary for each completed year of service, calculated as under:— Amount = $\frac{1}{2}$(A x B) where,— A = average salary for ten months immediately preceding the month when event occurs; B = number of such completed years.
7.	Payment in commutation of pension received— (*a*) under the Civil Pensions (Commutation) Rules of the Central Government; or (*b*) under any similar scheme applicable to— (*i*) the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union, [such members or holders not covered under (*a*)]; (*ii*) the members of the all-India services; (*iii*) the members of the defence services; (*iv*) the members of the civil services of a State, or the holders of civil posts under a State; or (*v*) the employees of a local authority or a corporation established by a Central Act or State Act or Provincial Act.	Entire amount.
8.	Payment in commutation of pension is received under any scheme from any other employer.	(*a*) If the employee has received gratuity, the commuted value of one-third of the pension, which he is normally entitled to receive; (*b*) in any other case, the commuted value of one-half of such pension;

A	B	C
		(*c*) such commuted value being determined having regard to the age of the recipient, the state of his health, the rate of interest and officially recognised tables of mortality.
9.	Payment in commutation of pension received from a fund as specified in Schedule VII (Table: Sl. No. 3).	Entire amount.
10.	Compensation received by a workman at the time of his retrenchment— (*a*) under the Industrial Disputes Act, 1947 (14 of 1947); or (*b*) under any other Act or rules, orders or notifications issued thereunder; or (*c*) under any standing orders; or (*d*) under any award, contract of service or otherwise.	Minimum of— (*a*) compensation received; (*b*) amount calculated as per provisions of section 25F(*b*) of the Industrial Disputes Act, 1947 (14 of 1947); (*c*) such amount, not being less than ₹ 50,000 as notified by the Central Government.
11.	Compensation received by a workman in accordance with any scheme which the Central Government may approve in this behalf, having regard to— (*a*) the need for extending special protection to the workmen in the undertaking to which such scheme applies; and (*b*) other relevant circumstances.	Compensation received.
12.	Amount received or receivable on voluntary retirement or termination of service under a scheme or schemes of voluntary retirement, by an employee as referred to in sub-section (*2*)(*h*).	Minimum of— (*a*) compensation received; and (*b*) ₹ 5,00,000.
13.	Payment received by an employee of the Central Government or a State Government as the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement whether on superannuation or otherwise.	Entire amount.

A	B	C
14.	Payment of the nature referred against serial number 13 received by an employee who is not a Central Government or State Government employee.	Amount being minimum of — (*a*) the cash equivalent of the leave salary in respect of the period of earned leave at his credit at the time of his retirement, whether on superannuation or otherwise (entitlement of earned leave shall not exceed thirty days for every year of actual service); (*b*) amount "A", where,— A =10×B; B = average monthly salary for the ten months immediately preceding his retirement whether on superannuation or otherwise; (*c*) amount as the Central Government may, by notification, specify in this behalf having regard to the limit applicable in this behalf to the employees of that Government; and (*d*) actual payment received.

(*2*) For the purposes of the Table referred to in sub-section (*1*),—

(*a*) in respect of the entries against serial number 6 thereof, if gratuity or gratuities was or were received from one or more than one employer in the same tax year (whether or not any gratuity or gratuities was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of gratuity or gratuities which was or were received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from the total income of any such tax year or years;

(*b*) in respect of the entries against serial numbers 6 and 14 thereof, "Salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(*c*) in respect of the entries against serial numbers 10 and 11 thereof, the following amounts shall be deemed to be compensation received at the time of retrenchment:—

(*i*) compensation received by a workman at the time of the closing down of the undertaking in which he is employed;

(*ii*) compensation received by a workman, at the time of the transfer (whether by agreement or by operation of law) of the ownership or management of the undertaking in which he is employed from the employer in relation to that undertaking to a new employer, if—

(*A*) the service of the workman has been interrupted by such transfer; or

(*B*) the terms and conditions of service applicable to the workman after such transfer are in any way less favourable to the workman than those applicable to him immediately before the transfer; or

(*C*) the new employer is, under the terms of such transfer or otherwise, legally not liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer;

(*d*) in respect of the entries against serial numbers 10 and 11 thereof, the expressions "employer" and "workman" shall have the same meanings as respectively assigned to them in the Industrial Disputes Act, 1947; 14 of 1947.

(*e*) the provisions of the entries against serial number 12 thereof shall be subject to the following conditions:—

(*i*) the applicable schemes of the said companies or authorities or societies or Universities or the institutes referred to in clauses (*h*)(*vii*)(*x*) and (*j*) in column B of the said serial number, governing the payment of such amount are made as per such guidelines (including, *inter alia*, criteria of economic viability) as prescribed;

(*ii*) where deduction has been allowed to an employee in respect of the said item for any tax year, no deduction thereunder shall be allowed to him in relation to any other tax year; and

(*iii*) where any relief under section 157 has been allowed to an assessee for any tax year in respect of any amount referred to in the said item, such amount shall not be allowed as a deduction from the compensation received or receivable in any tax year;

(*f*) in respect of the entries against serial number 14 thereof, if any payment on account of cash equivalent to leave salary is received from one or more than one employer in the same tax year (whether or not any such payment or payments was or were received in any earlier tax year), the aggregate amount of deduction shall not exceed—

A – B,

Where,—

A = the limit specified by the Central Government, by notification; and

B = the aggregate amount of payment or payments which was received in any one or more earlier tax years and allowed as an exemption or a deduction (whether whole or part) from total income of any such tax year or years;

(*g*) the death-cum-retirement gratuity referred to in sub-section (*1*) (Table: Sl. No. 3) shall be—

(*A*) received under the revised pension rules of the Central Government, or the Central Civil Services (Pension) Rules, 2021; or

(*B*) received under any similar scheme applicable—

(*i*) to the members of the civil services of the Union or holders of posts connected with defence or of civil posts under the Union (such members or holders being persons not governed by the said rules);

(*ii*) to the members of the All-India services;

(*iii*) to the members of the civil services of a State or holders of civil posts under a State; or

(*iv*) to the employees of a local authority;

(*h*) the schemes of voluntary retirement or termination of service as referred to in sub-section (*1*)(Table: Sl. No. 12) shall be for the employees of—

(*i*) a public sector company (under a scheme of voluntary separation); or

(*ii*) any other company; or

(iii) an authority established under a Central Act or State Act or Provincial Act; or

(*iv*) a local authority; or

(*v*) a co-operative society; or

(*vi*) a University established or incorporated by or under a Central Act or State Act or Provincial Act and an institution declared to be a University under section 3 of the University Grants Commission Act, 1956; or 3 of 1956.

(*vii*) an Indian Institute of Technology within the meaning of section 3(*g*) of the Institutes of Technology Act, 1961; or 59 of 1961.

(*viii*) the Central or any State Government; or

(*ix*) an institution, having importance throughout India or in any State or States, as the Central Government may, by notification, specify in this behalf; or

(*x*) such institute of management, as the Central Government may, by notification, specify in this behalf.

C.— Income from house property

Income from house property.

20. (*1*) The annual value of property consisting of any buildings or lands appurtenant thereto, owned by the assessee shall be chargeable to income-tax under the head “Income from house property”.

(*2*) The provisions of sub-section (1) shall not apply to such portions of the property, as occupied by the assessee for his business or profession, the profits of which are chargeable to income-tax.

Determination of annual value.

21. (*1*) For the purposes of section 20, the annual value of any property shall be deemed to be the higher of the following:—

(*a*) the sum for which it might reasonably be expected to let from year to year; or

(*b*) the actual rent received or receivable by the owner, if the property or any part of it is let.

(*2*) In case the property or any part of it is let in normal course and was vacant for the whole or any part of the tax year, the annual value of such property shall be computed as per sub-section (*1*)(*b*).

(*3*) The annual value of the property shall be reduced by the taxes (including service taxes) levied by a local authority in respect of such property, actually paid during the tax year by the owner, irrespective of when such taxes became payable.

(*4*) The rent which cannot be realised by the owner shall not be included in computing the actual rent received or receivable, subject to the rules as may be made in this behalf.

(*5*) In respect of a property or its part held as stock-in-trade and not let wholly or partly at any time during the tax year, the annual value shall be *nil* for two years from the end of the financial year in which completion certificate is obtained from the competent authority.

(*6*) The annual value of the property consisting of a house or any part thereof shall be taken as *nil*, if the owner occupies it for his own residence or cannot actually occupy it due to any reason.

(*7*) The provisions of sub-section (*6*)—

(*a*) shall apply only in respect of two of such houses as specified by the assessee in this behalf;

(*b*) shall not apply, if the house or any part thereof is actually let during any time of the tax year, or if the owner derives any other benefit from it.

Deductions from income from house property.

22. (*1*) The income under the head "Income from house property" shall be computed after allowing the following deductions:—

(*a*) 30% of the annual value;

(*b*) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

(*2*) In case of property or properties referred to in section 21(*6*), the aggregate amount of deduction under sub-section (*1*)(*b*) shall not exceed—

(*a*) two lakh rupees, subject to the following conditions:—

(*i*) the property has been acquired or constructed with borrowed capital and such acquisition or construction is completed within five years from the end of tax year in which capital was borrowed;

(*ii*) if capital is borrowed during any period prior to the tax year in which the property has been acquired or constructed, any interest payable for the said prior period shall be allowed as a deduction in five equal instalments for the said tax year and for each of the four immediately succeeding tax years;

(*iii*) the assessee furnishes a certificate from the person to whom interest is payable on such capital; and

(*b*) thirty thousand rupees in any other case.

(*3*) The deduction under sub-section (*2*)(*a*)(*ii*) shall be computed after reducing any amount already allowed as a deduction under any other provisions of this Act.

(*4*) The certificate referred to in sub-section (*2*) shall specify—

(*a*) the amount of interest payable on capital borrowed; and

(*b*) the interest payable on any new loan, where subsequent to the capital borrowed, the assessee has taken any such loan for repayment of whole or any part of such capital.

(*5*) The aggregate of the amounts of deduction under sub-section (*2*) in respect of properties of the nature referred to in section 21(*6*) shall not exceed two lakh rupees.

(*6*) Any interest chargeable under this Act which is payable outside India shall not be allowed as a deduction under this section, if—

(*a*) tax has not been paid or deducted on such interest under Chapter XIX-B; and

(*b*) in respect of such interest, there is no agent in India as per section 306.

Arrears of rent and unrealised rent received subsequently.

23. (*1*) The amount of arrears of rent received from a tenant or the unrealised rent realised subsequently from a tenant shall deemed to be the income from house property in respect of the tax year in which such rent is received or realised.

(*2*) The amount deemed to be income from house property under sub-section (*1*) shall be included in the total income of the assessee under the head "Income from house property", whether the assessee is the owner of the property or not in that tax year.

(*3*) A sum equal to 30% of the arrears of rent or the unrealised rent referred to in sub-section (*1*) shall be allowed as deduction.

Property owned by co-owners.

24. (*1*) For property co-owned with definite and ascertainable share, the co-owners shall not be assessed as an association of persons and their income computed separately as per their respective share under this Chapter shall be included in their total income.

(*2*) The relief available under section 21(*6*) shall be provided as if each co-owner is individually entitled to the said relief.

Interpretation.

25. For the purposes of sections 20 to 24, the "owner" in relation to a property shall include—

(*a*) an individual who transfers without adequate consideration, any property to the spouse (except under an agreement to live apart), or to a minor child (other than a married daughter);

(*b*) the holder of an impartible estate;

(*c*) a member of a co-operative society, company or other association of persons to whom a building or part thereof is allotted or leased under a house building scheme of the society, company or association;

(*d*) a person who is allowed to take or retain possession of any building or part thereof in part performance of a contract of the nature referred to in section 53A of the Transfer of Property Act, 1882; 4 of 1882.

(*e*) a person who acquires any rights (excluding any rights by way of a lease from month to month or for a period not exceeding one year) in or with respect to any building or its part—

(*i*) by virtue of transfer of such property by way of sale or exchange or original or extendible lease for a term of not less than twelve years; or

(*ii*) accruing or arising from any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement of whatever nature), not being a transaction by way of sale, exchange or lease which has the effect of enabling the enjoyment of such property.

D.— Profits and gains of business or profession

Income under head "Profits and gains of business or profession".

26. (*1*) The income from any business or profession carried on by the assessee at any time during the tax year shall be chargeable to income-tax under the head "Profits and gains of business or profession".

(*2*) The income under sub-section (*1*) shall include—

(*a*) the profits and gains of any business or profession carried on by the assessee at any time during the tax year;

(*b*) any compensation or other payment, due to, or received, by any person by whatever named called,—

(*i*) wholly or substantially managing the affairs —

(*A*) of an Indian company; or

(*B*) in India, of any other company; or

(*ii*) holding any agency in India for any part of business activities of any other person; or

(*iii*) for any contract relating to business,

in connection with termination of management, office or agency or contract, as the case may be, or modification of terms and conditions relating thereto;

(*c*) any compensation or payment, due to, or received by, any person for vesting of the management of any property or business in the Government, including any corporation owned or controlled by the Government under any law in force;

(*d*) income derived by a trade, professional or similar association from specific services performed for its members;

(*e*) the amount of any profit on sale of input licence, cash assistance against export, duty drawback or duty remission or any other export incentive, received or receivable;

(*f*) the value of any benefit or perquisite arising from business or the exercise of a profession, whether—

(*i*) convertible into money or not; or

(*ii*) in cash or in kind or partly in cash and partly in kind;

(*g*) an amount being interest, salary, bonus, commission or remuneration, by whatever name called, which is due to, or received by, a partner of a firm from such firm to the extent allowed under Chapter IV-D as a deduction in computing the income of the firm;

(*h*) any sum, received or receivable, in cash or in kind—

(*i*) under an agreement for not carrying out any activity in relation to any business or profession, not being–

(*A*) a consideration received on account of transfer of the right to manufacture, produce or process any article or thing or right to carry on any business or profession which is chargeable under the head "Capital gains";

(*B*) any sum received as compensation from the multilateral fund of the Montreal Protocol on Substances that Deplete the Ozone layer under the United Nations Environment Programme, as per the terms of agreement entered into with the Government of India; or

(*ii*) under an agreement for not sharing any know-how, patent, copyright, trade-mark, licence, franchise or any other business or commercial right of similar nature, or information or technical know-how likely to assist in the manufacture or processing of goods or provision for services;

(*i*) any sum received under a Keyman insurance policy including the sum allocated by way of bonus on such policy;

(*j*) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the manner, as prescribed; and

(*k*) any sum which is received or receivable in cash or kind, when—

(*i*) a capital asset other than land or goodwill or financial instrument, is demolished, destroyed, discarded or transferred; and

(*ii*) the whole of the expenditure on it has been allowed as a deduction under section 46.

(*3*) Where speculative transactions carried on by an assessee are of such nature to constitute a business, the business (herein referred to as speculation business) shall be deemed to be distinct and separate from any other business.

(*4*) Any income from letting out of a residential house or a part of it by the owner shall not be included in income under sub-section (*1*) and shall be chargeable only under the head "Income from house property".

Manner of computing profits and gains of business or profession.

27. The income referred to in section 26 shall be computed as per the provisions of sections 28 to 60, except section 58.

Rent, rates, taxes, repairs and insurance.

28. (*1*) The following amounts shall be allowed as deduction in respect of premises, machinery, plant or furniture, wholly and exclusively, used for the purposes of the business or profession:—

(*a*) any premium paid in respect of insurance against risk of damage or destruction thereof;

(*b*) land revenue, local rates or municipal taxes paid;

(*c*) rent paid, when the premises are occupied by the assessee as a tenant;

(*d*) amount paid on account of current repairs, not being capital expenditure, when the premises are occupied by the assessee otherwise than as a tenant; and

(*e*) cost of repairs, not being capital expenditure, when the premises occupied by the premises occupied by the assessee as a tenant.

(*2*) In case where the premises, building, machinery, plant or furniture is partly used or not wholly and exclusively used for the purposes of the business or profession, the deduction allowable under sub-section (*1*) shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession.

Deductions related to employee welfare.

29. (*1*) The following sums, when paid by the assessee as an employer, shall be allowed as deduction in computing income chargeable under section 26:—

(*a*) any contribution paid to a recognised provident fund or an approved superannuation fund, subject to—

(*i*) the limits as prescribed for recognising the provident fund or approving the superannuation fund; and

(*ii*) the conditions, as the Board may specify, for cases where the contributions are not made annually either as fixed amounts, or annual contributions fixed on some definite basis by reference to the income chargeable under the head "Salaries" or the contributions or to the number of members of the fund;

(*b*) any contribution paid to a pension scheme referred to in section 124, for an employee up to 14% of the salary of the employee in the tax year, where such salary includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

(*c*) any contribution paid to an approved gratuity fund created by the assessee for the exclusive benefit of his employees under an irrevocable trust;

(*d*) any provision made for the purpose of making contribution towards approved gratuity fund or for the purpose of payment of any gratuity that has become payable during the tax year;

(*e*)(*i*) the amount of contribution received from an employee by the assessee to which the provisions of section 2(*49*)(*o*) apply, if it is credited by the assessee to the account of the employee in the relevant fund or funds by the due date;

(*ii*) for the purposes of sub-clause (*i*), "due date" means the date by which the assessee is required as an employer to credit employee contribution to the account of an employee in the relevant fund under any Act, rule, order or notification issued under it or under any standing order, award, contract of service or otherwise and the provisions of section 37 shall not apply for determining the "due date" under this clause.

(*2*) (*a*) For the purposes of sub-section (*1*)(*d*), no deduction shall be allowed for any provision made for the payment of gratuity to the employees on their retirement or termination for any reason; and

(*b*) in case deduction has been allowed for any provision made under sub-section (*1*)(*d*), then no deduction shall be allowed on actual payment made from such provision.

(*3*) No deduction shall be allowed in respect of any sum paid by the assessee as an employer towards setting up or formation of, or as contribution to, any fund, trust, company, association of persons, body of individuals, society registered under the Societies Registration Act, 1860, or other institution for any purpose, except where such sum is so paid, for the purposes and to the extent provided by or under sub-section (*1*)(*a*) or (*b*) or (*c*), or as required by or under any other law in force.

21 of 1860.

Deduction on certain premium.

30. The following sums shall be allowed as deduction in computing income chargeable under section 26, being premium paid:—

(*a*) by any assessee in respect of insurance against risk of damage or destruction of stocks or stores used for the purposes of business or profession;

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

(*c*) by the assessee, as an employer, through any mode of payment other than cash, to effect or to keep in force an insurance on the health of its employees under a scheme framed in this behalf by—

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

(*ii*) any other insurer and approved by the Insurance Regulatory and Development Authority established under section 3(*1*) of the Insurance Regulatory and Development Authority Act, 1999. 41 of 1999.

Deduction for bad debt and provision for bad and doubtful debt.

31. (*1*) The amount mentioned in column C of the Table below, in respect of any provision for bad and doubtful debts made by the assessee specified in column B thereof, shall be allowed as a deduction in computation of income chargeable under section 26.

Table

Sl No.	Specified assessee	Amount of deduction
A	B	C
1.	(*a*) A scheduled bank, other than a bank incorporated by or under the laws of a country outside India; or (*b*) a non-scheduled bank; or (*c*) a co-operative bank, other than— (*i*) a primary agricultural credit society; or (*ii*) a primary co-operative agricultural and rural development bank.	(*a*) not more than 8.5% of the total income of the tax year computed before making any deduction under this clause and Chapter VIII, and an additional amount up to 10% of the aggregate average advances made by rural branches computed in the manner as prescribed; (*b*) for an assessee mentioned in clauses (*a*) and (*b*) of column B, at its option, an additional amount in excess of clause (*a*) of this column but not more than the income from redemption of securities as per a scheme framed by the Central Government, when such income has been disclosed in the return of income under the head "Profits and gains of business or profession".
2.	(*a*) A bank incorporated by or under the laws of a country outside India; or (*b*) a public financial institution or a State Financial Corporation or a State Industrial Investment Corporation; or (*c*) a non-banking financial company.	Not more than 5% of the total income of a tax year computed before making any deduction under this clause and Chapter VIII.

(*2*) Any amount of bad debt, or part of it, in the tax year in which such amount is written off as irrecoverable in the accounts of the assessee, shall be allowed as deduction in computation of income chargeable under section 26, subject to the following conditions:—

(*a*) it has been taken into account in computing the income of the assessee of the tax year in which it is written off, or any earlier tax year, or represents the money lent in the ordinary course of the business of banking or money lending which is carried on by the assessee;

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

(*c*) where it relates to an assessee to which sub-section (*1*) applies,—

(*i*) only that amount which exceeds the credit balance in the provision for bad and doubtful debts account made under that sub-section shall be allowed as deduction;

(*ii*) it shall be allowed only when the assessee has debited such amount in that tax year to the provision for bad and doubtful debts account made under that sub-section; and

(*d*) the account referred to in clause (*c*) shall be only one such account under sub-section (*1*) and such account shall be related to all types of advances, including advances made by rural branches.

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

(*a*) any bad debt or part of it written off as irrecoverable shall not include any provision for bad and doubtful debt;

(*b*) any amount of bad debt or part of it, which has been taken into account in computing the income of the assessee of the tax year in which the amount of bad debt or part of it becomes irrevocable or of an earlier tax year, as per income computation and disclosure standards notified under section 276(*2*) without recording it in the accounts, shall be allowed as a deduction in computing the income of the assessee of the tax year in which it becomes irrecoverable and such bad debt or part of it shall be deemed to be written off as irrevocable in the accounts for the purposes of sub-section (*2*).

Other deductions.

32. (*1*) The following amounts shall be allowed as deduction in computing income chargeable under section 26:—

(*a*) bonus or commission paid to an employee for services rendered, but only when such sum would not have been payable to the employee as profits or dividend if it had not been paid as bonus or commission;

(*b*) interest paid in respect of capital borrowed for the purposes of business or profession, where—

(*i*) interest shall not include interest on capital borrowed for acquisition of an asset, whether capitalised in the books of account or not, for any period beginning from the date the capital was borrowed for acquisition of the asset till the date that asset was first put to use;

(*ii*) recurring subscriptions paid periodically by shareholders or subscribers in Mutual Benefit Societies fulfilling the conditions as prescribed, shall be deemed to be capital borrowed;

(*c*) contribution paid by a public financial institution to the credit guarantee fund trust for small industries as the Central Government may, by notification, specify;

(*d*) the *pro rata* amount of discount on a zero coupon bond having regard to the period of life of such bond calculated in the manner, as prescribed, where—

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

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

(*e*) the amount carried to a special reserve created and maintained by a specified entity, subject to the following conditions:—

(*i*) the deduction shall not exceed 20% of the profits derived from an eligible business computed under the head "Profits and gains of business or profession" before any deductions under this clause; and

(*ii*) when the aggregate of such amounts carried to such reserve account from time to time exceeds twice the amount of paid-up share capital and of general reserves of the specified entity, no deduction shall be allowable on such excess,

and for the purposes of this clause,—

(*A*) "specified entity" means—

(*I*) a financial corporation as specified in section 2(*72*) of the Companies Act, 2013; 18 of 2013.

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

(*III*) a banking company;

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

(*V*) a housing finance company; and

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

(*B*) "eligible business" means,—

(*I*) in respect of any of the specified entities referred to in clauses (*e*)(*A*)(*I*) to (*IV*), the business of providing long-term finance for—

(*a*) industrial or agricultural development;

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

(*c*) development of housing in India;

(*II*) in respect of the specified entity referred to in clause (*e*)(*A*)(*V*), the business of providing long-term finance for the construction or purchase of houses in India for residential purposes; and

(*III*) in respect of the specified entity referred to in clause (*e*)(*A*)(*VI*), the business of providing long-term finance for development of infrastructure facility in India;

(*C*) "infrastructure facility" means—

(*I*) an infrastructure facility as defined in *Explanation* to section 80-IA(*4*)(*i*) of the Income-tax Act, 1961 or any other public facility of a similar nature as notified by the Board in this behalf and which fulfils the conditions as prescribed; 43 of 1961.

(*II*) an undertaking referred to in section 80-IA(*4*)(*ii*) or (*iii*) or (*iv*) or (*vi*) of the Income-tax Act, 1961; and 43 of 1961.

(*III*) an undertaking referred to in section 141(*5*);

(*f*) any expenditure, not being capital expenditure, incurred by a corporation or a body corporate, by whatever name called, if,—

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

(*ii*) it is notified by the Central Government for the purposes of this clause having regard to the objects and purposes of the Act referred to in sub-clause (*i*); and

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

(*g*) the expenditure incurred by a co-operative society engaged in the business of manufacture of sugar, on purchase of sugarcane at a price equal to or less than the price fixed or approved by the Government;

(*h*) marked to market loss or other expected loss as computed as per the income computation and disclosure standards notified under section 276(*2*) and no deduction or allowance for such loss shall be allowed under any other provision of this Act;

(*i*) any expenditure *bona fide* incurred by a company for the purpose of promoting family planning amongst its employees, subject to the following conditions:—

(*i*) if such expenditure or any part of it is of capital nature, one-fifth of it shall be deducted for the tax year in which it was incurred and the balance shall be deducted in equal instalments for each of the four immediately succeeding tax years;

(*ii*) the provisions of sections 33(*11*) and 112(*3*) shall apply to deduction under this clause as they apply in relation to deductions allowable in respect of depreciation;

(*iii*) the provisions of sections 38(*1*)(*c*), 39(*4*) (Table: Sl. No. 9) and 45(*6*), shall apply to an asset representing capital expenditure for promoting family planning, to the extent they apply to an asset representing capital expenditure on scientific research;

(*j*) the amount being difference between the cost of animals used for the purposes of the business or profession otherwise than as stock-in-trade, as reduced by the amount realised from the carcasses or animals, where such animals have died or become permanently useless; and

(*k*) the amount paid as securities transaction tax or commodities transaction tax, if—

(*i*) the taxable securities transactions or taxable commodities transactions are entered into the course of the business during the tax year; and

(*ii*) the income arising from such taxable securities transactions or taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

Deduction for depreciation.

33. (*1*) A deduction in respect of depreciation of—

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

(*b*) know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired, not being goodwill of a business or profession,

owned wholly or partly by the assessee and used wholly and exclusively for the purposes of the business or profession, shall be allowed, as per the provisions of this section.

(*2*) In case of assets referred to in sub-section (*1*) of an undertaking engaged in generation or generation and distribution of power, the depreciation shall be a percentage of its actual cost to the assessee, as prescribed.

(*3*) (*a*) In case of any block of assets, depreciation shall be a percentage of its written down value, as prescribed;

(*b*) when any asset forming part of the block of assets is partly, or not wholly and exclusively, used for the purposes of the business or profession, the deduction allowable shall be restricted to the fair proportionate part thereof as determined by the Assessing Officer, having regard to the usage for the purposes of the business or profession;

(*c*) when deduction of actual cost in respect of any machinery or plant has been allowed under section 54, no deduction under this sub-section shall be allowed.

(*4*) The deduction under this section shall be restricted to 50% of the prescribed rate, if such asset, being asset referred to in sub-sections (*1*), (*2*) and (*8*) is—

(*a*) acquired by the assessee during the tax year; and

(*b*) put to use for the purposes of business or profession for less than one hundred and eighty days in that tax year.

(*5*) The allowable deduction calculated at the prescribed rates under this section shall be allowed on *pro rata* basis based on number of days for which assets were used by the following:—

(*a*) predecessor and successor, in case of a succession under section 70(*1*)(*zd*) or (*ze*) or (*zf*), or section 313; or

(*b*) amalgamating company and the amalgamated company in case of an amalgamation; or

(*c*) demerged company and the resulting company in case of a demerger.

(*6*) Where a building, not owned by the assessee, is held on lease or by any other right of occupancy is used for the purposes of business or profession, and if any capital expenditure is incurred by the assessee for the purposes of business or profession on construction of any structure or any work by way of renovation, extension or improvement to such building, then such structure or work shall be treated as a building owned by the assessee for the purposes of this section.

(*7*) The provisions of this section shall apply even when the assessee has not claimed deduction for depreciation in computing the total income.

(*8*) Further sum in addition to deduction under sub-section (*3*) shall be allowed, when—

(*a*) the assessee is engaged in the business of manufacture or production of any article or thing or in the business of generation, transmission or distribution of power;

(*b*) the assessee acquires and installs any new machinery or plant;

(*c*) the new machinery or plant is first put to use by the assessee for the purposes of business; and

(*d*) the new machinery or plant—

(*i*) is not a ship or an aircraft;

(*ii*) was not used either within or outside India by any other person before its installation by the assessee;

(*iii*) is not installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(*iv*) is not in the nature of any office appliances or road transport vehicle; and

(*v*) is not of a class of asset on which the whole of the actual cost is allowable as a deduction (whether by way of depreciation or otherwise) in computing the income under the head "Profits and gains of business or profession" of any tax year.

(*9*) The additional deduction referred to in sub-section (*8*) shall be—

(*a*) 20% of the actual cost of the new machinery or plant in the tax year when it is acquired and put to use; or

(*b*) 10% of the actual cost, if the new machinery or plant is acquired and put to use for less than one hundred and eighty days in the relevant tax year, and the remaining 10% shall be allowed in the immediately succeeding tax year.

(*10*) The difference between the written down value and the money payable including the scrap value, if any, shall be allowed as deduction when any tangible asset in respect of which depreciation is claimed and allowed under sub-section (*2*)—

(*a*) is sold, discarded, demolished or destroyed in the tax year not being the tax year in which it is first put into use;

(*b*) the money payable including the scrap value, if any, is less than its written down value; and

(*c*) such deficiency is actually written off in the books of account of the assessee.

(*11*) (*a*) Where the profits and gains chargeable for the tax year before allowing the deduction under sub-section (*1*) is less than the allowable deduction under that sub-section, then—

(*i*) if such profits and gains is not a loss, the deduction under sub-section (*1*) shall be allowed to the extent of the available profits and gains;

(*ii*) if such profits and gains is a loss, no deduction under sub-section (*1*) shall be allowed;

(*b*) the amount of deduction which has not been allowed under clause (*a*) shall be added to the allowable deduction under this section, whether available or not, for the succeeding tax year and the total amount shall be deemed to be eligible for deduction in that year, and so on for the succeeding tax years;

(*c*) the provisions of this sub-section shall be subject to the provisions of sections 112(*3*) and 113(*4*); and

(*d*) any deduction in respect of any depreciation carried forward to the succeeding tax year under this sub-section shall be deemed to be depreciation, actually allowed.

(*12*) In this section,—

(*a*) "assets" mean—

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

(*ii*) intangible assets being—

(*A*) know-how;

(*B*) patents;

(*C*) copyrights;

(*D*) trademarks;

(*E*) licences;

(*F*) franchises; or

(*G*) any other similar business or commercial rights, but not being goodwill of a business or profession;

(*b*) "know-how" means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);

(*c*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company or in a scheme of amalgamation of a banking company, as referred to in section 5(*c*) of the Banking Regulation Act, 1949 with a banking institution as referred to in section 45(*15*) of the said Act, sanctioned and brought into force by the Central Government under section 45(*7*) of that Act, of any asset by the banking company to the banking institution; 10 of 1949.

(*d*) "written down value of the block of assets" shall have the same meaning as in section 41(*1*)(Table: Sl. No. 3)

General conditions for allowable deductions.

34 (*1*) Any expenditure (not being an expenditure of the nature specified in sections 28 to 33 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(*2*) For the purposes of sub-section (*1*), an expenditure laid out or expended wholly and exclusively for business or profession by the assessee shall not include any of the following:—

(*a*) an expenditure incurred for any purpose which is an offence or is prohibited by law; or

(*b*) an expenditure incurred on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013; or 18 of 2013.

(*c*) an expenditure incurred on advertisement in any souvenir, brochure, tract, pamphlet or the like, published by a political party.

(*3*) The expenditure mentioned in sub-section (*2*)(*a*) shall include expenditure incurred for—

(*a*) any purpose which is an offence under, or is prohibited by, any law in force in or outside India; or

(*b*) providing a benefit or perquisite in any form to a person, who may or may not be carrying on a business or exercising a profession, when its acceptance by the person is in violation of any law or rule or regulation or guideline governing the conduct of that person; or

(*c*) compounding an offence under any law in force in or outside India; or

(*d*) settling proceedings initiated in relation to contravention under any law notified by the Central Government in this behalf.

Amounts not deductible in certain circumstances.

35. Irrespective of any other provision of Chapter IV-D, the following amounts shall not be allowed as deduction in computing the income chargeable under the head "Profits and gains of business or profession":—

(*a*) any amount on account of—

(*i*) tax paid on income; or

(*ii*) tax paid by employer referred to in Schedule III (Table: Sl. No. 10); or

(*iii*) tax paid in any other country for which relief is eligible under section 159 or 160,

and shall include any surcharge or cess on such tax, by whatever name called;

(*b*)(*i*) 30% of any sum payable to a resident on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax has not been deducted or after deduction, has not been paid up to the due date specified in section 263(*1*), where—

(*A*) tax is deducted and paid during any subsequent tax year, deduction of such sum shall be allowed as a deduction in computing the income in any subsequent tax year, in which such tax has been paid;

(*B*) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(*2*), then for the purposes of this sub-clause, the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee referred to in section 398(*2*);

(*ii*) any interest, royalty, fees for technical services or other sum chargeable under this Act which is payable—

(*A*) outside India; or

(*B*) in India to a non-resident (which is not a company) or to a foreign company,

on which tax is deductible at source under Chapter XIX-B and during the tax year, such tax, has not been deducted or after deduction, has not been paid up to the due date specified in section 263(*1*), where—

(*I*) tax is deducted and paid during any subsequent tax year, deduction of such sum shall be allowed as a deduction in computing the income in any subsequent tax year, in which such tax has been paid;

(*II*) the assessee is required to and fails to deduct whole or any part of the tax under Chapter XIX-B but he is not deemed to be an assessee in default under section 398(*2*), then for the purposes of this sub-clause the assessee shall be deemed to have deducted and paid the tax on such sum on the date on which the return has been filed by the payee as referred to in section 398(*2*);

(*iii*) any payment to a provident or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source under Chapter XIX-B from any payments made from the fund which are chargeable to tax under the head "Salaries";

(*c*) any payment chargeable under the head "Salaries", payable outside India or to a non-resident on which tax is deductible at source under Chapter XIX-B and such tax has not been deducted or, after deduction, has not been paid;

(*d*)(*i*) any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under Chapter VIII of the Finance Act, 2016 and such levy has not been deducted or, after deduction, has not been paid up to the due date specified in section 263(*1*); 28 of 2016.

(*ii*) deduction of such consideration shall be allowed in any subsequent tax year, in which such levy has been paid;

(*e*) any amount—

(*i*) paid by way of royalty, licence fee, service fee, privilege fee, service charge or any other fee or charge, by whatever name called, which is levied exclusively on; or

(*ii*) which is appropriated, directly or indirectly, from a State Government undertaking, by the State Government;

(*f*) the expenditure incurred by a firm, assessable as such—

(*i*) in the nature of salary, bonus, commission or remuneration, by whatever name called (herein referred as remuneration) to a partner, who is not a working partner; or

(*ii*) on the remuneration to a working partner and interest to any partner, if it is—

(*A*) not authorised by the partnership deed applicable for the period for which such remuneration or interest is paid; or

(*B*) authorised by and is as per the terms of partnership deed but relates to the period prior to the date of such partnership deed, or which was not authorised by the earlier partnership deed; or

(*iii*) on the aggregate remuneration to all working partners as authorised by the partnership deed, exceeding the amount computed as under:—

(*A*) on the first six lakh rupees of the book profit or in case of a loss, three lakh rupees or 90% of the book profit, whichever is higher;

(*B*) on the balance of the book profit at the rate of 60%; or

(*iv*) on interest to any partner as authorised by the partnership deed, exceeding 12% simple interest per annum, and where an individual is a partner in a firm, on behalf of or for the benefit of any other person, such partner and any other person shall be referred as a "representative partner" and the "person so represented", respectively, then the provisions of sub-clause (*ii*) and this sub-clause—

(*A*) shall not be applicable in respect of interest paid to such individual not as a representative partner;

(*B*) shall be applicable in respect of interest paid to an individual as a representative partner and the person so represented;

(*C*) shall not be applicable in respect of interest paid to a partner, otherwise than as a representative partner, on behalf of or for the benefit of any other person; or

(*v*) In this clause—

(*A*) "book profit" means the net profit, as shown in the profit and loss account for the relevant tax year, computed as per Chapter IV-D as increased by the aggregate amount of the remuneration to all the partners of the firm, if such amount has been deducted while computing the net profit;

(*B*) "working partner" means an individual who is actively engaged in conducting the affairs of the business or profession of the firm of which he is a partner;

(*g*) the expenditure incurred by an association of persons or a body of individuals (other than a company, or a co-operative society or society registered under the Societies Registration Act, 1860, or under any law corresponding to that Act in force in any part of India)—

21 of 1860.

(*i*) in the nature of interest, salary, bonus, commission or remuneration, by whatever name called, made to a member of such association or body;

(*ii*) where the interest has been paid by the association or the body to its member and such member has also paid interest to the association or the body, then only such excess interest, if any, paid by the association or body shall not be allowed under sub-clause (*i*);

(*iii*) where an individual is a member of an association or a body on behalf, or for benefit of any other person, such member and any other person shall be referred as "representative member" and "person so represented", respectively, then, the provisions of this clause—

(*A*) shall not be applicable in respect of interest paid to or received from such individual not being a representative member;

(*B*) shall be applicable in respect of interest paid to or received from an individual as a representative member and the person so represented;

(*C*) shall not be applicable in respect of interest paid to a member, otherwise than as representative member, on behalf or for the benefit of any other person.

Expenses or payments not deductible in certain circmstances.

36. (*1*) The provisions of this section shall have effect irrespective of anything to the contrary contained in any other provision of this Act relating to computation of income under the head "Profits and gains of business or profession".

(*2*) If the assessee incurs any expenditure for which payment has been or is to be made to any "specified person", which in the opinion of the Assessing Officer is excessive or unreasonable having regard to the—

(*a*) fair market value of the goods, services or facilities; or

(*b*) legitimate needs of the business or profession of the assessee; or

(c) benefit derived by or accruing to the assessee therefrom,

so much of the expenditure as considered excessive or unreasonable by him shall not be allowed as a deduction.

(*3*) For the purposes of sub-section (*2*),—

(*a*) "specified person",—

(*i*) in relation to an assessee mentioned in column B of the Table below, shall be the person referred to in column C thereof:—

Table

Sl. No.	Assessee	Specified person
A	B	C
1.	Individual.	Any relative of the assessee.
2.	Company.	Any director of the company or his relative.
3.	Firm.	Partner of the firm or its relative.
4.	Association of persons.	Member of the association or its relative.
5.	Hindu undivided family.	Member of the family or his relative.

(*ii*) shall mean any person being an individual or company or firm or association of persons or Hindu undivided family having substantial interest in the business or profession of the assessee, or any director, partner, member thereof or any relatives of such individual, director, partner, member or any other company in which the first mentioned company has substantial interest;

(*iii*) shall mean a company, firm, association of persons, or Hindu undivided family whose director, partner or member has substantial interest in the business or profession of the assessee, or any director, partner or member thereof and their relatives, as the case may be;

(*iv*) shall mean any person carrying on a business or profession, in which assessee, being—

(*A*) an individual or his relative; or

(*B*) a company, its directors or their relatives; or

(*C*) a firm, its partners or their relatives; or

(*D*) an association of persons, its members or their relatives; or

(*E*) a Hindu undivided family, its members or their relatives,

has substantial interest in the business or profession of such person;

(*b*) a person is deemed to have "substantial interest in the business or profession" if, at any time during the tax year, such person is—

(*i*) the beneficial owner of shares (not being shares entitled to fixed rate of dividend with or without a right to participate in profits) carrying at least 20% of the voting power, in case of assessee being a company; and

(*ii*) entitled to at least 20% of the profits of the business or profession in any other case, at any time during the tax year.

(*4*) Where any expenditure is incurred by the assessee and payment or aggregate of payments made in a day to a person is exceeding ten thousand rupees and is not through specified banking or online mode, then the expenditure by way of such payments shall not be allowed as deduction.

(*5*) Where any deduction was made in any preceding tax year for a liability incurred for any expenditure and payment in respect of such liability is made during a subsequent tax year and if such payment or aggregate of payments made in a day to a person exceeds ten thousand rupees and is not through specified banking or online mode, such payment shall be deemed to be the income under the head "Profits and gains of business or profession" in such subsequent tax year.

(*6*) For the purposes of sub-sections (*4*) and (*5*), the figure "ten thousand rupees" shall be read as "thirty-five thousand rupees" in case the payment is made for plying, hiring or leasing of goods carriages.

(*7*) The provisions of sub-sections (*4*) and (*5*) shall not be applicable in cases and circumstances, as prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.

(*8*) Nothing (with reference to mode of payment) contained in any other law in force or in any contract, shall apply in respect of any payment which has been made through specified banking or online mode, in compliance of sub-sections (*4*) to (*7*), and no plea shall be allowed to be raised, in any suit or other proceeding on the ground that the payment was not made or tendered in cash or in mode other than through specified banking or online mode.

Certain deductions allowed on actual payment basis only.

37. (*1*) The following sums payable, as specified in sub-section (*2*), shall be allowed as deduction while computing the income chargeable under section 26 only in the tax year in which such sums are actually paid irrespective of—

(*a*) any provision to the contrary in this Act; or

(*b*) method of accounting regularly followed; or

(*c*) the tax year in which the liability was incurred.

(*2*) The sums payable by an assessee referred to in sub-section (*1*), shall be—

(*a*) tax, duty, cess, surcharge or fee, by whatever named called, levied under any law in force;

(*b*) contribution of the employer to a provident fund or superannuation fund or gratuity fund or any fund for the welfare of employees;

(*c*) amount payable by employer *in lieu* of any leave at the credit of the employee;

(*d*) any sum referred to in section 32(*a*);

(*e*) interest on loans or borrowings from specified financial entities as per the terms and conditions of the agreement governing such loans or advances;

(*f*) amount payable to the Indian Railways for use of railway assets; or

(*g*) amount payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006. 27 of 2006.

(*3*) In case the amounts specified in sub-section (*2*), except the sum referred to in clause (*g*) thereof, are paid after the end of the tax year in which the liability was incurred, but on or before the due date of filing of return of income under section 263(*1*) for such tax year, the deduction towards such sum shall be allowed in such tax year.

(*4*) If interest on loans or advances specified in sub-section (*2*)(*e*) is converted into a loan or advance or debenture or any other instrument by which the liability to pay is deferred to a future date, then it shall not be deemed to have been actually paid.

(*5*) If a deduction in respect of any sum payable under sub-section (*2*) has already been allowed in any tax year when such liability was incurred, it shall not be allowed again in any subsequent tax year when paid.

(*6*) The provisions of this section shall not apply to a sum received by the assessee from any employee as contribution towards any of the funds referred to in section 2(*49*)(o).

(*7*) For the purposes of this section, "specified financial entities" means a public financial institution or State Finance Corporation or State Industrial Investment Corporation or notified class of non-banking financial companies or scheduled banks or co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank).

Certain sums deemed as profits and gains of business or profession.

38. (*1*) The following sums shall be deemed to be profit and gains of business or profession and shall be chargeable to income-tax, in the manner specified below, subject to the provisions of sub-section (*2*):—

(*a*) where an allowance or deduction has been allowed in respect of any loss, expenditure or trading liability incurred by the assessee during any tax year, then,—

(*i*) the value of any benefit accruing to the assessee by way of cessation or remission of such trading liability, including a unilateral act of write-off of such liability in his accounts, in the tax year in which such benefit accrues; or

(*ii*) any amount obtained by the assessee, whether in cash or otherwise, in respect of such loss or expenditure incurred, in the tax year in which the amount is obtained,

whether the business or profession in respect of which the allowance or deduction was made is in existence in that year or not;

(*b*) in a case where any tangible asset, which is owned by assessee, is sold, discarded, demolished or destroyed, and the money payable for the asset, together with the scrap value [A] exceeds the written down value of the assets [C], the sum as computed below, in the tax year in which the money payable for the tangible asset becomes due—

(*i*) where the money payable for the asset together with the scrap value [A] is less than the actual cost of the asset [B], then—

[A] – [C]; or

(*ii*) in any other case,—

[B] – [C];

(*c*) in a case where an asset representing expenditure of a capital nature on scientific research, referred to in section 45(*1*)(*a*) or (*c*) is sold, without having been used for other purposes, and the sale proceeds together with the total deductions allowed under that section exceed the amount of capital expenditure, the excess or the amount of deduction so made, whichever is less, in the tax year in which the asset was sold;

(*d*) in a case where a deduction has been allowed for a bad debt (or part of it) under the provisions of section 31(*2*), and any amount subsequently recovered exceeds the difference between such debt and the amount allowed, then the amount in excess, in the tax year in which recovery is made;

(*e*) in a case where a deduction has been allowed for any special reserve created and maintained under the provisions of section 32(*e*), any amount subsequently withdrawn from such reserve, in the tax year in which the amount is withdrawn.

(*2*) The provisions of sub-section (*1*) shall apply subject to fulfilment of the following conditions:—

(*a*) in respect of sub-section (*1*)(*a*), only when an allowance or deduction has been made in assessment for any earlier tax year towards the trading liability, loss or expenditure incurred;

(*b*) in respect of sub-section (*1*)(*b*), only when the asset owned by the assessee, has been used for the purpose of business, and depreciation has been claimed and allowed thereon under section 33;

(*c*) in respect of sub-section (*1*)(*c*) of the said sub-section, only when the assets has not been used for other purposes.

(*3*) Where the business or profession referred to in this section is no longer in existence and there is income chargeable to tax under of sub-section (*1*)(*a*), (*c*), (*d*) and (*e*), in respect of that business or profession, any loss, not being a loss sustained in speculation business, which arose in that business or profession during the tax year in which it ceased to exist and which could not be set off against any other income of that tax year shall, so far as may be, be set off against the income chargeable to tax under the said clauses of that sub-section.

(*4*) In respect of sums referred to in sub-section (*1*)(*a*), if the benefit accrues to, or amount is obtained, by the successor in business, the value of benefit or the amount shall be chargeable to income-tax as income in the hands of successor in business.

(*5*) The provisions of sub-section (*1*)(*b*), (*c*), (*d*) and (*e*) shall apply in a tax year even if the business is no longer in existence.

(*6*) In this section,—

(*a*) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(*b*) "successor in business"means and includes—

(*i*) the amalgamated company, where there has been an amalgamation;

(*ii*) the resulting company, where there has been a demerger;

(*iii*) where the assessee is succeeded by any other person in that business or profession, that other person;

(*iv*) where a firm carrying on a business or profession is succeeded by another firm, that other firm.

Computation of actual cost.

39. (*1*) The actual cost of an asset used for the purposes of the business or profession shall be the actual cost to the assessee as, reduced by the following amounts:—

(*a*) part of cost of asset, if any, met by any other person or authority, directly or indirectly;

(*b*) goods and services tax paid in respect of which input tax credit has been claimed and allowed under the relevant law;

(*c*) additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944; 51 of 1975.

(*d*) subsidy, grant or reimbursement, by whatever name called, if any, relatable to the acquisition of the asset, received by the assessee from—

(*i*) the Central Government;

(*ii*) a State Government;

(*iii*) any authority established under any law; or

(*iv*) any other person.

(*2*) The payment or aggregate of payments exceeding ten thousand rupees in a day for acquisition of an asset, made to a person in a mode otherwise than by specified banking or online mode, shall be excluded from the actual cost of the asset.

(*3*) In a case where the subsidy, grant or reimbursement referred to in sub-section (*1*)(*d*) is not directly relatable to the asset acquired, the amount of reduction under sub-section (*1*)(*d*) shall be determined as under:

$$A \times \left(\frac{B}{C}\right)$$

Where,—

A = total amount of subsidy, grant or reimbursement not directly relatable to the asset;

B = cost of the asset acquired for which actual cost is to be determined;

C = cost of all the assets in respect of or in reference to which the subsidy or grant or reimbursement is so received.

(*4*) In circumstances specified under column B of the Table below, the actual cost of the capital asset shall be as specified in column C thereof.

Table

Sl. No.	Specified circumstances	Determination of actual cost
A	B	C
1.	Where capital asset is transferred by an amalgamating company to an amalgamated company being an Indian company in a scheme of amalgamation.	Actual cost to amalgamated company shall be the same as it would have been if the amalgamating company had continued to hold such capital asset for the purpose of its own business.
2.	Where capital asset is transferred by a demerged company to a resulting company being an Indian company in a demerger.	Actual cost to resulting company shall be the same as it would have been, if the demerged company had continued to hold such asset for the purpose of its own business, which shall not exceed the written down value of such capital asset in the hands of demerged company.

A	B	C
3.	Where inventory is converted into capital asset.	Fair Market Value as on date of conversion, as determined in the manner as prescribed.
4.	Where capital asset is acquired by the assessee by way of gift or inheritance.	Actual cost to previous owner as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset.
5.	Where a building, being the property of the assessee, is put to use for the purpose of business or profession during the tax year.	Actual cost of the building as reduced by the depreciation— (*a*) that would have been allowable had the building been used for the purpose of business from the date of acquisition; and (*b*) calculated at the rate in force on the date on which such asset was put to use for business.
6.	Where capital asset is transferred by— (*a*) a holding company to its subsidiary company; or (*b*) a subsidiary company to its holding company, and the conditions of section 70(*1*)(*c*) and (*d*) are satisfied.	Actual cost to the transferee-company shall be the same as it would have been, if the transferor company had continued to hold such asset for the purpose of its own business.
7.	Where a capital asset, which previously belonged to the assessee, is reacquired by the assessee.	(*a*) Actual cost of the asset in the hands of assessee, when it was first acquired, as reduced by the depreciation allowable up to the immediately preceding tax year, as if such asset was the only asset in the relevant block of asset; or (*b*) actual price for which such asset is reacquired by the assesse, whichever is lower.
8.	Where the capital asset is acquired by the assessee from previous owner and subsequently asset is given back to the previous owner by way of lease, hire or otherwise, and— (*a*) the asset was being used for the purpose of business by the previous owner; and (*b*) depreciation has been claimed by the previous owner.	Actual cost of asset to the assessee shall be the written down value of the asset in the hands of the previous owner at the time of transfer by the previous owner.

A	B	C
9.	Where the capital asset is used in business after it ceases to be used for scientific research related to that business and a deduction is made under section 33(*3*).	Actual cost of asset as reduced by deduction allowed for the capital asset under section 45(*1*)(*a*) or (*c*) or under any corresponding provision of the Income-tax Act, 1961(43 of 1961).
10.	Where the assessee had acquired an asset outside India, as a non-resident, and the asset is brought by him to India and put to use in business or profession in India.	Actual cost of the asset as reduced by the depreciation— (*a*) that would have been allowable had the asset been used for the purpose of business or profession in India since the date of its acquisition; and (*b*) calculated at the rate in force.
11.	Where capital asset is acquired under the scheme of corporatisation of a recognised stock exchange approved by the Securities and Exchange Board of India.	Actual cost of the asset, as if there was no corporatisation.
12.	(*a*) Where deduction under section 46 was allowed or allowable in respect of the capital asset— (*i*) to the assessee; or (ii) to any person and the assessee acquires or receives such asset through special modes of acquisition from such person.	Actual cost shall be deemed to be *nil*.
	(*b*) Where deduction allowed under section 46 in respect of a capital asset becomes deemed income as per section 46(*9*)(*b*).	Actual cost of the asset as reduced by the depreciation,— (*a*) that would have been allowable had the asset been used for the purpose of business since date of acquisition; and (*b*) calculated at the rate in force.
13.	Where any amount is paid or payable as interest in connection with the acquisition of an asset.	Actual cost shall not include so much of such amount as is relatable to any period after such asset is first put to use.

(*5*) Irrespective of anything contained in sub-section (*4*), in a case where the asset is acquired by the assessee, its actual cost shall be determined by the Assessing Officer having regard to all circumstances of the case, subject to the following conditions:—

(*a*) the asset was used by any other person for the purposes of his business, before such acquisition; and

(*b*) the Assessing Officer is satisfied that the main purpose of the transfer of the asset was to reduce tax liability (by claiming depreciation on enhanced actual cost).

(*6*) The determination of actual cost under sub-section (*5*) shall be made with the prior approval of the Joint Commissioner.

(*7*) In this section, "special modes of acquisition" means acquisition—

(*a*) by way of a gift or will or an irrevocable trust; or

(*b*) upon distribution on the liquidation of a company; or

(*c*) by such mode of transfer as is referred to in section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*j*), (*zd*), (*ze*) and (*zf*).

Special provision for computation of cost of acquisition of certain assets.

40. (*1*) For the purposes of computation of income under the head "Profits and gains of business or profession", cost of acquisition of an asset acquired by—

(*a*) an amalgamated company under a scheme of amalgamation; or

(*b*) an assessee, under a gift, or will, or an irrevocable trust, or on total or partial partition of a Hindu undivided family,

when sold as stock-in-trade shall be the sum of—

(*i*) cost of acquisition of the said asset in the hands of the amalgamating company in case of clause (*a*), or the transferor or donor in case of clause (*b*);

(*ii*) any cost of improvement made;

(*iii*) any expenditure incurred by the amalgamating company or transferor or donor wholly and exclusively in connection with such transfer.

(*2*) This section shall not apply to an asset referred to in section 67(*6*).

Written down value of depreciable asset.

41. (*1*) For the purposes of different provisions for computation of income under the head "Profits and gains of business or profession", written down value for the tax year shall be as mentioned in column C of the Table below:—

Table

Sl. No.	Circumstances	Written down value
A	B	C
1.	In case the asset is acquired in the tax year.	Actual cost to the assessee.
2.	In case the asset is acquired before the tax year.	Actual cost to the assessee less depreciation actually allowed under this Act or the Income-tax Act, 1961.
3.	In case of block of assets.	[(A-D)+ B-C]-E.

43 of 1961.

Note:— In column C,—

A = the written down value of the block of assets in the immediately preceding tax year;

B = actual cost of any asset falling within that block, acquired during the tax year;

C = moneys payable together with scrap value, if any, in respect of any asset falling within the block, which is sold, transferred, demolished, destroyed or discarded during the tax year, where "C" shall not exceed (A-D)+B;

D = depreciation actually allowed in respect of block of assets in relation to the said immediately preceding tax year;

E = in the case of a slump sale, the actual cost of the asset falling within that block as reduced by depreciation allowable from the tax year 1988-1989 onwards, as if the asset was the only asset in the relevant block of assets, which shall not exceed [(A-D)+B-C].

A	B	C
4.	Where any block of asset is transferred by— (*a*)(*i*) a holding company to its subsidiary company; or (*ii*) a subsidiary company to its holding company and the conditions of section 70(*1*)(*c*) and (*d*) are satisfied; or (*b*) amalgamating company to the amalgamated company being an Indian company.	Written down value in the hands of the transferee company or amalgamated company is the same as written down value in the hands of transferor company or amalgamating company, as the case may be, at the beginning of the tax year in which such transfer took place.
5.	Where any asset, forming part of a block of assets is transferred by a demerged company to a resulting company.	Written down value of block of assets— (*a*) for demerged company (for the immediately preceding tax year), shall be the written down value in the immediately preceding tax year as reduced by the written down value of the assets transferred to the resulting company pursuant to such demerger; (*b*) for resulting company, shall be the written down value of the assets transferred from the demerged company immediately before such demerger.
6.	Where any block of assets is transferred by a private company or unlisted public company to a limited liability partnership and the conditions in section 70(*1*)(*ze*) are satisfied.	Written down value in the hands of limited liability partnership shall be written down value in the hands of said company as on the date of conversion of the company into limited liability partnership.
7.	Where any asset forming part of the block of assets is transferred to a company under the scheme of corporatisation of a recognised stock exchange in India approved by the Securities and Exchange Board of India.	Written down value of the block of assets in the hands of resulting company, shall be the written down value of the assets transferred immediately before such transfer.

A	B	C
8.	In a case of succession in business or profession under section 313, where an assessment is made in the hands of successor under section 313 (*2*).	Written down value of any asset or block of assets shall be the amount which would have been taken as its written down value, if the assessment had been made directly on the person succeeded to.

(*2*) Any allowance in respect of any depreciation carried forward under section 33(*11*) shall be deemed to be the depreciation actually allowed.

(*3*) Where an assessee was not required to compute his total income for the purposes of this Act for any tax year or tax years preceding the tax year under consideration,—

(*a*) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(*b*) the total amount of depreciation on such asset provided in the books of account of the assessee in respect of such tax year or tax years preceding the tax year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(*c*) the depreciation actually allowed under clause (*b*) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.

(*4*) For the purposes of this section, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the tax year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act or under the Income-tax Act, 1961. 43 of 1961.

(*5*) In this section, "sold" shall have the meaning assigned to it in section 38(*6*)(*a*).

Capitalising the impact of foreign exchange fluctuation.

42. (1) Irrespective of anything contained in any other provision of this Act, where at the time of making payment during the tax year, there is a variation in liability of an assessee as expressed in Indian currency due to change in rate of exchange in relation to an asset acquired for the purpose of business or profession in foreign currency from a country outside India, it shall be dealt with in the manner specified in sub-sections (*2*) and (*3*).

(*2*) For this section, "variation in liability" shall be computed as—

A = B-C

where,—

A = variation in the liability;

B = amount paid in Indian currency (excluding any part met, directly or indirectly, by any other person or authority) during the tax year for acquisition of the asset for—

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

(*b*) repayment of money borrowed along with interest in foreign currency, specifically for acquiring such asset;

C = liability, corresponding to the amount referred in B, in Indian currency at the time of acquisition of such asset.

(*3*) The variation in liability shall be added or reduced from the—

(*a*) actual cost of the asset as referred in section 39; or

(*b*) expenditure of capital nature referred to in section 45(*1*)(*a*) or (*c*) or 32(*i*); or

(c) cost of acquisition of a capital asset (not being capital asset referred to in section 74) for the purpose of section 72,

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

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

Taxation of foreign exchange fluctuation.

43. (*1*) Subject to the provisions of section 42 any gain or loss arising on account of change in foreign exchange rates on foreign currency transactions shall be treated as income or loss, and shall be computed as per the income computation and disclosure standards notified under section 276(*2*).

(*2*) The provisions of sub-section (*1*) shall be applicable to all foreign currency transactions including—

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

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

(*c*) forward exchange contracts; and

(*d*) foreign currency translation reserves.

Amortisation of certain preliminary expenses.

44. (*1*) If an assessee, being an Indian company or a person (other than a company), who is resident in India, incurs any expenditure specified in sub-section (*2*)—

(*a*) before the commencement of its business; or

(*b*) after the commencement of its business, in connection with the extension of its undertaking or in connection with its setting up a new unit,

the assessee shall be allowed a deduction of an amount equal to one-fifth of such expenditure for each of the five successive tax years beginning with—

(*i*) the tax year in which the business commences, for clause (*a*); or

(*ii*) the tax year in which the extension of the undertaking is completed or the new unit commences production or operation, for clause (*b*).

(*2*) The expenditure referred to in sub-section (*1*) shall be—

(*a*) the expenditure in connection with—

(*i*) preparation of feasibility report;

(*ii*) preparation of project report;

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

(*iv*) engineering services relating to the business;

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

(*c*) if the assessee is a company,—

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

(*ii*) fees for registering the company under the provisions of the Companies Act, 2013; 18 of 2013.

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

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

(*3*) In relation to expenditure specified in sub-section (*2*)(*a*), the assessee shall furnish a statement containing the particulars of the expenditure in such form and manner, as prescribed.

(*4*) The total expenditure referred to in sub-section (*2*) shall be restricted to 5%—

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

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

(*5*) In this section,—

(*a*) "cost of the project" means the actual cost of the fixed assets, being land, buildings, leaseholds, plant, machinery, furniture, fittings and railway sidings (including expenditure on development of land and buildings) and—

(*i*) for cases under sub-section (*1*)(*a*), the cost is calculated as of the last day of the tax year when the business commences;

(*ii*) for cases under sub-section (*1*)(*b*), the cost is calculated as of the last day of the tax year when either the extension of the undertaking is completed, or the new unit commences production or operations, which only includes fixed assets acquired or developed in connection with the extension of the undertaking or setting up of new unit;

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

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

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

(*c*) "long-term borrowings" means—

(*i*) any moneys borrowed by the company from Government or IFCI Ltd., or ICICI Ltd., or any other financial institution which is eligible for deduction under section 32(*e*) or any banking institution (not being a financial institution referred to above); or

(*ii*) any loan or debt incurred by it in a foreign country in respect of the purchase outside India of capital plant and machinery, where the tenure of loan or debt is not less than seven years.

(*6*) If the assessee is a person, other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless,—

(*a*) the accounts of the assessee for the year or years in which the expenditure specified in sub-section (*2*) is incurred have been audited by an accountant before the specified date referred to in section 63; and

(*b*) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit by such date in such form duly signed and verified by such accountant and setting forth such particulars, as prescribed.

(*7*) If an undertaking of Indian company entitled for deduction under sub-section (*1*) is transferred before expiry of five years specified in the said sub-section, in a scheme of amalgamation, to another Indian company, then—

(*a*) no deduction under sub-section (*1*) shall be allowed to the amalgamating company for the tax year in which amalgamation takes place; and

(*b*) all provisions of this section shall continue to apply to the amalgamated company as they would have applied to the amalgamating company, as if the amalgamation has not taken place.

(*8*) If an undertaking of Indian company entitled for deduction under sub-section (*1*) is transferred before five years specified in the said sub-section, in a scheme of demerger to another company, then—

(*a*) no deduction under sub-section (*1*) shall be allowed to the demerged company for the tax year in which demerger takes place; and

(*b*) all provisions of this section shall continue to apply to the resulting company as they would have applied to the demerged company, as if the demerger has not taken place.

(*9*) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-section (*2*), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

Expenditure on scientific research.

45. (*1*) A deduction shall be allowed for any expenditure, being in the nature of—

(*a*) capital expenditure, but not on acquisition of land, as such or as part of any property; or

(*b*) revenue expenditure; or

(*c*) both,

incurred on scientific research related to the business of the assessee subject to provisions of this section.

(*2*)(*a*) A deduction shall be allowed under sub-section (*1*) in respect of the aggregate of expenditure (not being in the nature of capital expenditure), related to business, incurred on—

(*i*) salary to an employee engaged in such scientific research; or

(*ii*) purchase of materials used in such scientific research,

where such expenditure is incurred within three years immediately preceding the commencement of business, to the extent certified by the prescribed authority as incurred on such research, expenditure shall be deemed to have been incurred in the tax year in which the business is commenced.

(*b*) For the purposes of sub-section (*1*), the aggregate of capital expenditure incurred within three years immediately preceding the commencement of business shall be deemed to have been incurred in the tax year in which the business is commenced.

(*c*)(*i*) A deduction shall be allowed under sub-section (*1*), in respect of any expenditure incurred (not being expenditure in the nature of cost of any land or building) by a company engaged in the business of—

(*A*) bio-technology; or

(*B*) manufacture or production of any article or thing, which is not specified in Schedule XIII,

on in-house research and development facility as approved by the prescribed authority, subject to the conditions and manner, as prescribed;

(*ii*) No deduction shall be allowed under this clause to a company approved under sub-section (*3*)(*b*)(ii);

(*iii*) No deduction shall be allowed in respect of the expenditure mentioned in sub-clause (*i*) under any other provision of this Act;

(*iv*) The expenditure under sub-clause (*i*) shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed;

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

39 of 1970.

(*3*) A deduction shall be allowed for any sum, paid to—

(*a*)(*i*) a research association having the object of undertaking scientific research or to a University, college or institution to be used for scientific research; or

(*ii*) a research association having the object of undertaking research in social science or statistical research or to a University, college or institution to be used for research in social science or statistical research;

(*b*) a company which is—

(*i*) registered in India having the main object of scientific research and development; and

(*ii*) approved by such authority, in such manner and subject to such conditions, as prescribed;

(*c*)(*i*) a national laboratory; or

(*ii*) a University; or

(*iii*) an Indian Institute of Technology; or

(*iv*) a specified person,

with a specific direction that the said sum shall be used for scientific research undertaken under a programme approved in this behalf by the prescribed authority.

(*4*) For the purposes of sub-section (*3*),—

(*a*) the expenditure shall be allowed subject to such conditions and on furnishing of documents in such form and manner, as prescribed; and

(*b*) in respect of clause (*a*) of the said sub-section, only such association, University, college or other institution shall be eligible for deduction, which for the time being is approved in the manner and subject to such conditions, as prescribed, and is specified by the Central Government, by notification.

(*5*) The deduction for any sum under sub-section (*3*) shall not be denied merely on the ground that subsequent to the payment of such sum by the assessee, the approval granted to such entities or the programme undertaken by entities as mentioned in sub-section(*3*)(*c*), has been withdrawn.

(*6*) Where a deduction is allowed for any tax year under this section in respect of expenditure, represented wholly or partly by an asset, no deduction shall be allowed under section 33(*3*) for the same or any other tax year in respect of that asset.

(*7*) The provisions of section 33(*11*) in respect of depreciation shall apply in relation to deductions allowable for capital expenditure under sub-section (*1*).

(*8*) No deduction in respect of the sum mentioned in sub-section (*3*)(*c*) shall be allowed under any other provision of this Act.

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

(*a*) the Central Government, when such question relates to any activity under sub-section (*3*)(*a*), and its decision shall be final;

(*b*) the prescribed authority, when such question relates to any other activity, whose decision shall be final.

(*10*) When an amalgamating company, in a scheme of amalgamation, sells or otherwise transfers to the amalgamated company (being an Indian company) any asset representing capital expenditure on scientific research, the provisions of this section shall apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not so sold or otherwise transferred the asset.

(*11*) In this section,—

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

(*b*) "specified person" means such person approved by the prescribed authority;

(*c*) "land" includes any interest in land.

Capital expenditure of specified business.

46. (*1*) An assessee, at his option, shall be allowed a deduction of the whole of the capital expenditure incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the tax year in which such expenditure is incurred.

(*2*) Where the expenditure referred to in sub-section (*1*) is incurred prior to the commencement of its operations and such expenditure is capitalised in the books of account as on the date of commencement of its operations, it shall be allowed during the tax year in which such business is commenced.

(*3*) This section shall apply to the specified business fulfilling the following conditions:—

(*a*) it is not set up by splitting up, or the reconstruction, of an already existing business;

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

(*c*) if the business is of the nature referred to in sub-section (*11*)(*d*)(*iii*) and such business—

(*i*) is owned by a company formed and registered in India under the Companies Act, 2013 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central Act or State Act; 18 of 2013.

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

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

(*iv*) fulfils any other condition as prescribed;

(*d*) if the business is of the nature referred to in sub-section (*11*)(*d*)(*xiv*), such business,—

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

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

(*4*) No deduction shall be allowed under the provisions of section 144 and Chapter VIII-C in relation to such specified business for the same or any other tax year, if a deduction under sub-section (*1*) is claimed and allowed.

(*5*) No deduction in respect of the expenditure referred to in sub-section (*1*) shall be allowed to the assessee under any other section in any tax year or under this section in any other tax year, if the deduction has been claimed and allowed to him under this section.

(*6*) The provisions of this section shall apply to the specified business referred to in column B of the Table below if it commences its operations as specified in column C thereof.

Table

Sl. No.	Nature of specified business	Date of commencement of operations being on or after
A	B	C
1.	Laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network.	1st April, 2007.
2.	Building and operating a new hotel of two-star or above category as classified by the Central Government.	1st April, 2010.
3.	Building and operating a new hospital with at least 100 beds for patients.	1st April, 2010.

A	B	C
4.	Developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government, as notified by the Board, as per the guidelines as notified by the Board.	1st April, 2010.
5.	Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as notified by the Board, as per the guidelines notified by the Board.	1st April, 2011.
6.	A new plant or a newly installed capacity in an existing plant for production of fertilizer.	1st April, 2011.
7.	Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962).	1st April, 2012.
8.	Bee-keeping and production of honey and beeswax.	1st April, 2012.
9.	Setting up and operating a warehousing facility for storage of sugar.	1st April, 2012.
10.	Laying and operating a slurry pipeline for the transportation of iron ore.	1st April, 2014.
11.	Setting up and operating a semi-conductor wafer fabrication manufacturing unit, as notified by the Board, and as per such guidelines as notified by the Board.	1st April, 2014.
12.	Developing, or operating and maintaining, or developing, operating and maintaining, any infrastructure facility.	1st April, 2017.
13.	In all other cases.	Th 1st April, 2009.

(*7*) Where the assessee builds a hotel of two star or above category as classified by the Central Government and subsequently, transfers the hotel operation thereof to another person while retaining its ownership, the assessee shall be deemed to be carrying on the specified business referred to in sub-section (*11*)(*d*)(*iv*).

(*8*) The provisions contained in sections 122(*6*) and 138(*18*) and (*23*) shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(*9*) Any asset for which a deduction is claimed and allowed under this section—

(*a*) shall be used only for the specified business for a period of eight years beginning with the tax year in which such asset is acquired or constructed;

(*b*) is used for the purpose and period other than that referred to in clause (*a*), and is not chargeable to tax under section 26(*2*)(*k*), then the total amount of deduction so claimed and allowed in one or more tax years, as reduced by the amount of depreciation allowable under section 33, as if no deduction under this section was allowed, shall be the income chargeable under the head "Profits and gains of business or profession" of the tax year in which the asset is so used.

(*10*) The provisions of sub-section (*9*)(*b*) shall not apply to a company which has become a sick industrial company under section 17(*1*) of the Sick Industrial Companies (Special Provisions) Act, 1985, as it stood before its repeal by the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 during the period specified in sub-section (*9*)(*a*).

1 of 1986.
1 of 2004.

(*11*) In this section,—

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

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

(*ii*) who holds, directly or indirectly, shares carrying at least 26% of the voting power in the capital of the assessee;

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

(*iv*) who guarantees at least 10% of the total borrowings of the assessee;

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

(*c*) "infrastructure facility" shall have the meaning assigned to it in the Explanation to section 80-IA(*4*) of the Income-tax Act, 1961;

43 of 1961.

(*d*) "specified business" means any one or more of the following businesses:—

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

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

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

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

(*v*) building and operating, anywhere in India, a hospital with at least 100 beds for patients;

(*vi*) developing and building a housing project under a scheme for slum redevelopment or rehabilitation framed by the Central Government or a State Government as per the guidelines notified by the Board;

(*vii*) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government as per the guidelines notified by the Board;

(*viii*) production of fertilizer in India;

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

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

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

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

(*xiii*) setting up and operating a semiconductor wafer fabrication manufacturing unit as per the guidelines notified by the Board;

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

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

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

(*ii*) such machinery or plant is imported into India; and

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

(*f*) if any machinery or plant or its part previously used for any purpose is transferred to the specified business and its total value does not exceed 20% of the total value of the machinery or plant used in such business, then the conditions specified in sub-section (*3*)(*b*) shall be deemed to be complied with;

(*g*) any expenditure of capital nature shall not include any expenditure—

(*i*) for which the payment or aggregate of payments made to a person in a day, is not through specified banking or online mode, exceeds ten thousand rupees; or

(*ii*) incurred on the acquisition of any land or goodwill or financial instrument.

Expenditure on agricultural extension project and skill development project.

47. (*1*) Any expenditure (excluding cost of any land or building) incurred, on—

(*a*) agricultural extension project by any assessee; or

(*b*) any skill development project by a company,

shall be allowed as a deduction, in the tax year in which such expenditure is incurred provided such project is notified as per the guidelines issued by the Board.

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

Tea development account, coffee development account and rubber development account.

48. (*1*) Where an assessee is carrying on business of growing and manufacturing tea or coffee or rubber in India, such assessee shall be allowed a deduction on the basis of deposits into the tea development account, coffee development account or rubber development account or any other designated account and computed as per the provisions of the Schedule IX.

(*2*) Any amount withdrawn or utilised or released at the time of closure or otherwise shall be charged to tax in the year in which the amount is transferred or withdrawn as per the provisions of the Schedule IX.

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

Site Restoration Fund.

49. (*1*) An assessee carrying on a business of prospecting, extracting, or producing petroleum or natural gas, or both, in India, and who has an agreement with the Central Government for this business, shall be allowed a deduction on the basis of deposit to special account or the site restoration account, computed as per the provisions of the Schedule X.

(*2*) Any amount withdrawn or transferred at the time of closure or otherwise shall be charged to tax in the year in which the amount is transferred or withdrawn as per the provisions of the Schedule X.

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

Special provision in case of trade, profession or similar association.

50. (*1*) Irrespective of anything to the contrary contained in this Act, if, during the tax year, the amount received by a specified association from its members falls short of the expenditure incurred by such association solely for the protection or advancement of common interest of its members, then the amount so falling short shall be allowed as deduction from the income of such association under the head "Profits and gains of business or profession" and the remaining amount, if any, from its income under any other head.

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

(*a*) "specified association" means any trade, professional or similar association, not covered in Schedule III (Table: Sl. No. 24), whose income or its part is not distributed to its members (other than as grants to any associations or institutions affiliated to it);

(*b*) the amount received by the specified association from its members shall include amount by way of subscription or otherwise, and shall not include any remuneration received by the association for rendering any specific services to such members;

(*c*) expenditure incurred by specified association shall not include—

(*i*) expenditure deductible under any other provision of this Act; and

(*ii*) any capital expenditure.

(*3*) The effect of other provisions of this Act relating to carry forward and set off of brought forward losses or allowances shall be given before allowing deduction under sub-section (*1*).

(*4*) The maximum allowable deduction under this section shall not exceed 50% of the total income as computed before allowing deduction under this section.

Amortisation of expenditure for prospecting certain minerals.

51. (*1*) An assessee, being an Indian company or a person (other than a company) who is resident in India, who is engaged in any operations relating to prospecting for, or extraction or production of, any mineral, shall be allowed a deduction of an amount equal to one-tenth of the amount of expenditure referred to in sub-section (*2*), in each of the relevant tax years.

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

(*3*) The expenditure under sub-section (*2*) shall be reduced by such expenditure which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the assessee in respect of any property or rights brought into existence as a result of the expenditure.

(*4*) For the purposes of sub-sections (*2*) and (*3*), the following expenditure shall be excluded:—

(*a*) any expenditure on the acquisition of the site of the source of any mineral or group of associated minerals referred to in the said sub-sections or of any rights in or over such site; or

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

(*c*) any expenditure of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 33.

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

(*a*) an amount equal to one-tenth of the expenditure specified in sub-sections (*2*) and (*3*) (such one-tenth being herein referred to as the instalment); or

(*b*) such amount as is sufficient to reduce to *nil* the income (as computed before making the deduction under this section) of that tax year arising from the commercial exploitation [whether or not such commercial exploitation is as a result of the operations or development referred to in sub-sections (*2*) and (*3*)] of any mine or other natural deposit of the mineral or any one or more of the minerals in a group of associated minerals under this section in respect of which the expenditure was incurred,

whichever is less.

(*6*) If any part of the instalment for a relevant tax year is not fully allowed, it shall be carried forward to the next year, becoming part of the instalment of that tax year and such carrying forward may continue for each following year, but no instalment shall be carried forward beyond the tenth year from the year in which commercial production began.

(*7*) Where the assessee is a person other than a company or a co-operative society, no deduction shall be admissible under sub-section (*1*) unless,—

(*a*) the accounts of the assessee for the year or years in which the expenditure specified in sub-sections (*2*) and (*3*) are incurred have been audited by an accountant, before the specified date referred to in section 63; and

(*b*) the assessee furnishes for the first year in which the deduction under this section is claimed, the report of such audit, by such date, in such form and duly signed and verified by such accountant, as prescribed.

(*8*) If an undertaking of an Indian company, entitled for deduction under sub-section (*1*), is transferred before ten years specified in the said sub-section in a scheme of amalgamation or demerger, to another Indian company, then,—

(*a*) no deduction shall be allowed to the amalgamating or demerged company for the year in which such amalgamation or demerger takes place; and

(*b*) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the amalgamation or demerger has not taken place.

(*9*) If a deduction under this section is claimed and allowed for any tax year in respect of any expenditure referred to in sub-sections (*2*) and (*3*), deduction shall not be allowed for such expenditure under any other provision of this Act for the same or any other tax year.

(*10*) In this section,—

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

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

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

Amortisation of expenditure for telecommunications services, amalgamation, demerger, scheme of voluntary retirement, etc.

52. (*1*) Where an expenditure of the nature specified in column B of the Table given below is incurred during the tax year, a deduction or part thereof shall be allowed in equal instalments in each of the tax years as mentioned in column D of the said Table, beginning from the initial tax year specified in column C thereof.

Table

Sl. No.	Nature of expenditure	Initial tax year	Number of tax years over which deduction of expenditure is allowable in equal instalments
A	B	C	D
1.	Expenditure incurred by an Indian company, wholly and exclusively for the purposes of amalgamation or demerger of an undertaking.	Tax year in which such amalgamation or demerger takes place.	Five tax years.

A	B	C	D
2.	Amount paid to an employee in connection with his voluntary retirement as per any scheme of voluntary retirement.	Tax year in which such payment is made.	Five tax years.
3.	Capital expenditure incurred and actually paid for acquiring any right to use spectrum for telecommunication services (spectrum fee).	Tax year in which,— (*a*) the business to operate telecom services is commenced; or (*b*) spectrum fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the spectrum for which the fee is paid remains in force.
4.	Capital expenditure incurred and actually paid for acquiring any right to operate telecommunication services (herein referred to as licence fee).	Tax year in which,— (*a*) the business to operate telecom services is commenced; or (*b*) licence fee is actually paid, whichever is later.	Number of years commencing from the initial tax year and ending in the tax year up to which the licence for which the fee is paid remains in force.

(*2*) Where the rights referred to in sub-section (*1*) (Table: Sl. No. 3 or 4) are transferred and—

(*a*) where the proceeds of the transfer (so far as they consist of capital sums) are less than the expenditure though incurred, but remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of the transfer, shall be allowed in respect of the tax year in which the licence is transferred;

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

(*c*) where the rights under clause (*b*) is transferred in a tax year in which the business is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that tax year;

(*d*) where the whole or part of the right is transferred, the proceeds of the transfer (so far as they consist of capital sums) are equal or greater than the amount of expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed under sub-section (*1*) in respect of the tax year in which the licence is transferred or in respect of any subsequent tax year or years;

(*e*) such transfer is in a scheme of amalgamation or demerger to the amalgamated company or resulting company, being an Indian company,—

(*i*) the provisions of clauses (*a*), (*b*), (*c*) and (*d*) shall not apply to the amalgamating or demerged company; and

(*ii*) all the provisions of this section shall continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company, as if the transfer has not taken place.

(*3*) Where a part of the rights is transferred in a tax year and sub-section (*2*)(*b*) and (*c*) does not apply, the deduction to be allowed under sub-section (*1*) for the expenditure incurred remaining unallowed shall be arrived at by—

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

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

(*4*) No deduction shall be allowed—

(*a*) for depreciation under section 33(*1*) to (*10*) in respect of expenditure mentioned in sub-section (*1*) (Table: Sl. No. 3 or 4), where deduction under this section is claimed and allowed for any tax year;

(*b*) under any other provision of this Act in respect of the expenditure mentioned in sub-section (*1*) (Table: Sl. No. 1 or 2).

(*5*) In case any deduction has been claimed and granted in respect of an expenditure referred in sub-section (*1*) (Table: Sl. No. 3) and there is subsequent failure on part of the assessee to comply with any of the provisions of this section, then,—

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

(*b*) the Assessing Officer may, irrespective of any other provisions of this Act, recompute the total income of the assessee for the said tax year by making necessary rectification;

(*c*) the provisions of section 287 shall, so far as may be, apply; and

(*d*) the period of four years specified in section 287(*8*) shall be counted from the end of the tax year in which such failure takes place.

(*6*) Where a specified business reorganisation takes place before the expiry of the period specified in sub-section (*1*) (Table: Sl. No. 2.D), in case of an expenditure referred against serial number 2 thereof, then,—

(*a*) the provisions of this section shall continue to apply to the successor entity for the tax year in which the business reorganisation took place and subsequent tax years; and

(*b*) no deduction shall be allowed to the predecessor entity under this section for the tax year in which such reorganisation takes place.

(*7*) In this section,—

(*a*) "actually paid" means the actual payment of expenditure irrespective of the tax year in which the liability for the expenditure was incurred according to the method of accounting regularly employed by the assessee or payable in such manner, as prescribed;

(*b*) "equal installments" shall be calculated by taking numerator as 1 and denominator as the tax years mentioned in column D of the Table in sub-section (*1*);

(*c*) "specified business reorgnisation" means—

(*i*) amalgamation of an Indian company and its undertaking with another Indian company; or

(*ii*) demerger of an undertaking of an Indian company to another company; or

(*iii*) succession of a firm or proprietorship concern to a company fulfilling conditions as laid down in section 70(*1*)(*zd*); or

(*iv*) conversion of a private company or unlisted public company to a limited liability partnership fulfilling conditions laid down in section 70(*1*)(*ze*).

Full value of consideration for transfer of assets other than capital assets in certain cases.

53. (*1*) In case of transfer of an asset (other than a capital asset), being land or building or both, if the consideration received or accrued from such transfer is less than the stamp duty, then such stamp duty value for computing profits and gains from transfer of such asset shall be deemed to be the full value of consideration.

(*2*) The provisions of sub-section (*1*) shall not apply if the stamp duty value does not exceed 110% of the consideration received or accrued and in such a case, the consideration received or accrued shall be deemed to be the full value of consideration.

(*3*) If the date of agreement fixing the value of consideration for transfer of asset and date of registration for transfer of such asset are different, then the stamp duty value as on date of agreement may be taken to be the full value of consideration under sub-section (*1*).

(*4*) The provisions of sub-section (*3*) shall apply only in a case where the amount of consideration or a part thereof has been received by specified banking or online mode on or before the date of agreement for transfer of such asset.

(*5*) For the determination of the value adopted or assessed or assessable under sub-section (*1*), the provisions of section 78(*2*) and (*4*) shall apply.

Business of prospecting for mineral oils.

54. (*1*) Where the assessee undertakes specified oil exploration business, then deduction specified in sub-sections (*3*) and (*4*) shall be allowed while computing the income under the head "Profits and gains of business or profession".

(*2*) In this section, "specified oil exploration business" means business consisting of prospecting for or extraction or production of mineral oils where the following conditions are fulfilled:—

(*a*) the assessee has entered into an agreement with the Central Government;

(*b*) such agreement is entered for association or participation of the Central Government or any person authorised by it; and

(*c*) such agreement is laid before each House of Parliament.

(*3*) The deduction referred to in sub-section (*1*) shall be—

(*a*) for the period before the beginning of commercial production, expenditure towards infructuous or abortive exploration incurred in respect of any surrendered area;

(*b*) for the period after the commencement of commercial production, expenditure (whether before or after such production) in respect of drilling or exploration activities or services or in respect of physical assets used in that connection;

(*c*) for the tax year of commencement of commercial production and such succeeding tax years as specified in the agreement, towards depletion of mineral oil in the mining area.

(*4*) The deductions referred to in sub-section (*1*) shall be—

(*a*) either *in lieu* of, or in addition to, any allowance admissible under this Act as specified in the agreement; and

(*b*) computed and made in the manner specified in the agreement and the other provisions of this Act shall be deemed to have been modified to such extent.

(*5*) Where the business or any interest therein as referred to in sub-section (*1*) is wholly or partly transferred as per the provisions of the agreement, the profit shall be charged to tax or deduction shall be allowed in the following manner:—

(*a*) where A is less than C, then (C-A) shall be allowed as deduction in the tax year in which such business or interest is transferred;

(*b*) where A is greater than C,—

(*i*) but less than B, then (A-C) shall be the profit chargeable under the head "Profits and gains of business or profession" for the tax year in which such transfer takes place;

(*ii*) in any other case, only (B-C) shall be the profit chargeable under the said head for the tax year in which such transfer takes place; and

(*iii*) no deduction shall be allowed for the expenditure incurred remaining unallowed in the tax year in which such transfer takes place or any subsequent tax year,

where,—

A = proceeds of the transfer (so far as they consist of capital sums);

B = total amount of expenditure incurred in connection with the business or to obtain interest therein;

C = amount of expenditure incurred remaining unallowed.

(*6*) If the business or interest therein is no longer in existence in the year of transfer, the provisions of sub-section (*5*) shall apply as if such business is in existence during the said year.

(*7*) Where the business or interest therein is transferred in a scheme of amalgamation or demerger and the resulting entity is an Indian company, then the provisions of sub-section (*5*) shall—

(*a*) not apply to the amalgamating or demerged company; and

(*b*) continue to apply to the amalgamated or resulting company as it would have applied to the amalgamating or demerged company as if the transfer has not taken place.

(*8*) In this section, "mineral oil" includes petroleum and natural gas.

Insurance business.

55. Irrespective of anything to the contrary contained in the provisions of this Act for computing income under the head "Income from house property", "Capital gains" or "Income from other sources", or in section 390(*5*) and (*6*), or in sections 26 to 54, the profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, shall be computed as per the provisions of Schedule XIV.

Special provision in case of interest income of specified financial institutions.

56. (*1*) Irrespective of anything to the contrary contained in this Act, the interest income in relation to bad or doubtful debts of a specified financial institution shall be chargeable to tax under the head "Profits and gains of business or profession" in the tax year in which such interest is—

(*a*) credited to the profit and loss account; or

(*b*) actually received,

whichever is earlier.

(*2*) In this section,—

(*a*) "specified financial institution" means—

(*i*) a public financial institution; or

(*ii*) a scheduled bank; or

(*iii*) a co-operative bank, other than—

(*A*) a primary agricultural credit society; or

(*B*) a primary co-operative agricultural and rural development bank; or

(*iv*) a State Financial Corporation; or

(*v*) a State Industrial Investment Corporation; or

(*vi*) any such class of non-banking financial companies, as notified by the Central Government;

(*b*) "bad or doubtful debts" shall be such categories of debts, as prescribed, having regard to the guidelines issued in relation to such debts by the Reserve Bank of India.

Revenue recognition for construction and service contracts.

57. (*1*) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method, as per the income computation and disclosure standards notified under section 276(*2*).

(*2*) The profits and gains arising from a contract for providing services under sub-section (*1*) shall be determined—

(*a*) on the basis of project completion method, if the duration of such contract is not more than ninety days;

(*b*) on the basis of straight line method, if the contract involves indeterminate number of acts over a specified period of time.

(*3*) For the purposes of percentage of completion method, project completion method or straight line method under this section,—

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

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

Special provision for computing profits and gains of business profession on presumptive basis in case of certain residents.

58. (*1*) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the specified business or profession mentioned in column B of the Table in sub-section (*2*).

(*2*) The profits and gains of any specified business or profession as mentioned in column B of the Table below, carried on by an assessee specified in column C of the said Table, having total turnover or gross receipts of business or profession during the tax year specified in column D and computed in the manner specified in column E thereof, shall be deemed to be the profits and gains of such business or profession chargeable to tax under the head "Profits and gains of business or profession".

Table

Sl. No.	Specified business or profession	Assessee	Total turnover or gross receipts of business or profession during tax year	Manner of computation
A	B	C	D	E
1.	Any business other than the business specified against serial number 2.	Eligible assessee.	(*a*) Does not exceed ₹2,00,00,000; or (*b*) does not exceed ₹3,00,00,000, where the amount or aggregate of amounts received, in cash, does not exceed 5% of the total turnover or gross receipts.	(*A*) (*i*) 6% of total turnover or gross receipts realised in specified banking or online mode; and (*ii*) 8% of total turnover or gross receipts realised in any mode other than specified banking or online mode; or (*B*) profit claimed to have been actually earned, whichever is higher.
2.	Business of plying, hiring or leasing goods carriage.	An assessee, who owns not more than ten goods carriages at any time during the tax year.		(*a*) The aggregate of income from goods carriage:— (*i*) being a heavy goods vehicle, calculated at the rate of ₹1,000 per ton of gross vehicle weight or unladen weight for each vehicle; or (*ii*) being a vehicle other than heavy goods vehicle, calculated at the

(1)	(2)	(3)	(4)	(5)
				rate of ₹ 7,500 for each goods carriage for every month or part of a month during which the vehicle is owned by the assessee in the tax year; or (*b*) income claimed to have been actually earned, whichever is higher.
3.	Any profession as referred to in section 62(*1*)(*a*).	Specified assessee.	(*a*) Does not exceed ₹50,00,000; or (*b*) does not exceed ₹75,00,000, where the amount or aggregate of amounts received in cash does not exceed 5% of the total turnover or gross receipts.	50% of the gross receipts or profit claimed to have been actually earned, whichever is higher.

(*3*) Any assessee mentioned in column C of the Table in sub-section (*2*), who claims that—

(*a*) the profits or gains actually earned from the specified business or profession are lower than the profits or gains computed in the manner mentioned in column E of the said Table; and

(*b*) whose total income exceeds the maximum amount which is not chargeable to tax,

shall be required to—

(*i*) keep and maintain such books of account and other documents as required under section 62; and

(*ii*) get the accounts audited and furnish a report of such audit as required under section 63.

(*4*) Any loss, allowance or deduction allowable under the provisions of this Act, shall not be allowed against the income computed in the manner specified in sub-section (*1*).

(*5*) For the purposes of sub-section (*2*) (Table: Sl. No. 2), where the assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (*1*) subject to the conditions and limits specified in section 35(*f*).

(*6*) The written down value of any asset used for the purposes of specified business or profession shall be computed as if the assessee mentioned in column C of the Table in sub-section (*2*) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(*7*) Where an eligible assessee declares profit for any tax year as per the provisions of sub-section (*2*) (Table: Sl. No. 1) and he declares profit for any of the five tax years succeeding such tax year in contravention of the provisions of sub-section (*1*), then he shall not be eligible to claim the benefit of the provisions of this section for five tax years subsequent to the tax year in which the profit has not been declared as per the provisions of the said sub-section.

(*8*) Irrespective of anything contained in foregoing provision of this section, where provisions of sub-section (*7*) are applicable to an eligible assessee and his total income exceeds the maximum amount which is not chargeable to income-tax, he shall be required to keep and maintain such books of account and other documents as required under section 62(*2*) and get them audited and furnish a report of such audit as required under section 63.

(*9*) For the purposes of sub-section (*2*) (Table: Sl. Nos. 1 and 3), the receipt of amount or aggregate of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

(*10*) In this section,—

(*a*) "eligible assessee" means an individual, a Hindu undivided family, or a firm other than a limited liability partnership, who is resident in India, who—

(*i*) has not claimed any deduction under section 141; or

(*ii*) has not claimed any deduction under Chapter VIII-C for the relevant tax year; or

(*iii*) does not carry on specified profession as defined in section 62(*1*)(*a*), and (*c*); or

(*iv*) does not earn any income in the nature of commission or brokerage; or

(*v*) does not carry on any agency business;

(*b*) "specified assessee" means an individual or a firm, other than a limited liability partnership, who is a resident in India;

(*c*) "limited liability partnership" shall have the same meaning as assigned to it in section 2(*n*) of the Limited Liability Partnership Act, 2008; 6 of 2009.

(*d*) the expressions "goods carriage", "gross vehicle weight" and "unladen weight" shall have the same meaning as respectively assigned to them in section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(*e*) "heavy goods vehicle" means any goods carriage, the gross vehicle weight of which exceeds 12,000 kilograms; and

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

Chargeability of royalty and fee for technical services in hands of non-residents.

59. (*1*) Income in the nature of royalty or fees for technical services received by a specified assessee during a tax year, shall be charged to income-tax under the head "Profits and gains of business or profession" under this Act, if the following conditions are satisfied:—

(*a*) income is received from the Government or an Indian concern;

(*b*) income is in pursuance to an agreement made by the specified assessee with the Government or the Indian concern;

(*c*) the specified assessee carries on business in India through a permanent establishment, or performs professional services from a fixed place of profession, situated in India; and

(*d*) the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession.

(*2*) No deduction shall be allowed against the income chargeable under sub-section (*1*) in respect of the following amounts:—

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

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

(*3*) The provisions of section 61 in so far as it relates to business referred to in section 61(*2*) (Table: Sl. No. 5), shall not apply in respect of the income referred to in this section.

(*4*) The specified assessee shall keep and maintain books of account and other documents as per the provisions of section 62, get his accounts audited on or before the specified date referred to in section 63 by an accountant, and furnish report of audit in the prescribed form, duly signed and verified by the accountant.

(*5*) In this section, "specified assessee" means a non-resident (not being a company) or a foreign company.

Deduction of head office expenditure in case of non-residents.

60. (*1*) Irrespective of anything to the contrary contained in sections 26 to 54, in the case of a non-resident assessee, deduction of head office expenditure incurred by such assessee as is attributable to his business or profession in India, shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession" subject to provisions of sub-section (*2*).

(*2*) The deduction allowable under sub-section (*1*) shall be restricted to—

(*a*) if the adjusted total income of the assessee is a loss, to an upper monetary limit of 5% of the average adjusted total income of the assessee; or

(*b*) in any other case, to an upper monetary limit of 5% of the adjusted total income of the assessee.

(*3*) In this section,—

(a) "adjusted total income" means the total income computed under this Act, without giving effect to the allowance referred to in this section or in section 33(*11*) or the deduction referred to in section 32(*i*)(*i*) or any loss carried forward under section 112(*1*) or 113(*2*) or 115(*1*) or the deductions under Chapter VIII;

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

(*i*) if the assessee is assessable for each of the three tax years immediately preceding the relevant tax year, the arithmetic mean of his adjusted total income over those three tax years;

(*ii*) if the assessee is assessable only for two of the said three tax years, the arithmetic mean of his adjusted total income over those two tax years;

(*iii*) if the assessee is assessable only for one of the said three tax years, his adjusted total income for that tax year;

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

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

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

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

(*iv*) such other matters connected with executive and general administration, as prescribed.

Special provision for computation of income on presumptive basis in respect of certain business activities of certain non-residents.

61. (*1*) The provisions of sections 26 to 54, to the extent contrary to this section, shall not apply to the specified business mentioned in column B of the Table in sub-section (*2*).

(*2*) The profits and gains of any specified business as mentioned in column B of the Table below, carried on by a specified assessee as mentioned in column C of the said Table during a tax year, shall be computed in the manner specified in column D thereof, and charged to income-tax for the said tax year under the head "Profits and gains of business or profession".

Table

Sl No.	Specified business	Specified assessee	Profits and gains of business or profession
A	B	C	D
1.	Business of operation of ships, other than cruise ships referred to in Serial number 2.	Non-resident.	7.5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods shipped at any port in India, whether paid or payable, in or outside India, to the assessee or any other person on his behalf (including demurrage, handling or other similar charges);

A	B	C	D
			B = sum on account of carriage of passenger, livestock, mail or goods shipped at any port outside India, whether received or deemed to be received in India, by the assessee or any other person on his behalf (including demurrage, handling or other similar charges).
2.	Business of operation of cruise ships (subject to the conditions as prescribed).	Non-resident.	20% of (A+B), where,— A = sum on account of carriage of passenger, paid or payable to the assessee or any other person on his behalf; B = sum on account of carriage of passenger received or deemed to be received by the assessee or any other person on his behalf.
3.	Business of operation of aircraft.	Non-resident.	5% of (A+B), where,— A = sum on account of carriage of passenger, livestock, mail or goods from any place in India, paid or payable (in or outside India) to the assessee or any other person on his behalf; B = sum on account of carriage of passenger, livestock, mail or goods from any place outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
4.	Business of civil construction or erection or testing or commissioning, of plant or machinery, in connection with a turnkey power project, approved by the Central Government.	Foreign company.	10% of the amount towards such civil construction, erection, testing, or commissioning, paid or payable, to the assessee or to any other person on his behalf, whether in or outside India.

A	B	C	D
5.	Business of providing services or facilities (including supply of plant and machinery on hire) for prospecting, extraction or production of mineral oils.	Non-resident person.	10% of (A+B), where,— A = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils in India, paid or payable (in or outside India), to the assessee or any other person on his behalf; B = sum on account of business of providing services and facilities in connection with, or supply of plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of mineral oils outside India, received or deemed to be received in India, by the assessee or any other person on his behalf.
6.	Business of providing services or technology in India, for the purposes of setting up an electronics manufacturing facility or in connection with manufacturing or producing electronic goods, article or thing in India to a resident company.	Non-resident.	25% of (A+B), where,— A = the amount paid or payable to the non-resident assessee or to any person on his behalf on account of providing services or technology; B = the amount received or deemed to be received by the non-resident assessee or on behalf of non-resident assessee on account of providing services or technology.

(*3*) For the purposes of (Table: Sl. Nos. 1 to 5) of sub-section (*2*), the specified assessee may claim that the profits actually earned from the specified business are lower than the business profits computed under sub-section (*2*), if,—

(*a*) he keeps and maintains such books of account and other documents as required under section 62; and

(*b*) gets his accounts audited and furnish a report of such audit as required under section 63.

(*4*) Any loss, allowance or deduction allowable under the provisions of this Act shall not be allowed against the income computed in the manner specified in sub-section (*2*).

(*5*) The written down value of any asset used for the purposes of specified business or profession shall be computed, as if the assessee mentioned in column C of the Table in sub-section (*2*) had claimed and was actually allowed depreciation thereon for each of the relevant tax years.

(*6*) For the purposes of sub-section (*2*) (Table: Sl. No. 5) the provisions of this section shall not apply where the provisions of section 54 or 59 or 207 or 527 apply for the purposes of computing profits and gains or any other income referred to in the said sections.

(*7*) In this section, "plant" includes ships, aircrafts, vehicles, drilling units, scientific apparatuses and equipments, used for the purposes of the specified business as mentioned in sub-section (*2*) (Table: Sl. No. 5).

(*8*) For the purposes of sub-section (*2*) (Table: Sl. No. 6), resident company shall satisfy the following:—

(*a*) it is establishing or operating electronics manufacturing facility or a connected facility for manufacturing or producing electronic goods, article or thing in India, under a scheme notified by the Central Government in the Ministry of Electronics and Information Technology; and

(*b*) it satisfies the conditions prescribed in this behalf.

Maintenance of books of account.

62. (*1*) (*a*) Any person carrying on specified profession; or

(*b*) any person carrying on, business; or any profession [not being a profession referred to in clause (*a*)] and satisfying the conditions referred to in sub-section (*2*); or

(*c*) any other person carrying on profession notified by the Board in this behalf,

shall keep and maintain such books of account and other documents to enable the Assessing Officer to compute his total income under this Act.

(*2*) The conditions in respect of persons referred to in sub-section (*1*)(*b*) shall be the following:—

(*a*) where the income from business or profession exceeds one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession exceeds ten lakh rupees in any one of the three years immediately preceding the tax year; or

(*b*) where business or profession is newly set up in the tax year, the income from business or profession is likely to exceed one lakh and twenty thousand rupees or its total sales, turnover or gross receipts from such business or profession is likely to exceed ten lakh rupees during such tax year; or

(*c*) where during the tax year, the assessee, other than the assessee referred to in section 61(*2*) (Table: Sl. No. 6), has claimed income from business or profession to be lower than the deemed profits as referred to in section 58(*2*) or section 61(*2*); or

(*d*) in case of an individual or Hindu undivided family, clauses (*a*) and (*b*) shall be modified to the extent of income from such business or profession exceeding two lakh and fifty thousand rupees and its total sales, turnover or gross receipts from such business or profession exceeding two lakh and fifty thousand rupees.

(*3*) For the purposes of this section, the Board may prescribe—

(*a*) the books of account and other documents (including inventories, wherever necessary) to be kept and maintained;

(*b*) particulars to be contained therein;

(*c*) the form, manner and place at which they shall be kept and maintained; and

(*d*) the period for which such books of account and other documents are to be retained.

(*4*) In this section, "specified profession" means—

(*a*) legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration, information technology or company secretary; or

(*b*) any other profession, as notified by the Board.

Tax audit.

63. (*1*) Every person, carrying on the business or profession fulfilling the conditions specified in column B of the Table below, shall get his accounts of the tax year audited by an accountant, before the specified date.

Table

Sl. No.	Conditions for getting books of account audited
A	B
1.	Where the total sales, turnover or gross receipts from business or profession during the tax year of any person who— (*a*) is carrying on business and at least 95% of aggregate of all the receipts and payments from the business during the tax year are through specified banking or online mode, is more than ₹10,00,00,000; (*b*) is carrying on business and not covered under serial number 1, is more than ₹1,00,00,000; (*c*) is carrying on profession, is more than ₹50,00,000.
2.	If the person is carrying on business or profession, referred to in section 58(*2*) or 61(*2*) (other than that referred to in section 61(*2*) [Table: Sl. No. 6]) and the profits and gains from such business or profession are claimed to be lower than the deemed profits as referred to in these sections.

(*2*) The provisions of this section shall not apply,—

(*a*) where profits and gains of business or profession, declared by the assessee are as per section 58(*2*);

(*b*) where the person, other than that referred in section 61(*2*) (Table: Sl. No. 6), is deriving income of the nature referred to in section 61(*2*).

(*3*) The assessee shall furnish by the specified date, the report of such audit in such form, duly signed and verified by the accountant and setting forth such particulars, as prescribed.

(*4*) Where a person is required, by or under any other law, to get his accounts audited, then it shall be sufficient compliance of this section, if such person—

(*a*) gets the accounts of such business or profession audited under such law before the specified date; and

(*b*) furnishes by that specified date the report of such audit along with the report of the accountant in the form as prescribed.

(*5*) In this section, "specified date" in relation to the accounts of the assessee of the tax year, means the date one month prior to the due date for furnishing the return of income under section 263(*1*).

Facilitating payments in electronic modes.

64. Any person carrying on business with total sales, turnover, or gross receipts exceeding fifty crore rupees in the preceding tax year shall provide facility for accepting payments through prescribed electronic methods, in addition to any other electronic payment methods, already offered.

Special provision for computing deductions in case of business reorganisation of co-operative banks.

65. (*1*) The deduction under section 33 or 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall, in a case where business reorganisation of a co-operative bank has taken place during the tax year, be allowed as per provisions of this section.

(*2*) The amount of deduction allowable to the predecessor co-operative bank or to the successor co-operative bank or to the converted banking company under section 33 or 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall be determined as per the formula—

(*i*) for predecessor co-operative bank:—

$$\frac{A \times B}{C}$$

(*ii*) for successor co-operative bank or converted banking company:—

$$\frac{A \times D}{C}$$

where,—

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

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

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

D = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the tax year.

(*3*) The provisions of section 44 or 52(*1*) (Table: Sl. No. 1 or 2) shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank or to a converted banking company on account of business reorganisation, apply to the successor co-operative bank or to the converted banking company in the tax years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

(*4*) In this section,—

(*a*) "amalgamation" means the merger of an amalgamating co-operative bank with an amalgamated co-operative bank, if—

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

(*ii*) the members holding 75% or more voting rights in the amalgamating co-operative bank become members of the amalgamated co-operative bank; and

(*iii*) the shareholders holding 75% or more in value of the shares in the amalgamating co-operative bank (other than the shares held by

the amalgamated co-operative bank or its nominee or its subsidiary, immediately before the merger) become shareholders of the amalgamated co-operative bank;

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

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

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

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

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

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

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

(*e*) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated 27th September, 2018;

(*f*) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank;

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

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

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

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

(*iv*) the shareholders holding 75% or more in value of the shares in the demerged co-operative bank (other than shares already held by the resulting bank or its nominee or its subsidiary immediately before the transfer), become shareholders of the resulting cooperative bank, otherwise than as a result of the acquisition of the assets of the demerged cooperative bank or any undertaking thereof by the resulting co-operative bank;

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

(*vi*) the transfer is as per the conditions specified by the Central Government, by notification, having regard to the necessity to ensure that the transfer is for genuine business purposes;

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

(*i*) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank, or the primary co-operative bank, which has been succeeded as a result of conversion;

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

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

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

(*k*) "successor co-operative bank" means the amalgamated co-operative bank or the resulting bank.

Interpretation.

66. In sections 26 to 66,—

(*1*) "agreement", for the purposes of section 26(*2*)(*h*), includes any arrangement or understanding or action in concert,—

(*A*) whether or not such arrangement, understanding or action is formal or in writing; or

(*B*) whether or not such arrangement, understanding or action is intended to be enforceable by legal proceedings;

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

(*3*) "commission or brokerage" shall have the meaning assigned to it in section 402(*7*);

(*4*) "commodity derivative" shall have the same meaning as assigned to it in Chapter VII of the Finance Act, 2013; 17 of 2013.

(*5*) "commodities transaction tax" shall have the same meaning as assigned to it under Chapter VII of the Finance Act, 2013; 17 of 2013.

(*6*) "fees for technical services" shall have the meaning assigned to it in section 9(*7*)(*b*);

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

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

(*9*) "Keyman insurance policy" shall have the meaning assigned to it in Schedule II (Note 1);

(*10*) "limited liability partnership" shall have the same meaning as assigned to it in section 2(*1*)(*n*) of the Limited Liability Partnership Act, 2008; 6 of 2009.

(*11*) "long-term finance", for the purposes of section 32(*e*), means any loan or advance where the terms under which moneys are loaned or advanced provide for repayment along with interest thereof during a period of not less than five years;

(*12*) "micro enterprise" shall have the same meaning as assigned to it in section 2(*h*) of the Micro, Small and Medium Enterprises Development Act, 2006; 27 of 2006.

(*13*) "mineral oil" includes petroleum and natural gas;

(*14*) "moneys payable" in respect of any tangible asset includes—

(*a*) any insurance, salvage or compensation moneys payable in respect thereof;

(*b*) where the asset is sold, the price for which it is sold;

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

53 of 1987.

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

10 of 1949.

(*17*) "paid" means, except for section 37, actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under the head "Profits and gains of business or profession";

(*18*) "permanent establishment" shall have the meaning assigned to it in section 173(*c*);

(*19*) "plant" includes ships, vehicles, books, scientific apparatus and surgical equipment used for the business or profession but does not include tea bushes or livestock or buildings or furniture and fittings;

(*20*) "predecessor entity" means—

(*a*) the amalgamating Indian company in the case of amalgamation;

(*b*) the demerged Indian company, in the case of demerger;

(*c*) a firm, in the case of a succession of a firm by a company as referred to in section 70(*1*)(*zd*);

(*d*) a private company or unlisted public company, in case of conversion as referred to in section 70(*1*)(*ze*);

(*e*) a sole proprietary concern, in the case of succession of sole proprietorship concern by a company, as referred to in section 70(*1*)(*zf*);

(*21*) "primary agricultural credit society" shall have the same meaning as assigned to it in Part V of the Banking Regulation Act, 1949;

10 of 1949.

(*22*) "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a *taluk* and the principal object of which is to provide for long-term credit for agricultural and rural development activities;

(*23*) "professional services" shall have the meaning assigned to it in section 402(*28*);

(*24*) "public company" shall have the same meaning as assigned to it in section 2(*71*) of the Companies Act, 2013;

18 of 2013.

(*25*) "public financial institution" shall have the same meaning as assigned to it in section 2(*72*) of the Companies Act, 2013;

18 of 2013.

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

(*27*) "recognised commodity exchange" means a recognised association as defined in section 2(*j*) of the Forward Contracts (Regulation) Act, 1952 and which fulfils such conditions, as prescribed, and is notified by the Central Government for this purpose; 17 of 1952.

(*28*) "rent", for the purposes of section 35(*b*)(*i*), shall have the meaning assigned to it in section 402(*29*);

(*29*) "royalty" shall have the same meaning as assigned to it in section 9(*6*)(*b*);

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

(*31*) "scientific research" means—

(*a*) any activity for the extension of knowledge in the fields of natural or applied science including agriculture, animal husbandry or fisheries; and

(*b*) the references to expenditure incurred on scientific research shall include all expenditure incurred for the prosecution, or the provision of facilities for the prosecution, of scientific research, but does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research,

and the references to scientific research related to a business or class of business shall include any scientific research—

(*i*) which may lead to or facilitate an extension of that business or, all businesses of that class;

(*ii*) of a medical nature which has a special relation to the welfare of workers employed in that business or, all businesses of that class;

(*32*) "securities transaction tax" shall have the meaning assigned to it under Chapter VII of the Finance (No. 2) Act, 2004; 23 of 2004.

(*33*) "service", for the purposes of section 26(*2*)(*h*), means a service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial nature such as—

(*a*) accounting;

(*b*) banking;

(*c*) communication;

(*d*) conveying of news or information;

(*e*) advertising;

(*f*) entertainment;

(*g*) amusement;

(*h*) education;

(*i*) financing;

(*j*) insurance;

(*k*) chit funds;

(*l*) real estate;

(*m*) construction;

(*n*) transport;

(*o*) storage;

(*p*) processing;

(*q*) supply of electrical or other energy; and

(*r*) boarding and lodging;

(*34*) "small enterprise" shall have the same meaning as assigned to it in section 2(*m*) of the Micro, Small and Medium Enterprises Development Act, 2006; 27 of 2006.

(*35*) "speculative transaction" means a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips, other than the following transactions:—

(*a*) a specified derivative transaction as defined in clause (*37*);

(*b*) a contract in respect of raw materials or merchandise entered into by a person in the course of his manufacturing or merchandising business to guard against loss through future price fluctuations in respect of his contracts for actual delivery of goods manufactured, or merchandise sold by him;

(*c*) a contract in respect of stocks and shares entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations;

(*d*) a contract entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage, to guard against loss which may arise in the ordinary course of his business as such member;

(*36*) "Specified Banking or Online Mode" shall mean transaction by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode, as prescribed;

(*37*) "specified derivative transaction" means any transaction in derivatives, if—

(*a*) it is carried out electronically on screen-based systems of a recognised stock exchange or a recognised commodity exchange;

(*b*) it is carried out by a bank or mutual fund or any other person, through a broker, member or such other intermediary; and

(*c*) it is supported by a time stamped contract note issued by the intermediary to every client indicating in the contract note—

(*i*) the unique client identity number allotted under any law in force; and

(*ii*) the Permanent Account Number allotted under this Act;

(*38*) "State Government undertaking" includes—

(*a*) a corporation established by or under any State Act;

(*b*) a company in which more than 50% of the paid-up equity share capital is held by the State Government;

(*c*) a company in which more than 50% of the paid-up equity share capital is held by the entity referred to in clause (*a*) or (*b*) (whether singly or taken together);

(*d*) a company or corporation in which the State Government has the right to appoint the majority of the directors or to control the management or policy decisions, directly or indirectly, including by virtue of its shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

(*e*) an authority, a board or an institution or a body established or constituted by or under any State Act, or owned or controlled by the State Government;

(*39*) "State Industrial Investment Corporation" means a Government company within the meaning of section 2(*45*) of the Companies Act, 2013, engaged in the business of providing long-term finance for industrial projects; 18 of 2013.

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

(*41*) "successor entity" means—

(*a*) the amalgamated Indian company, in the case of amalgamation;

(*b*) the resulting Indian company, in the case of demerger;

(*c*) a company, in case of a succession of a firm by a company as referred to in section 70(*1*)(*zd*);

(*d*) a limited liability partnership, in case of conversion of private company or unlisted public company to a limited liability partnership, as referred to in section 70(*1*)(*ze*);

(*e*) company, in case of succession of sole proprietorship concern by a company, as referred to in section 70(*1*)(*zf*);

(*42*) "taxable commodities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2013; 17 of 2013.

(*43*) "taxable securities transaction" shall have the meaning assigned to it under Chapter VII of the Finance Act, 2004; 13 of 2004.

(*44*) "University" shall have the meaning assigned to it in section 70(*2*) (Table: Sl. No. 7); and

(*45*) "work", for the purposes of section 35(*b*)(*i*), shall have the meaning assigned to it in section 402(*47*).

E.—Capital gains

Capital gains.

67. (*1*) Any profits or gains arising from the transfer of a capital asset effected in a tax year shall, save as otherwise provided in sections 82, 83, 84, 86, 87, 88 and 89, be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of the tax year in which the transfer took place.

(*2*) Irrespective of anything contained in sub-section (*1*), if a person receives during any tax year any money or other assets under an insurance from an insurer on account of damage to, or destruction of, any capital asset, as a result of circumstances mentioned in sub-section (*3*), then,—

(*a*) any profits or gains arising from receipt of such money or other assets shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the tax year in which such money or other asset was received; and

(*b*) for the purposes of section 72, the value of any money or the fair market value of other assets on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(*3*) The following shall be the circumstances referred to in sub-section (*2*):—

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

(*b*) riot or civil disturbance; or

(*c*) accidental fire or explosion; or

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

(*4*) In sub-section (*2*), "insurer" shall have the same meaning as assigned to it in section 2(*9*) of the Insurance Act, 1938. 4 of 1938.

(*5*) Irrespective of anything contained in sub-section (*1*), if any profits or gains arises to a person from receipt of any amount, including a bonus, under a unit linked insurance policy to which the exemption specified at Schedule II (Table: Sl. No. 2) does not apply, then,—

(*a*) such profits and gains shall be chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person in the tax year in which such amount was received; and

(*b*) the income taxable shall be calculated in such manner, as prescribed.

(*6*) Irrespective of anything contained in sub-section (*1*), if the profits or gains arising from the transfer by way of conversion of a capital asset into, or its treatment by the owner as, stock-in-trade of a business carried on by him, then,—

(*a*) such profits and gains shall be chargeable to income-tax as his income in the tax year in which such stock-in-trade is sold (or otherwise transferred by any other means); and

(*b*) for the purposes of section 72, the fair market value of the asset on the date of such conversion or treatment shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(*7*) If any person, at any time during the tax year, had any beneficial interest in any securities and any profits or gains arise from transfer made by the depository or participant of such beneficial interest in respect of securities, then,—

(*a*) such profits and gains shall be chargeable to income-tax as the income of the beneficial owner of the tax year in which such transfer took place;

(*b*) such profits and gains shall not be regarded as income of the depository who is deemed to be the registered owner of securities by virtue of section 10(*1*) of the Depositories Act, 1996; and 22 of 1996.

(*c*) for the purposes of section 72 and section 2(*100*)(*b*), the cost of acquisition and the period of holding of any securities shall be determined on the basis of the first-in-first-out method.

(*8*) In sub-section (*7*), "beneficial owner", "depository" and "security" shall have the same meanings as respectively assigned to them in section 2(*1*)(*a*), (*e*) and (*l*) of the Depositories Act, 1996. 22 of 1996.

(*9*) If any profits or gains arise from the transfer of a capital asset by a person, to a firm or other association of persons or body of individuals (not being a company or co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, then,—

(*a*) such profits and gains shall be chargeable to tax as his income in the tax year of such transfer; and

(*b*) for the purposes of section 72 the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(*10*) Irrespective of anything contained in sub-section (*1*), if a specified person receives during the tax year, any money or capital asset, or both, from a specified entity in connection with the reconstitution of such specified entity, then,—

(*a*) any profits or gains arising from such receipt shall be deemed as income of the specified entity of the tax year of such receipt by the specified person and chargeable to income-tax under the head "Capital gains"; and

(*b*) such profits or gains shall be determined irrespective of anything to the contrary contained in this Act as follows:—

$$A = B + C - D,$$

where,

A = income chargeable to income-tax under this sub-section as income of the specified entity under the head "Capital gains";

B = value of any money received by the specified person from the specified entity on the date of such receipt;

C = amount of fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt; and

D = amount of balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution;

(*c*) for the purposes of the formula in clause (*b*),—

(*i*) if the value of "A" in the said formula is negative, its value shall be deemed to be zero;

(*ii*) the balance in the capital account of the specified person in the books of account of the specified entity shall be calculated without considering any increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset; and

(*d*) the provisions of this sub-section shall operate in addition to the provisions of section 8 and the taxation under the said section shall be worked out independently, when a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity.

(*11*) In sub-section (*10*),—

(*a*) "reconstitution of the specified entity", "specified entity" and "specified person" shall have the meanings respectively assigned to them in section 8;

(*b*) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

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

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

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

(*c*) any compensation as referred to in clause (*b*) received in pursuance of an interim order of a court, tribunal or other authority shall be deemed as income chargeable under the head "Capital gains" of the tax year in which the final order of such court, tribunal or other authority is made; and

(*d*) the capital gain assessed for any tax year under clause (*a*) or (*b*) shall be recomputed where the compensation or consideration referred to in clauses (*a*) to (*c*) is reduced by any court, tribunal or other authority and such reduced value shall be taken to be the full value of the consideration.

(*13*) In relation to the amount referred to in sub-section (*12*)(*b*) and (*c*),—

(*a*) the cost of acquisition and the cost of improvement shall be taken as *nil*; and

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

(*14*) Irrespective of anything contained in sub-section (*1*), if the capital gains arises to a person (being an individual or a Hindu undivided family), from the transfer of a capital asset, being land or building or both, under a specified agreement, then,—

(*a*) such capital gains shall be chargeable to income-tax for the tax year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and

(*b*) for the purposes of section 72, the stamp duty value, on the date of issue of the said certificate, of the share of such person, being land or building, or both, in the project, as increased by any consideration received in cash or by a cheque or draft or by any other mode shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset.

(*15*) In sub-section (*14*),—

(*a*) "competent authority" means the authority empowered to approve the building plan under any law;

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

(*16*) The provisions of sub-section (*14*) shall not apply, if the person transfers his share in the project on or before the date of issue of the certificate of completion, and then,—

(*a*) the capital gains shall be deemed to be the income of the tax year of such transfer; and

(*b*) the provisions of this Act, other than sub-section (*14*), shall apply for the purpose of determination of full value of consideration.

(*17*) Irrespective of anything contained in sub-section (*1*), the difference between the repurchase price of the units referred to in section 80CCB(*2*) of the Income-tax Act, 1961 and the capital value of such units shall be taxed considering it to be the capital gains arising to the assessee in the tax year in which— 43 of 1961.

(*a*) such repurchase takes place; or

(*b*) the plan referred to in that section is terminated.

(*18*) For the purposes of sub-section (*17*), "capital value of such units" means any amount invested by the assessee in the units referred to in section 80CCB(*2*) of the Income-tax Act, 1961. 43 of 1961.

Capital gains on distribution of assets by companies in liquidation.

68. (*1*) Irrespective of anything contained in section 67, where the assets of a company are distributed to its shareholders on its liquidation, such distribution shall not be regarded as a transfer by the company for the purposes of the said section.

(*2*) If a shareholder, on the liquidation of a company, receives any money or other assets from the company, then,—

(*a*) such shareholder shall be chargeable to income-tax under the head "Capital gains", in respect of the money so received or the market value of the other assets on the date of distribution, as reduced by the amount assessed as dividend within the meaning of section 2(*40*)(*c*); and

(*b*) the sum so arrived at shall be deemed to be the full value of the consideration for the purposes of section 72.

Capital gains on purchase by company of its own shares or other specified securities.

69. (*1*) If a shareholder or a holder of other specified securities receives any consideration from any company for the purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 72, the difference between the cost of acquisition and the value of consideration so received shall be deemed to be the "Capital gains" arising to such shareholder or the holder in the year in which the company purchases the shares or other specified securities.

(*2*) If the shareholder receives any consideration of the nature referred to in section 2(*40*)(*f*), from any company in respect of buy-back of shares, then for the purposes of this section, the value of such consideration shall be deemed to be *nil*.

(*3*) For the purposes of this section, "specified securities" shall have the same meaning as assigned to it in *Explanation* 1 to section 68 of the Companies Act, 2013. 18 of 2013.

Transactions not regarded as transfer.

70. (*1*) The provisions of section 67 shall not apply to transfer—

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

(*b*) of a capital asset by an individual or a Hindu undivided family, under a will or a gift or an irrevocable trust;

(*c*) of a capital asset, not being stock-in-trade, by a company to its subsidiary company, if—

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

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

(*d*) of a capital asset, not being stock-in-trade, by a subsidiary company to the holding company, if—

(*i*) the whole of the share capital of the subsidiary company is held by the holding company; and

(*ii*) the holding company is an Indian company;

(*e*) in a scheme of amalgamation, of a capital asset by the amalgamating company to the amalgamated company, if the amalgamated company is an Indian company;

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

(*i*) the transfer is made in consideration of allotment of any share or shares in the amalgamated company, except when the shareholder itself is the amalgamated company; and

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

(*g*) in a scheme of amalgamation, of a capital asset being a share or shares held in an Indian company, by the amalgamating foreign company to the amalgamated foreign company, if—

(*i*) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

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

(*h*) in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in section 9(*9*)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, if—

(*i*) at least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

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

(*i*) of a capital asset by a banking company to a banking institution under a scheme of amalgamation sanctioned and brought into force by the Central Government under section 45(*7*) of the Banking Regulation Act, 1949; 10 of 1949.

(*j*) in a demerger, of a capital asset by the demerged company to the resulting company, if the resulting company is an Indian company;

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

(*l*) in a demerger (where the provisions of sections 230 to 232 of the Companies Act, 2013 do not apply), of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if— 18 of 2013.

(*i*) the shareholders holding not less than 75% in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

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

(*m*) in a demerger (where the provisions of sections 230 to 232 of the Companies Act, 2013 do not apply), of a capital asset, being a share of a foreign company, referred to in section 9(*9*)(*a*), which derives directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, if— 18 of 2013.

(*i*) the shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the resulting foreign company; and

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

(*n*) in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank or to the converted banking company;

(*o*) by a shareholder, in a business reorganisation, of capital asset being share or shares held in the predecessor co-operative bank, if the transfer is made in consideration of the allotment to the shareholder of share or shares in the successor co-operative bank or the converted banking company;

(*p*) of a capital asset, being bonds or Global Depository Receipts as referred to in section 209(*1*), made outside India by a non-resident to another non-resident;

(*q*) made outside India, of a capital asset, being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;

(*r*) of a capital asset made by a non-resident on a recognised stock exchange located in any International Financial Services Centre, where the consideration for such transaction is paid or payable in foreign currency, and such capital asset is—

(*i*) bond or Global Depository Receipt referred to in section 209(*1*); or

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

(*iii*) derivative; or

(*iv*) such other securities as notified by the Central Government;

(*s*) of a capital asset, being a Government security carrying a periodic payment of interest, made outside India through an intermediary dealing in settlement of securities, by a non-resident to another non-resident;

(*t*) in a relocation, of a capital asset by the original fund to the resulting fund;

(*u*) by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being share or unit or interest held in the original fund in consideration for the share or unit or interest in the resultant fund;

(*v*) of a capital asset by India Infrastructure Finance Company Limited to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause;

(*w*) of a capital asset, under a plan approved by the Central Government, by a public sector company, to—

(*i*) another public sector company notified by the Central Government for the purposes of this clause; or

(*ii*) the Central Government; or

(*iii*) a State Government;

(*x*) of Sovereign Gold Bond issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, by way of redemption, by an individual;

(*y*) of a capital asset, being conversion of gold into Electronic Gold Receipt issued by a Vault Manager, or conversion of Electronic Gold Receipt into gold;

(*z*) by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company;

(*za*) by way of conversion of bonds referred to in section 209(*1*) (Table: Sl. No. 1) into shares or debentures of any company;

(*zb*) by way of conversion of preference shares of a company into equity shares of that company;

(*zc*) of a capital asset, being any work of art, archaeological, scientific or art collection, book, manuscript, drawing, painting, photograph or print, to—

(*i*) the Government; or

(*ii*) a University; or

(*iii*) the National Museum, National Art Gallery or National Archives; or

(*iv*) such other public museum or institution as notified by the Central Government to be of national importance or of renown throughout any State;

(*zd*) of a capital asset or intangible asset by a firm to a company as a result of succession of the firm by a company in the business carried on by the firm, if—

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

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

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

(*iv*) the aggregate of the shareholding of the partners in the company is at least 50% of the total voting power and such shareholding remains the same for five years from the date of succession;

(*ze*) of a capital asset or intangible asset by a private company or unlisted public company (herein referred to as the company) to a limited liability partnership or transfer of a share or shares held in the company by a shareholder as a result of conversion of the company into a limited liability partnership under the provisions of section 56 or 57 of the Limited Liability Partnership Act, 2008, if— 6 of 2009.

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

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

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

(*iv*) the aggregate of the profit sharing ratio of the shareholders of the company in the limited liability partnership shall not be less than 50% at any time during five years from the date of conversion;

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

(*vi*) the total value of the assets, as appearing in the books of account of the company in any of the three tax years preceding the tax year in which the conversion takes place does not exceed five crore rupees; and

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

(*zf*) of a capital asset or intangible asset (by way of sale or otherwise) by a sole proprietorship concern to a company in case of succession of the sole proprietorship concern by the company in the business carried on by it, if—

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

(*ii*) the shareholding of the sole proprietor in the company is not less than 50% of the total voting power in the company and this shareholding continues to remain the same for five years from the date of the succession; and

(*iii*) the sole proprietor does not receive any consideration or benefit, directly or indirectly, except through allotment of shares in the company;

(*zg*) in a scheme for lending of any securities under an agreement or arrangement, entered into by the assessee with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India or the Reserve Bank of India;

(*zh*) of a capital asset in a transaction of reverse mortgage under a scheme notified by the Central Government;

(*zi*) of a capital asset, being share or shares of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor;

(*zj*) of a capital asset, being a unit or units, held by a unit holder in the consolidating scheme of a mutual fund, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund subject to the condition that the consolidation is of two or more schemes—

(*i*) of an equity-oriented fund; or

(*ii*) of a fund other than equity-oriented fund;

(*zk*) of a capital asset, being a unit or units, held by a unit holder in the consolidating plan of a mutual fund scheme, in consideration of the allotment to the unit holder of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund;

(*zl*) of a capital asset, being an interest in a joint venture, by a public sector company, in exchange for shares of a company incorporated outside India by the government of a foreign State, as per the laws of that foreign State.

(*2*) In sub-section (*1*), the definitions of the expressions mentioned in column C of the Table below shall apply to the corresponding clauses of the said sub-section mentioned in column B of the said Table.

Table

Sl. No.	Clause	Definitions
A	B	C
1.	(*i*)	The expressions— (*a*) "banking company" shall have the same meaning as assigned to it in section 5(*c*) of the Banking Regulation Act, 1949 (10 of 1949); (*b*) "banking institution" shall have the same meaning as assigned to it in section 45(*15*) of the Banking Regulation Act, 1949 (10 of 1949).
2.	(*n*) and (*o*)	"business reorganisation", "converted banking company", "predecessor co-operative bank" and "successor co-operative bank" shall have the meanings respectively assigned to them in section 65.
3.	(*r*)	(*a*) "derivative" shall have the same meaning as assigned to it in section 2(*ac*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); (*b*) "securities" shall have the same meaning as assigned to it in section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
4.	(*s*)	"Government Security" shall have the same meaning as assigned to it in section 2(*b*) of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).
5.	(*t*) and (*u*)	(*a*) "original fund" means— (*A*) a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:— (*i*) the fund is not a person resident in India; (*ii*) the fund is a resident of a country or a specified territory with which an agreement referred to in section 159(*1*) or (*2*) has been entered into; or is established or incorporated or registered in a country or a specified territory as notified by the Central Government; (*iii*) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and (*iv*) fulfils other conditions as prescribed;

A	B	C
		(*B*) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi; or (*C*) a fund notified by the Central Government subject to conditions as specified; (*b*) "relocation" means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before the 31st March, 2025, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to— (*i*) a shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, *in lieu* of their shares or units or interests in the original fund; or (*ii*) the original fund, in the same proportion as referred to in sub-clause (*i*), in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder; (*c*) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which is located in an International Financial Services Centre as referred to in section 147 and has been granted— (*i*) a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992) or regulated under the International Financial Services Centres Authority (Fund Management) Regulations, 2022 made under the International Financial Services Centres Authority Act, 2019 (50 of 2019); or (*ii*) a certificate as a retail scheme or an Exchange Traded Fund as per Schedule VI (Note 1) and which fulfils the conditions specified in Schedule VI (Table: Sl. No. 1).
6.	(*y*)	"Electronic Gold Receipt" and "Vault Manager" shall have the same meanings as respectively assigned to them in regulation 2(*1*)(*h*) and (*l*) of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

A	B	C
7.	(*zc*)	"University" means a University established or incorporated by or under a Central Act or State Act 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.
8.	(*ze*)	"private company" and "unlisted public company" shall have the same meanings as respectively assigned to them in the Limited Liability Partnership Act, 2008 (6 of 2009).
9.	(*zi*)	"special purpose vehicle" shall have the meaning assigned to it in Schedule V (Note 2).
10.	(*zj*)	(*a*) "consolidated scheme" means the scheme with which the consolidating scheme merges or which is formed as a result of such merger; (*b*) "consolidating scheme" means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); (*c*) "equity oriented fund" means a fund— (*i*) where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund, for which the percentage of equity shareholding shall be computed with reference to the annual average of the monthly averages of the opening and closing figures; and (*ii*) which has been set up under a scheme of Mutual Fund specified in Schedule VII (Table: Sl. No. 20 or 21); (*d*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21).
11.	(*zk*)	(*a*) "consolidating plan" means the plan within a scheme of a mutual fund which merges under the process of consolidation of the plans within a scheme of mutual fund as per the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992 (15 of 1992); (*b*) "consolidated plan" means the plan with which the consolidating plan merges or which is formed as a result of such merger; (*c*) "mutual fund" means a mutual fund specified in Schedule VII (Table: Sl. No. 20 or 21); and
12.	(*zl*)	"joint venture" means a business entity, as notified by the Central Government.

Withdrawal of exemption in certain cases.

71. (*1*) The profits or gains arising from the transfer of capital asset not charged under section 67 by virtue of section 70(*1*)(*c*) and (*d*) shall, irrespective of anything contained in the said clauses, be deemed to be income chargeable under the head "Capital gains" of the tax year in which such transfer took place, if at any time before the expiry of eight years from the date of such transfer,—

(*a*) the transferee company converts the capital asset into, or treats it as, stock-in-trade of its business; or

(*b*) the parent company or its nominees or the holding company, ceases or cease to hold the whole of the share capital of the subsidiary company.

(*2*) If any of the conditions laid down in section 70(*zd*) or (*zf*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains" of the successor company for the tax year in which such conditions are not complied with.

(*3*) If any of the conditions laid down in section 70(*ze*) are not complied with, the profits or gains arising from the transfer of such capital asset or intangible assets or share or shares not charged under section 67 by virtue of such conditions shall be deemed to be the profits and gains chargeable to tax under the head "Capital gains"of the successor limited liability partnership or the shareholder of the predecessor company, for the tax year in which such conditions are not complied with.

Mode of computation of capital gains.

72. (*1*) Income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset, the following amounts:—

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

(*b*) the cost of acquisition of the asset and the cost of any improvement thereto.

(*2*) In cases, as prescribed, the provisions of sub-section (*1*) shall have effect as if for the words "cost of acquisition" and "cost of any improvement", the words "indexed cost of acquisition" and "indexed cost of any improvement" had respectively been substituted.

(*3*) In computing the income chargeable under the head "Capital gains", the following amounts shall not be allowed as a deduction:—

(*a*) the interest claimed as deduction under section 22(*1*)(*b*) or under Chapter VIII;

(*b*) any sum paid as securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004. 23 of 2004.

(*4*) If a unit holder receives any amount from a business trust with respect to a unit that is not in the nature of income under Schedule V (Table: Sl. No. 3. or 4) and is not chargeable to tax under section 92(*2*)(*k*) or 223(*2*), then,—

(*a*) such amount shall be reduced from the cost of acquisition of such unit; and

(*b*) if the transaction of transfer of a unit is not considered as transfer under section 70 and cost of acquisition of such unit is determined under section 73, the amount received with respect to such unit before as well as after such transaction, shall be reduced from the cost of acquisition.

(*5*) In case of value of any money or capital asset received by a specified person from a specified entity, as referred to in section 67(*10*), the specified entity is entitled to a deduction calculated in such manner, as prescribed for computing the amount chargeable to income-tax in its hands under that sub-section which is attributable to the transfer of such capital asset.

(*6*) In the case of an assessee, who is a non-resident, capital gains arising from the transfer of a capital asset being shares in, or debentures of, an Indian company (other than equity shares referred to in section 198) shall be computed—

(*a*) by converting the cost of acquisition, expenditure incurred, wholly and exclusively, in connection with such transfer and the full value of the consideration received or accruing as a result of the transfer of the capital asset into the same foreign currency as was initially utilised in the purchase of the shares or debentures; and

(*b*) the capital gains so computed in such foreign currency shall be reconverted into Indian currency, so, however, that the said manner of computation of capital gains shall be applicable in respect of capital gains accruing or arising from every reinvestment thereafter in, and sale of, shares in, or debentures of, an Indian company.

(*7*) In the case of an assessee who is a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by the assessee, shall be ignored for the purpose of computing the full value of consideration.

(*8*) In this section, the expressions—

(*a*) "Cost Inflation Index", in relation to a tax year, means such Index as the Central Government may, having regard to 75% of average rise in the Consumer Price Index (urban) for the immediately preceding tax year to such tax year, by notification, specify, in this behalf;

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

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

Cost with reference to certain modes of acquisition.

73. (*1*) In the case of a capital asset specified in column B of the Table below, the cost of acquisition of the asset shall be deemed to be the cost as mentioned in column C of the said Table.

Table

Sl. No.	Description of the capital asset	Cost of acquisition
A	B	C
1.	If the capital asset became the property of the assessee— (*a*) under a gift or will; or (*b*) by succession, inheritance or devolution; or	The cost for which the previous owner of the property acquired it, as increased by the cost of any improvement incurred or borne by the previous owner or the assessee.

A	B	C
	(*c*) on any distribution of assets on the liquidation of a company; or	
	(*d*) under a transfer to a revocable or an irrevocable trust; or	
	(*e*) being a Hindu undivided family, by the mode referred to in section 99(*3*) after the 31st December, 1969; or	
	(*f*) under any such transfer as is referred to in section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*g*), (*h*), (*i*), (*j*), (*l*), (*m*), (*n*), (*o*), (*t*), (*u*), (*v*), (*w*), (*zd*), (*ze*) or (*zf*).	
2.	Capital asset, being a share or shares in an amalgamated company which is an Indian company that became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*f*).	The cost of acquisition to him of the share or the shares in the amalgamating company.
3.	Capital asset being a share or debenture of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*z*) or (*za*).	That part of the cost of debenture, debenture-stock, bond or deposit certificate for which such asset is acquired by the assesse.
4.	Capital asset, being specified security or sweat equity shares, referred to in section 17(*2*).	Fair market value taken into account for the purposes of the said clause.
5.	Capital asset, being rights of a partner referred to in section 42 of the Limited Liability Partnership Act, 2008 (6 of 2009), which became the property of the assessee on conversion as referred to in section 70(*1*)(*ze*).	The cost of acquisition of the share or shares in the company immediately before its conversion.
6.	Capital asset, being share or shares of a company acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in section 209(*1*) (Table: Sl. No. 2) held by such assessee.	The price of the said share or shares prevailing on any recognised stock exchange on the date on which a request for redemption was made.
7.	Capital asset, being a unit of a business trust, which became the property of the assessee in consideration of a transfer as referred to in section 70(*1*)(*zi*).	The cost of acquisition of the share referred to in the said clause.

A	B	C
8.	Capital asset, being a unit or units in a consolidated scheme of a mutual fund, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zj*).	The cost of acquisition of the unit or units in the consolidating scheme of the mutual fund.
9.	Capital asset, being equity share of a company, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zb*).	That part of the cost of the preference shares in relation to which such asset is acquired.
10.	Capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, which became the property of the assessee in consideration of a transfer referred to in section 70(*1*)(*zk*).	The cost of acquisition of the unit or units in the consolidating plan of the scheme of the mutual fund.
11.	Capital asset being a unit or units in the segregated portfolio.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of the unit or units in segregated portfolio; A = cost of acquisition of unit or units in the total portfolio; B = Net Asset Value of the asset transferred to the segregated portfolio; and C = Net Asset Value of the total portfolio immediately before segregation.
12.	Capital asset being original units held by the unit holder in the main portfolio.	The cost of acquisition as reduced by the amount as so arrived at under serial number 11.

A	B	C
13.	Capital asset, being shares as referred to in section 70(*1*)(*zl*) which became the property of the assessee.	The cost of acquisition to it of the interest in the joint venture referred to in the said clause.
14.	Shares in the resulting company as a result of demerger.	Computed as per the following formula:— $X = \frac{A \times B}{C}$, where,— X = cost of acquisition of shares in the resulting company; A = cost of acquisition of shares in demerged company; B = net book value of assets transferred in demerger; and C = net worth of demerged company immediately before demerger.
15.	Original shares held by the shareholder in the demerged company.	As reduced by the amount so arrived at under serial number 14.
16.	Capital asset deemed to be chargeable to tax according to the provisions of section 71(*1*).	Cost for which such asset was acquired by the transferee company.
17.	Capital asset being property, where the capital gain arises from the transfer of such property the value of which has been subject to income-tax under section 92(*2*)(*m*).	The value taken into account under section 92(*2*)(*m*).
18.	Capital asset declared under the Income Declaration Scheme, 2016, where the tax, surcharge and penalty have been paid as per the provisions of such Scheme on the fair market value as on the date of the commencement of that Scheme.	The fair market value of the asset taken into account for the purposes of the said Scheme.

A	B	C
19.	Specified capital asset referred to in clause (*c*) of the *Explanation* to section 10(*37A*) of the Income-tax Act, 1961 (43 of 1961), which has been transferred after the expiry of two years from the end of the tax year in which the possession of such asset was handed over to the assessee.	The stamp duty value as on the last day of the second tax year after the end of the tax year in which the possession of the said specified capital asset was handed over to the assessee.
20.	Capital asset, being share in the project, in the form of land or building, or both, under section 67(*14*).	The amount deemed as full value of consideration under section 67(*14*).
21.	Capital asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and tax paid thereon as per section 352.	The fair market value of the asset considered for computation of accreted income as on specified date as per section 352(*3*).
22.	Capital asset referred to in section 26(*2*)(*j*).	The fair market value for section 26(*2*)(*j*).
23.	Capital asset, being an Electronic Gold Receipt issued by a Vault Manager, which became the property of the person as consideration of a transfer, as referred to in section 70(*1*)(*y*).	The cost of gold for the person in whose name Electronic Gold Receipt is issued.
24.	Capital asset being gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer as referred to in section 70(*1*)(*y*).	The cost of the Electronic Gold Receipt for such person.

(*2*) For the purposes of the Table in sub-section (*1*), in respect of the entries against—

(*a*) serial number 1, "previous owner of the property" for any capital asset owned by an assessee, means the last previous owner of the capital asset who acquired it by a mode of acquisition other than that referred to in column B thereof;

(*b*) serial numbers 11 and 12, "main portfolio", "segregated portfolio" and "total portfolio" shall have the same meanings as respectively assigned to them in the Circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018, issued by the Securities and Exchange Board of India;

(*c*) serial numbers 14 and 15, "net worth" means the total of the paid-up share capital and general reserves as appearing in the books of account of the demerged company immediately before the demerger;

(*d*) serial numbers 2, 14 and 15, the provisions as contained therein, shall, as far as may be, also apply in relation to business reorganisation of a co-operative bank as referred to in section 65.

Special provision for computation of capital gains in case of depreciable assets.

74. (*1*) Irrespective of anything contained in section 2(*101*), for a capital asset forming part of a block of assets on which depreciation has been allowed under this Act or under the Income-tax Act, 1961 or under the Indian Income-tax Act, 1922, the provisions of sections 72 and 73 shall be subject to the provisions of sub-sections (*2*), (*3*) and (*4*).

43 of 1961.
11 of 1922.

(*2*) If, during the tax year, the full value of consideration received or accruing for the transfer of one or more assets in a block of assets exceeds the total of the following:—

(*a*) expenditure incurred wholly and exclusively for such transfer;

(*b*) the written-down value of the block of assets at the start of the tax year; and

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

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

(*3*) If any block of assets ceases to exist for the reason that all the assets in that block are transferred during the tax year, then,—

(*a*) the cost of acquisition of the block of assets shall be the written down value of the block of assets at the beginning of the tax year, as increased by the actual cost of any asset falling within that block of assets, acquired by the assessee during the tax year; and

(*b*) the income received or accruing as a result of such transfer or transfers shall be deemed to be short-term capital gains.

Special provision for cost of acquisition in case of depreciable asset.

75. If depreciation has been obtained under section 33(*2*) for a capital asset in any tax year, the provisions of sections 72 and 73 shall apply subject to the modification that the written down value, as defined in section 41, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset.

Special provision for computation of capital gains in case of Market Linked Debenture.

76. (*1*) Irrespective of anything contained in section 2(*101*) or section 72, the gains on the transfer or redemption or maturity, of a capital asset as mentioned in sub-section (*2*) shall be treated as short-term capital gains and shall be computed as per sub-section (*3*).

(*2*) For the purposes of sub-section (*1*), the capital asset shall be—

(*a*) a unit of a Specified Mutual Fund acquired on or after 1st April, 2023 or a Market Linked Debenture; or

(*b*) an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd July, 2024.

(*3*) For the purposes of sub-section (*1*), the short-term capital gains shall be computed as per the following formula:—

$$X = A - B - C,$$

where,—

X = short-term capital gains;

A = full value of consideration received or accruing as a result of the transfer or redemption or maturity of the debenture or unit or bond;

B = the cost of acquisition of the debenture or unit or bond; and

C = the expenditure incurred wholly and exclusively for such transfer or redemption or maturity.

(*4*) No deduction shall be allowed for any sum paid as securities transaction tax as per Chapter VII of the Finance (No. 2) Act, 2004. 23 of 2004.

(*5*) In this section,—

(*a*) "Market Linked Debenture" means a security, by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices, and include any security classified or regulated as a market linked debenture by the Securities and Exchange Board of India; and

(*b*) "Specified Mutual Fund" means a Mutual Fund, by whatever name called, which invests more than 65% of its total proceeds in debt and money market instruments or a fund which invests 65% or more of its total proceeds in units of such Mutual Fund, subject to the following:—

(*i*) the percentage of investment in debt and money market instruments or in units of a fund shall be computed with reference to the annual average of the daily closing figures;

(*ii*) "debt and money market instruments" shall include any securities, by whatever name called, classified or regulated as debt and money market instruments by the Securities and Exchange Board of India.

Special provision for computation of capital gains in case of slump sale.

77. (*1*) Any profits or gains arising from the slump sale effected in the tax year shall be chargeable to income-tax as long-term capital gains and shall be deemed to be the income of the tax year in which the transfer took place, subject to the provisions of sub-section (*2*).

(*2*) The profits and gains arising from a slump sale involving the transfer of a capital asset, being one or more undertakings or divisions owned and held by an assessee for 36 months or less, immediately before the date of its transfer, shall be treated as short-term capital gains.

(*3*) In relation to capital assets, being an undertaking or division transferred by way of slump sale,—

(*a*) the "net worth" of the undertaking or division shall be deemed as the cost of acquisition and the cost of improvement for sections 72 and 73; and

(*b*) the fair market value of the capital assets on the date of transfer, calculated in such manner, as prescribed, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer.

(*4*) Every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant, before the specified date referred to in section 63, and the report shall—

(*a*) include the computation of the net worth of the undertaking or division; and

(*b*) certify that the net worth has been correctly arrived at as per the provisions of this section.

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

(*a*) the "net worth" shall be the "aggregate value of total assets" of the undertaking or division, as reduced by the value of its liabilities as appearing in the books of account, and for computing net worth, any change in the value of assets due to revaluation shall be ignored;

(*b*) the "aggregate value of total assets" shall,—

(*i*) for depreciable assets, be the written down value of the block of assets determined under section 41(*1*) (Table: Sl. No.3);

(*ii*) for capital asset being goodwill of a business or profession, which was not acquired by the assessee by purchase from a previous owner, be *nil*;

(*iii*) for capital assets for which the entire expenditure has been allowed or is allowable as a deduction under section 46, be *nil*; and

(*iv*) for other assets, be the book value.

Special provision for full value of consideration in certain cases.

78. (*1*) If the consideration received or accruing from the transfer of a capital asset, being land or building or both, is less than the stamp duty value, then, for the purposes of section 72, the stamp duty value shall be deemed to be the full value of the consideration received or accruing as a result of such transfer, subject to the following:—

(*a*) the stamp duty value on the date of agreement may be taken as the full value of consideration, if—

(*i*) the date of the agreement fixing the consideration and the date of registration for the transfer of the capital asset are not the same; and

(*ii*) part or full consideration is received on or before the date of the agreement by an account payee cheque or account payee bank draft or electronic clearing system through a bank account or any other electronic mode, as prescribed;

(*b*) if the stamp duty value does not exceed 110% of the consideration received or accruing, such consideration shall be deemed to be the full value of the consideration for section 72.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Assessing Officer may refer the valuation of the capital asset to a Valuation Officer, and the provisions of sections 269(*3*) to (*8*), shall, with necessary modifications, apply in relation to such reference, where—

(*a*) the assessee claims that the stamp duty value exceeds the fair market value of the property as on the date of transfer; and

(*b*) the stamp duty value has not been disputed in any appeal or revision or no reference has been made before any other authority, court or the High Court.

(*3*) In this section, "assessable" means the value which any authority of the Government would have adopted or assessed as if it were referred to such authority for the purposes of payment of stamp duty, regardless of anything to the contrary contained in any other law in force.

(*4*) If the value determined by the Valuation Officer on a reference made under sub-section (*2*) exceeds the stamp duty value, such stamp duty value shall be taken as the full value of consideration.

Special provision for full value of consideration for transfer of share other than quoted share.

79. (*1*) If the consideration received or accruing from the transfer of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in the manner as prescribed, the value so determined shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains".

(*2*) The provisions of sub-section (*1*) shall not apply to any consideration received or accruing as a result of transfer by such class of persons and subject to such conditions, as prescribed.

(*3*) In this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.

Fair market value deemed to be full value of consideration in certain cases.

80. If the consideration received or accruing from the transfer of a capital asset is not ascertainable or is unable to be determined, its fair market value on the date of transfer shall be deemed as the full value of consideration received or accruing as a result of the transfer for the purposes of computing income under the head "Capital gains".

Advance money received.

81. Where any capital asset was, on any previous occasion, the subject of negotiations for its transfer, any advance or other money received and retained by the assessee in respect of such negotiations—

(*a*) shall be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition;

(*b*) shall not be deducted from the said cost, where such advance or other money has been included in the total income of the assessee for any tax year as per the provisions of section 92(*2*)(*h*).

Profit on sale of property used for residence.

82. (*1*) Where an individual or Hindu undivided family—

(*a*) has long-term capital gains arising from the transfer of a capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (original asset); and

(*b*) has within one year before or two years after the date of such transfer purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of the new asset, such excess shall be charged under section 67, and for computing capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not used by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(*3*) For the purposes of sub-section (*1*), the amount, already utilised for purchasing or constructing the new asset, together with the deposited amount under sub-section (*2*) shall, subject to sub-section (*7*), be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged to tax under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) If the capital gains under sub-section (*1*) does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(*a*) for the purposes of sub-section (*1*)(*b*), "one residential house in India" shall be read as "two residential houses in India"; and

(*b*) for the purposes of sub-sections (*1*)(*b*) and (*2*), "new asset" shall mean two residential houses in India.

(*6*) If during any tax year, the assessee has exercised the option mentioned in sub-section (*5*), he shall not be entitled to exercise such option for the same tax year or any other tax year.

(*7*) If the cost of new asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*1*).

(*8*) If the capital gains on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees shall not be taken into account for the purposes of sub-section (*2*).

Capital gains on transfer of land used for agricultural purposes not to be charged in certain cases.

83. (*1*) Where an assessee, being an individual or a Hindu undivided family,—

(*a*) has capital gains arising from the transfer of a capital asset, being land, which was used by the assessee or his parent, or the Hindu undivided family for agricultural purposes (original asset), in two years immediately preceding the date of transfer; and

(*b*) has, within two years after that date, purchased any other land for being used for agricultural purposes (new asset),

then, instead of the capital gains being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceed the cost of the new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under section 263(*1*); and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date of filing of the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for purchase of the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which two years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the scheme referred to in sub-section (*2*).

Capital gains on compulsory acquisition of lands and buildings not to be charged in certain cases.

84. (*1*) Where an assessee has—

(*a*) capital gains arising from the transfer by way of compulsory acquisition under any law, of a capital asset being land or building or any right in land or building, forming part of an industrial undertaking belonging to him, which was being used by the assessee for the business of the said undertaking in the two years immediately preceding the date of transfer (original asset); and

(*b*) within three years after that date, purchased any other land or building or any right in any other land or building or constructed any other building for shifting or re-establishing the said undertaking or setting up another industrial undertaking (new asset),

then, instead of the capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*i*) if the capital gains exceeds the cost of new asset, such excess shall be charged under section 67, and for computing any capital gains arising from the transfer of the new asset within three years of its purchase or construction, the cost shall be *nil*; or

(*ii*) if the capital gains is equal to or less than the cost of new asset, no capital gains shall be charged under section 67 and for computing capital gains from the transfer of the new asset within three years of its purchase or construction, the cost shall be reduced by the amount of the capital gains.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*), shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not fully utilised for the purchase or construction of the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

Capital gains not to be charged on investment in certain bonds.

85. (*1*) Where an assessee has—

(*a*) long-term capital gains arising from the transfer of land or building, or both, (original asset); and

(*b*) within six months after the date of such transfer, invested whole or part of the capital gains in a long-term specified asset (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the capital gains exceed the investment in the new asset, the amount of capital gains as exceeds such investment shall be charged under section 67; or

(*ii*) if the capital gains is equal to or less than the investment in the new asset, the whole of such capital gains shall not be charged under section 67.

(*2*) For the purposes of sub-section (*1*), investment made in the long-term specified asset from capital gain arising from transfer of one or more original asset shall not exceed fifty lakh rupees,—

(*a*) during any tax year; or

(*b*) in the year of transfer of the original asset or assets and in the subsequent tax year.

(*3*) If the new asset is transferred or converted (otherwise than by transfer) into money within five years of its acquisition, the capital gains not charged under section 67 as per sub-section (*1*), shall be deemed to be income chargeable as long-term capital gains in the tax year of its transfer or conversion.

(*4*) Any loan or advance taken on the security of the new asset shall be regarded as transfer of the new asset on the date of such loan or advance.

(*5*) Where the investment in the new asset has been taken into account for sub-section (*1*), no deduction under section 123 for any tax year shall be allowed for such investment.

(*6*) In this section, "new asset" means any bond, redeemable after five years and as notified by the Central Government for the purposes of this section with such conditions (including a condition for providing a limit on the amount of investment by an assessee in such bond).

Capital gains on transfer of certain capital assets not to be charged in case of investment in residential house.

86. (*1*) If an individual or a Hindu undivided family has—

(*a*) capital gains arising from the transfer of any long-term capital asset, not being a residential house (original asset); and

(*b*) within one year before, or two years after, the date of such transfer, purchased, or has within three years after that date constructed, one residential house in India (new asset),

then, the capital gains shall be dealt with as follows:—

(*i*) if the net consideration is more than the cost of the new asset, so much of the capital gains as bears to the whole of the capital gains, the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 67; or

(*ii*) if the net consideration is equal to or less than the cost of the new asset, no capital gains shall be charged under section 67.

(*2*) If the capital gains is not utilised by the assessee to purchase the new asset within one year before the transfer of the original asset, or is not utilised for the purchase or construction of a new asset before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall, subject to the sub-section (*8*), be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for purchasing or constructing the new asset within the period specified in sub-section (*1*), then,—

(*a*) the amount determined as per with the following formula shall be charged under section 67 as income of the tax year in which three years from the date of the transfer of the original asset expires:—

X - Y,

where,—

X = the capital gains not charged under section 67 as per sub-section (*1*).

Y = the capital gains that would not have been charged under section 67, if the cost of the new asset had been taken to be the amount actually utilised for purchase or construction of the new asset;

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) The provisions of sub-section (*1*) shall not apply, if—

(*a*) the assessee—

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

(*ii*) purchases any residential house, other than the new asset, within two years of transfer of the original asset; or

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

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

(*6*) If the assessee purchases within two years of the transfer of the original asset, or constructs within three years after such date, any residential house, the income from which is chargeable under the head "Income from house property", other than the new asset, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*), shall be charged as long-term capital gains of the tax year in which such residential house is purchased or constructed.

(*7*) If the new asset is transferred within three years of its purchase or its construction, the capital gains not charged under section 67 on the basis of cost of such new asset as per sub-section (*1*) shall be charged as long-term capital gains of the tax year in which such new asset is transferred.

(*8*) If the cost of the new asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*1*).

(*9*) If the net consideration on the transfer of original asset exceeds ten crore rupees, the amount exceeding ten crore rupees, shall not be taken into account for the purposes of sub-section (*2*).

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

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area.

87. (*1*) If the assessee has—

(*a*) capital gains arising from the transfer of capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the case of shifting of an industrial undertaking situated in an urban area (original asset) to any non-urban area (new area); and

(*b*) within one year before or three years after the date of such transfer,—

(*i*) purchased new machinery or plant for business of the industrial undertaking in the new area;

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

(*iii*) shifted the original asset and transferred its establishment to such area; and

(*iv*) incurred expenses on such other purpose as specified in a scheme notified by the Central Government for this section,

then, instead of the capital gains being charged to income tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset),—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gain, no capital gain shall be charged under section 67;

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*) or shall be reduced by the amount of the capital gain in case of clause (*b*).

(*2*) If the capital gain is not used by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then—

(*a*) the unutilised amount shall be deposited in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under sub-section (*1*) of the said section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) In this section, the expression “urban area” means any area within the limits of a municipal corporation or municipality, declared to be an urban area by the Central Government for the purposes of this section, having regard to—

(*a*) the population;

(*b*) concentration of industries; and

(*c*) need for proper planning of the area and other relevant factors.

Exemption of capital gains on transfer of assets in cases of shifting of industrial undertaking from urban area to any Special Economic Zone.

88. (*1*) Irrespective of anything contained in section 87 if the assessee has—

(*a*) capital gains arising from the transfer of a capital asset, being machinery or plant or building or land or any rights in building or land used for the business of an industrial undertaking situated in an urban area, effected in the course of or in consequence of shifting of such industrial undertaking (original asset) to any Special Economic Zone in any area; and

(*b*) has within one year before or three years after the date of such transfer,—

(*i*) purchased machinery or plant for the business of the industrial undertaking in such Special Economic Zone;

(*ii*) acquired building or land or constructed building for his business in such Special Economic Zone;

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

(*iv*) incurred expenses on such other purposes specified by a scheme notified by the Central Government in this behalf,

then, instead of capital gain being charged to income-tax as income of the tax year in which the transfer took place, it shall be dealt with as follows:—

(*A*) if the cost and expenses incurred in on all or any of the purposes mentioned in clauses (*i*) to (*iv*) (new asset)—

(*I*) is less than the capital gains, the difference shall be charged under section 67 as the income of the tax year; or

(*II*) is equal to or more than the capital gains, no capital gain shall be charged under section 67;

(*B*) for computing any capital gain arising from transfer of the new asset within three years of its being purchased, acquired, constructed or transferred, the cost shall be *nil* in case of clause (*a*), or shall be reduced by the amount of the capital gain in case of clause (*b*).

(*2*) If the capital gain is not utilised by the assessee for the new asset within one year before the transfer of the original asset, or before filing the return of income under section 263, then,—

(*a*) the unutilised amount shall be deposited not later than the due date for filing the return of income under sub-section (*1*) of the said section in a specified bank or institution and utilised as per the scheme notified by the Central Government;

(*b*) such deposit shall be made not later than the due date applicable in the case of the assessee for filing the return of income under the said sub-section; and

(*c*) the proof of deposit shall be submitted along with the return on or before the due date for filing the return.

(*3*) For the purposes of sub-section (*1*), the amount already utilised for purchasing or constructing the new asset together with the deposited amount under sub-section (*2*) shall be deemed to be the cost of the new asset.

(*4*) If the amount deposited under sub-section (*2*) is not wholly or partly utilised for the new asset within the period specified in sub-section (*1*), then,—

(*a*) the unutilised amount shall be charged under section 67 as the income of the tax year in which the period of three years from the date of the transfer of the original asset expires; and

(*b*) the assessee shall be entitled to withdraw the unused amount according to the said scheme.

(*5*) In this section "urban area" shall have the meaning assigned to it in section 87.

Extension of time for acquiring new asset or depositing or investing amount of capital gains.

89. Irrespective of anything contained in sections 82, 83, 84, 85, and 86,—

(*a*) if the transfer of the original asset mentioned in those sections is by way of compulsory acquisition under any law; and

(*b*) if the compensation awarded for such acquisition is not received by the assessee on the date of transfer, then, the period available to him under those sections for acquisition of the new asset or investment or deposit of capital gain in specified bank or institution shall be reckoned from the date of receipt of compensation.

Meaning of "adjusted", "cost of improvement" and "cost of acquisition".

90. (*1*) For the purposes of sections 72 and 73, "cost of improvement",—

(*a*) in relation to a capital asset being goodwill or any intangible asset of a business, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or any other right, shall be taken to be *nil*; and

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

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

(*ii*) in any other case, all expenditure of a capital nature incurred in making any additions or alterations to the capital asset by the assessee after it became his property, and, where the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), by the previous owner.

(*2*) For the purposes of sub-section (*1*)(*b*), the cost of improvement does not include any expenditure which is deductible in computing the income chargeable under the head "Income from house property", "Profits and gains of business or profession" or "Income from other sources".

(*3*) For the purposes of sections 72 and 73, "cost of acquisition", of a capital asset (being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or any other intangible asset, or a right to manufacture, produce or process any article or thing, or a right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, or any other right) means—

(*a*) purchase price, if acquisition of such asset by the assessee is by purchase from the previous owner; and

(*b*) purchase price for the previous owner, in the case covered in section 73 (Table: Sl. No. 1), where such asset was acquired by purchase by the previous owner as defined in sub-section (*2*) of the said section; and

(*c*) *nil*, in any other case.

(*4*) For the purposes of sub-section (*3*)(*a*) or (*b*), if—

(*a*) the capital asset is goodwill of a business or profession; and

(*b*) the assessee has obtained a deduction on account of depreciation under section 32(*1*) of the Income-tax Act, 1961 in a tax year preceding the tax year commencing on the 1st April, 2020,

43 of 1961.

then the total amount of depreciation obtained before the tax year commencing on the 1st April, 2020 shall be reduced from the amount of purchase price.

(*5*) For the purposes of sections 72 and 73(*a*) and (*b*), and subject to the provisions of sub-sections (*9*)(*a*) and (*b*), "cost of acquisition" shall be as per sub-section (*6*), in a case where, by virtue of holding a capital asset, being a share or any other security, within the meaning of section 2(*h*) of the Securities Contracts (Regulation) Act, 1956 (herein referred to as the financial asset), the assessee—

42 of 1956.

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

(*b*) is allotted any additional financial asset without any payment.

(*6*) In a case referred to in sub-section (*5*), "cost of acquisition", in relation to—

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

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

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

(*d*) the financial asset allotted to the assessee without any payment and on the basis of holding of any other financial asset, shall be taken to be *nil*; and

(*e*) any financial asset purchased by any person in whose favour the right to subscribe to such asset has been renounced, means the total amount of the purchase price paid to the person renouncing such right and the amount paid to the company or institution, for acquiring such financial asset.

(*7*) For the purposes of sections 72 and 73, "cost of acquisition", subject to sub-sections (*9*)(*a*) and (*b*), in relation to a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 198, acquired before the 1st February, 2018, shall be higher of—

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

(*b*) lower of—

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

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

(*8*) For the purposes of sub-section (*7*),—

(*a*) "Cost Inflation Index", shall have the meaning assigned to it in section 72(*8*)(*ii*);

(*b*) "fair market value" means,—

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

(*ii*) irrespective of sub-clause (*i*), if there is no trading in such asset on such exchange on the 31st January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st January, 2018 when such asset was traded shall be the fair market value;

(*iii*) if the capital asset is a unit which is not listed on a recognised stock exchange as on the 31st January, 2018, the net asset value of such unit as on that date;

(*iv*) if the capital asset is an equity share in a company which is—

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

(*B*) not listed on a recognised stock exchange as on the 31st January, 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction mentioned in section 70, but listed on such exchange subsequent to the date of transfer (where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer);

(*C*) listed on a recognised stock exchange on the date of transfer and which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st January, 2018 by way of transaction mentioned in section 70,

an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the tax year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the 1st April, 2001, whichever is later.

(*9*) For the purposes of sections 72 and 73, cost of acquisition in relation to any other capital asset,—

(*a*) if the capital asset became the property of the assessee before the 1st April, 2001, subject to sub-section (*10*), shall be the cost of acquisition of the asset to the assessee or its fair market value on the 1st April, 2001, at the option of the assessee;

(*b*) if the capital asset became the property of the assessee by any of the modes specified in section 73 (Table: Sl. No. 1), and the capital asset became the property of the previous owner before the 1st April, 2001, subject to sub-section (*10*), shall be the cost of the capital asset to the previous owner or its fair market value on the 1st April, 2001, at the option of the assessee;

(*c*) if the capital asset became the property of the assessee on the distribution of the capital assets of a company on its liquidation and the assessee has been assessed to income-tax under the head "Capital gains" in respect of that asset under section 68, means the fair market value of the asset on the date of distribution;

(*d*) if the capital asset, being a share or a stock of a company, became the property of the assessee on—

(*i*) the consolidation and division of all or any of the share capital of the company into shares of larger amount than its existing shares; or

(*ii*) the conversion of any shares of the company into stock; or

(*iii*) the re-conversion of any stock of the company into shares; or

(*iv*) the sub-division of any of the shares of the company into shares of smaller amount; or

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

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

(*10*) In case of a capital asset referred to in sub-sections (*9*)(a) and (*9*)(*b*), being land or building, or both, the fair market value of such asset on the 1st April, 2001 for the said clauses shall not exceed the stamp duty value, wherever available, of such asset as on the 1st April, 2001.

(*11*) If the cost for which the previous owner acquired the property is unable to be ascertained, the cost of acquisition to the previous owner shall be the fair market value on the date on which the capital asset became the property of the previous owner.

Reference to Valuation Officer.

91. (*1*) For ascertaining the fair market value of a capital asset for this Chapter, the Assessing Officer may refer the valuation of capital asset to a Valuation Officer,—

(*a*) if the value of the asset claimed by the assessee is as per the estimate by a registered valuer, but the Assessing Officer is of the opinion that the value so claimed is at variance with its fair market value;

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

(*i*) the fair market value of the asset exceeds the value claimed by the assessee by more than the percentage or amount, as prescribed; or

27 of 1957.

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

(*2*) The provisions of section 269(*3*) to (*8*) shall , with necessary modifications, apply in relation to such reference made under sub-section (*1*).

F.— Income from other sources

Income from other sources.

92. (*1*) Income of every kind which is not to be excluded from the total income, shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 13(*a*) to (*d*).

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

(*a*) any dividend;

(*b*) any winning from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or from gambling or betting of any form or nature;

(*c*) any sum received by the assessee from employees as contributions to any provident fund, superannuation fund, any fund set up under the Employees' State Insurance Act, 1948, or any other fund for the welfare of such employees, if the income in not chargeable to income-tax under the head "Profits and gains of business or profession"; 34 of 1948.

(*d*) any sum received under a Keyman insurance policy, as defined Schedule II (Note 1) including the bonus allocated on such policy, if such income is not chargeable to income-tax under the head "Profits and gains of business or profession" or under the head "Salaries";

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

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

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

(*h*) any sum of money received as an advance or otherwise during negotiations for the transfer of a capital asset, if—

(*i*) such sum is forfeited; and

(*ii*) the negotiations do not result in transfer of such capital asset;

(*i*) any income by way of interest received on compensation or on enhanced compensation referred to in section 278(*1*);

(*j*) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment, or the modification of its terms and conditions;

(*k*) any specified sum received by a unit holder from a business trust during the tax year with respect to a unit held by him at any time during such tax year, the computation of which shall be—

specified sum = A-B-C (which shall be deemed to be zero, if the sum of B and C is greater than A), where—

A = aggregate of the sum distributed by the business trust with respect to such unit, during the tax year or during any earlier tax year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is—

(*a*) not in the nature of income referred to in Schedule V (Table: Sl. No. 3 or 4); and

(*b*) not chargeable to tax under section 223(*2*);

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under this clause in any earlier tax year;

(*l*) where any sum, including bonus allocated, is received, during a tax year, under a life insurance policy, other than—

(*a*) sums received under a unit linked insurance policy; or

(*b*) income referred to in clause (*d*),

and such sum is not to be excluded from the total income of that tax year under Schedule II (Table: Sl. No. 2), the sum exceeding the aggregate of the premium paid, during the term of such policy, and not claimed as a deduction under this Act, computed in such manner, as prescribed;

(*m*) where any person receives in any tax year, from any person or persons—

(*i*) any sum of money without consideration, the total of which exceeds fifty thousand rupees, the whole of such sum;

(*ii*) any immovable property—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration, the stamp duty value of such property that exceeds such consideration, if this excess amount is more than the higher of the following amounts:—

(*I*) fifty thousand rupees; or

(*II*) 10% of the consideration;

(*iii*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration.

(*3*) The provisions of sub-section (*2*)(*m*) shall not apply to any sum of money or any property received—

(*a*) from any relative; or

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

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

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

(*e*) from any local authority as defined in Schedule III (Note 6); or

(*f*) from or by any registered non-profit organisation as defined in section 355(*g*), except when received by any person referred to in section 355(*i*); or

(*g*) by way of a transaction not regarded as transfer under section 70(*1*)(*a*), (*c*), (*d*), (*e*), (*g*), (*i*), (*j*), (*l*), (*n*), (*o*), (*k*), (*f*), (*t*), (*u*), (*v*) or (*w*); or

(*h*) from an individual by a trust created or established solely for the benefit of relative of the individual; or

(*i*) from such class of persons and subject to such conditions, as prescribed.

(*4*) For the purposes of sub-section (*2*)(*m*)(*ii*),—

(*a*) if the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement shall apply, provided the consideration, in whole or in part, has been paid by account payee cheque or account payee bank draft or by electronic clearing system through a bank account or through any prescribed electronic mode, on or before the date of agreement for transfer of such immovable property;

(*b*) if the stamp duty value of immovable property is disputed by the assessee on the grounds mentioned in section 78(*2*) the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of sections 78(*2*) and 288 (Table: Sl. No. 8) shall, as far as may be, apply to the stamp duty value of such property as they apply for valuation of capital asset under those sections.

(*5*) In this section,—

(*a*) "assessable" shall have the meaning assigned to it in section 78(*3*);

(*b*) "card game and other game of any sort" includes any game show, an entertainment programme on television or electronic mode, where people compete to win prizes or any similar game;

(*c*) "fair market value" of a property, other than an immovable property, means the value determined in such method as prescribed;

(*d*) "jewellery" shall have the meaning assigned to it in section 2(*22*);

(*e*) "lottery" includes winnings from prizes awarded by draw of lots, by chance, or in any other manner under any scheme or arrangement by whatever named called;

(*f*) "property" means the following capital asset of the assesse:—

(*i*) immovable property being land or building or both;

(*ii*) shares and securities;

(*iii*) jewellery;

(*iv*) archaeological collections;

(*v*) drawings;

(*vi*) paintings;

(*vii*) sculptures;

(*viii*) any work of art;

(*ix*) bullion; or

(*x*) virtual digital asset;

(*g*) "relative" means—

(*i*) in case of an individual—

(*A*) spouse;

(*B*) brother or sister;

(*C*) brother or sister of the spouse;

(*D*) brother or sister of either of the parents;

(*E*) any lineal ascendant or descendant (maternal as well as paternal);

(*F*) any lineal ascendant (maternal as well as paternal) or descendant (maternal as well as paternal) of the spouse;

(*G*) spouse of the person referred to in items (*B*) to (*F*); and

(*ii*) for a Hindu undivided family, any member thereof;

(*h*) "unit linked insurance policy" shall have the meaning assigned to it in Schedule II (Note 1).

Deductions.

93. (*1*) The income chargeable under the head "Income from other sources" shall be computed after making the following deductions:—

(*a*) for dividends [excluding those referred to in section 2(*40*)(*f*) or interest on securities, any reasonable sum paid as commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee;

(*b*) for income of the nature referred to in section 92(*2*)(*c*), so far as may be, an amount as per section 29(*1*)(*e*);

(*c*) for income of the nature referred to in section 92(*2*)(*f*) and (*g*), so far as may be, an amount as per section 28(*1*)(*a*), (*b*), (*d*), section 33, and subject to the provisions of section 28(*2*);

(*d*) for income in the nature of family pension (a regular monthly amount payable by the employer to a family member of an employee upon the death of such employee),—

(*i*) an amount equal to one-third of such income or twenty-five thousand rupees, whichever is less, where income-tax is computed under section 202(*1*); and

(*ii*) an amount equal to one-third of such income or fifteen thousand rupees, whichever is less, in any other case;

(*e*) any other expenditure (not being in the nature of capital expenditure) laid out or expended wholly and exclusively for making or earning such income;

(*f*) for income of the nature referred to in section 92(*2*)(*i*), an amount equal to 50% of such income and no other deduction shall be allowed under this section.

(*2*) In respect of—

(*a*) dividend income of the nature referred to in section 2(*40*)(*f*), no deduction shall be allowed;

(*b*) any other dividend income [other than in clause (*a*)], or income from units of a Mutual Fund specified under Schedule VII (Table: Sl. No. 20 or 21) or income from units of a specified company as referred to in section 2(*h*) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, only deduction allowed shall be interest expense which, for any tax year, shall be limited to 20% of such income (included in the total income for that year, without deduction under this section). 58 of 2002.

Amounts not deductible.

94. (*1*) Irrespective of anything contained in section 93, the following amounts shall not be deductible in computing the income of any assessee chargeable under the head "Income from other sources":—

(*a*) any personal expenses of the assessee; or

(*b*) any interest chargeable under this Act, payable outside India, on which tax has not been paid or deducted under Chapter XIX-B; or

(*c*) any payment chargeable under the head "Salaries", if it is payable outside India, unless tax has been paid or deducted under Chapter XIX-B.

(*2*) The provisions of sections 29, 35(*b*)(*i*), and 36 shall apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(*3*) For an assessee, being a foreign company, the provisions of section 59 shall apply in computing the income chargeable under the head "Income from other sources", as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

(*4*) In computing the income from winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort, or from gambling or betting of any form or nature, no deduction for any expenditure or allowance related to such income shall be allowed under this Act.

(*5*) Sub-section (*4*) shall not apply in computing the income of an assessee, being the owner of horses maintained for running in horse races, from the activity of owning and maintaining such horses.

(*6*) In this section, "horse race" means a horse race upon which wagering or betting may be lawfully made.

Profits chargeable to tax.

95. The provision of section 38(*1*)(*a*) shall apply in computing the income of an assessee under section 92, as they apply in computing the income of an assessee under the head "Profits and gains of business or profession".